

Donald Trump and Joe Biden vs. Facebook and Twitter: Why Section 230 could get repealed in 2021

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In 1996, Congress passed the Communications Decency Act, which fueled the rise of the modern internet and technology giants Facebook, Google and Twitter. That law contains a provision that has emerged as

one of the nation's most hotly contested issues.

Section 230 allowed these companies to largely regulate themselves, shielding them from liability for much of the content their users post on their platforms and granting companies legal immunity for good faith efforts to remove content that violates their policies.

The key part of the provision—sometimes called the "26 words that created the internet"—reads, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."

What that boils down to: Individual users can be sued for content they post, but generally the platforms cannot, at least not successfully.

There are exceptions such as federal crimes and intellectual property claims. Lawmakers chipped away at Section 230 protections in 2018 by passing a law that makes it easier to sue internet platforms that knowingly aid sex trafficking.

But broadly speaking, internet companies have wide latitude to decide what can stay on their platforms and what must come down. Internet platforms say they could not exist in their current form without these protections.

"We have to get rid of Section 230," President Donald Trump said at a rally in Georgia on Monday night, referring to the "horrendous tech giants." "Or you're not going to have a country very long."

Why do critics hate Section 230?

Democrats and Republicans agree that the nation's leading [tech companies](#) have become too powerful and need tougher regulation. Both

parties threaten to narrow or repeal Section 230.

Bottom line, they say, social media platforms should be held more accountable for how they police content. But their reasons are very different.

Democrats, including President-elect Joe Biden, urged Congress to revise Section 230 to force tech companies to remove hate speech and extremism, election interference and falsehoods. House Speaker Nancy Pelosi, D-Calif., called Section 230 a gift to Big Tech. "It is not out of the question that that could be removed," she said in 2019.

Trump and many Republicans accuse tech companies of censoring conservatives and limiting their reach on social media.

A number of bills that would hold Facebook, Google and Twitter legally accountable for how they moderate content are circulating in Congress, including the EARN IT Act and the PACT Act.

Jeff Kosseff, an assistant professor of cybersecurity law in the U.S. Naval Academy's Cyber Science Department, said it would be challenging for Congress to reach consensus on how to alter Section 230.

"You have two competing views as to what platforms should be doing," Kosseff, author of "The Twenty-Six Words That Created the Internet," told U.S. TODAY last year. "It's hard to imagine what would satisfy everyone who is upset with the tech companies."

If Section 230 were repealed, he said, platforms would conduct more moderation because of the increased risk of their liability for content users post.

What do Facebook and Twitter say?

Twitter's Jack Dorsey and Facebook's Mark Zuckerberg say their platforms strike a balance between promoting free expression and removing harmful content. They acknowledge making some enforcement errors but say their policies are applied fairly to everyone.

Both tech leaders said they're open to revising Section 230. Zuckerberg told lawmakers in November: "We would benefit from clearer guidance from elected officials."

Dorsey said the platforms should be more open with users about how content moderation decisions are made and should offer a straightforward way to appeal moderation decisions. He said he'd like to see users be able to opt out of algorithms that determine what content they see on the [platform](#).

Trump's attacks on Section 230 intensified in the final weeks of his reelection campaign as social media companies labeled or removed posts they deemed false or misleading or that could cause harm or incite violence.

The attacks intensified after the election as social media companies flagged the president's allegations of election rigging and voter fraud. Trump tried to repeal Section 230 through the National Defense Authorization Act.

Charges of anti-conservative bias raged before the presidential election when Facebook and Twitter limited the spread of a New York Post article about Biden's son Hunter, which cited unverified emails reportedly uncovered by allies of Trump.

Zuckerberg said Facebook throttled the story while it was being fact-checked after warnings from the FBI to be on "heightened alert" about "hack and leak operations" in the final days before the election.

Twitter initially blocked links to the article, saying the links included people's personal information and relied on hacked materials, both violations of its policies, then it reversed itself.

Conservatives have complained for years that social media companies silence the political speech of right-leaning users.

Nine in 10 Republicans and independents who lean toward the Republican Party said it's at least somewhat likely that [social media platforms](#) censor political viewpoints they find objectionable, up slightly from 85% in 2018, according to a report in August from the Pew Research Center.

Researchers such as Steven Johnson, an information technology professor at the University of Virginia McIntire School of Commerce, have found no evidence to support GOP grievances that conservative voices are squelched. Rather, they said, [social media](#) algorithms favor content that elicits strong reactions from users.

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