

The Policymaker Case for Section 230 Repeal

Section 230 is the counter-productive U.S. policy and law, that makes the U.S. Internet, Big-Tech, social media, and online bad actors unaccountable.

by [Scott Cleland](#)

What is Section 230 and why should Americans care?

In a nutshell, Section 230 of the 1996 Communications Decency Act is America's only policy and [law governing conduct on the Internet](#).

When Congress [established](#) “the policy of the United States” that the Internet and its services be “unfettered from Federal and State regulation,” the Internet was a bulletin board with dialup speed that was used by early adopters [30 minutes](#) a month.

Section 230 policymaking was designed to encourage the buildout and adoption of the nascent Internet and it accomplished that objective. However, as the Internet matured to be an [all-purpose platform](#), there has been minimal government oversight of this broad de-governing policy experiment. This unaccountable policy experiment of Internet unaccountability has spawned many unintended consequences, including [lost privacy](#), [dishonest dealings](#), [abuse of minors](#), [extreme polarization](#), [monopolizations](#), [cyberattacks](#), [cybercrime](#), and more.

Indeed, what some characterize as a ‘[Wild West](#)’ Internet policy has morphed way beyond simply minimizing regulation and a “hands-off” approach by government. Indeed, it is no rule of law, no policing to protect the public, and no accountability online. This policy has resulted in a form of government-approved anarchism, on autopilot since 1996. One could argue it also has resulted in government-approved amorality, which not only has minimal concern for right and wrong, but which denies the legal [duty of care](#) online that every American can expect offline.

Is Section 230 an ‘extreme machine’ of unintended consequences?

Yes! Most know one gets the behavior one tolerates and encourages. Inputs cause outputs, and the inaction permitted by Section 230 has created a swelling monsoon of unregulated and often illegal activity online. Section 230's [intent](#) was:

- To “ensure vigorous enforcement of criminal laws” – the reality is less than .05% of cybercrime is [prosecuted](#).
- To promote decency online through the “Communications Decency Act” – the reality is indecent materials are [rife online](#).
- To have “no effect on communications privacy law”— the reality is [privacy is lost online](#).
- To create “a forum for a true diversity of political discourse,” – the reality is lies, fakery, censorship, disinformation, polarization, [hate](#), and [violence](#), are rampant online.
- To “empower parents to restrict their children’s access to inappropriate online material” – the reality is there are minimal [age-appropriate](#) protections and there are more out-of-control indecent materials than one can imagine.
- To “promote competition and reduce regulation” – the reality is many [monopolizations](#) and drastic de-governing.

Why repeal Section 230?

As the Internet evolves, so must the law and policy regarding it. Keeping Section 230 in place only paves the way for Big Tech to steamroll over elected officials, our judicial system, and any source of accountability. Here, I have identified the “Big 8” reasons why Section 230 must be repealed:

1. *Unnecessary.* Internet companies are free to buy private liability insurance or operate with reasonable care like everyone else has a legal duty to do. And they can innovate and compete based on reason, care, and integrity.
2. *Antiquated.* The U.S. has gone from being the world’s leader in setting Internet policy and law, to being the world’s laggard in 2023. America is the only major nation yet to modernize its policy on Internet conduct.
3. *National Neglect.* Section 230 addresses only one type of misconduct on the Internet – defamation liability for false statements – neglecting all other harms. As a result, five administrations, fourteen congresses, and seventeen Supreme Court justices, together, have neglected to protect America, Americans, and minors from all other online harms and [crimes](#) for 27 years!
4. *Makes Big-Tech Accountable.* Section 230’s anarchic Internet policy is the Houdini superpower that enables Big-Tech to routinely escape responsibility for their actions and anticompetitive abuses. Over time, Section 230’s unfettered intermediary impunity has in fact established an online regime of Big-Tech, by Big-Tech, for Big-Tech with impunity to censor, spread disinformation, and turn a blind eye to incitement, hate, and violence. Privileged treatment causes polarization that undermines democracy and divides the nation.
5. *Depolarizing.* Repeal is the only constitutional, fair, and accountable solution for Big-Tech/social media’s unfettered intermediary impunity. A rewrite of Section 230 would put Congress in the untenable position of adjudicating the Bill of Rights. Only repeal prevents Congress from facilitating censorship and the spread of disinformation.
6. *Willful Blindness.* Most of Big Tech and its paid proponents plead Section 230 is an Internet essential that harms no one. Their scripted silence about Section 230’s many harms hiding in plain sight is, at best, a collective half-truth, and at worst, widespread [willful blindness](#). Research and evidence by the [Restore Us Institute](#) actually reveals that America and Americans are [worse off now](#) than before Section 230’s unfettered intermediary impunity. The fact is Section 230 has subverted the [Constitution](#), [public safety](#), [national security](#), [justice](#), [religion](#), and [liberties/rights](#).
7. *Internet Injustice.* Today, Congress’ Section 230 [precedents](#) disenfranchise the civil judiciary’s adjudication of Internet illegal conduct cases to legitimately determine truth vs. lies, fake vs. authentic, fair vs. unfair, and legal vs. illegal. That’s because it preempts normal testimony under oath at risk of perjury, “*to tell the truth, the whole truth and*

nothing but the truth.” Congress has unreasonably empowered random unvetted private actors with unfettered intermediary impunity to mediate and meddle with all of Americans’ online interactions and interrelationships arbitrarily and self-servingly for profit, politics, power, surveillance, influence, and dominance.

8. *Existential Enemy.* Government officials have sworn to “*defend the Constitution...against all enemies...*” Section 230 is an existential enemy of the Constitution because its de facto de-governing subverts the government’s sovereignty, authority, and purposes.

Does Section 230 repeal, produce intended consequences?

Yes. The repeal ends any notion that the U.S. Internet is separate from America, and it will intentionally restore the ideal that no one or nothing is above the law or outside governing authorities and a civil duty of care.

Repeal purposefully restores America’s government “of the people, by the people, for the people,” in intentionally restoring an American people primacy principle. It will help prioritize humanity over technology, people over profit and the need to protect minors over adults.

Conclusion

Repeal is not regulation it is restoration of Constitution-limited government. Repeal of Section 230 removes the U.S. Internet as a space free from U.S. Constitutional sovereignty, Bill of Rights, rule of law, and a duty of care. It allows the laws of the nation to apply to the U.S. Internet, thus subjecting all players to the appropriate governing authorities.

Repeal ends special treatment online. Repeal will pave the way for the same rules and rights everyone holds offline to be upheld online. Those acting illegally online are held accountable just as those acting illegally offline are. Unprotected speech offline is unprotected speech online.

Repeal of Section 230 is the only way to restore offline online “[*Equal justice under law.*](#)”

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NOTE: Section 230 and its infamous “[*Twenty-Six Words*](#)” did not create the Internet in 1996. In 1974, [*Vint Cerf*](#) and [*Bob Kahn*](#) created the Internet’s enabling TCP/IP communications protocols. In 1989, [*Sir Timothy John Berners-Lee*](#) created the Internet’s enabling [*World Wide Web*](#). In 1996, Section 230 did create the “Six Words That Made the Internet Unaccountable” -- “*unfettered by Federal and State regulation.*”