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Congressional Approaches on Section 230 and Related Legislation

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Overview of Presentation

- Context for Amending 47 U.S.C. § 230
- What are the perceived problems?
- General Legislative Considerations
- Legislative Process Overview
- Reform Proposals



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Context for Amending 47 U.S.C. § 230

- Companies that provide content, applications, and services over the internet, are generally not regulated by most federal agencies as a class
- Individual companies and their users may be held accountable for actions that they take online
- Individual companies, however, are subject to antitrust, privacy, unfair and deceptive practice, and copyright law



CRS-3

What are the perceived problems?

- Misinformation, disinformation, inaccurate information
- Illegal content
- Objectionable content
- Algorithmic amplification
- Censorship
- Deficiencies in content moderation practices
- Monopoly



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General Legislative Considerations

- Is action necessary to address a perceived problem?
- If so, how should the problem be defined?
- If so, who should bear responsibility for addressing it, how, for what purpose, and under what authority?
- What are alternative mechanisms for addressing the problem?
- What are the potential unintended consequences of any action or inaction?



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Legislative Process Overview

- Introduction and Referral of Legislation
- Committee Consideration
- Floor Scheduling
- House and Senate Floor Consideration
- Executive Business in the Senate
- Resolving Differences between the Chambers
- Presidential Action



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Reform Proposals



New exceptions in Section 230(e)

- EARN IT Act of 2020, S. 3398, 116th Cong. § 5 (2020): certain claims involving child sexual abuse material
- SAFE TECH Act, S. 299, 117th Cong. § 2(2) (2021): discrimination and antitrust claims, among others
- PACT Act, S. 797, 117th Cong. § 7 (2021): government enforcement of federal statutes and regulations



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Reform Proposals



New exceptions in Section 230(e)



Notice-based liability

- PACT Act, S. 797, 117th Cong. § 6 (2021): failure to remove after receiving notice of a court order ruling content unlawful



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Reform Proposals

- New exceptions in Section 230(e)
- Notice-based liability
- Conditions or obligations on immunity
 - Stopping Big Tech's Censorship Act, S. 4062, 116th Cong. (2020):
 - (c)(1): take “reasonable steps to . . . address” unlawful use
 - (c)(2): act “in a viewpoint-neutral manner”
 - New (c)(3): clearly explain procedures for restricting material



CRS-9

Reform Proposals

- New exceptions in Section 230(e)
- Notice-based liability
- Conditions or obligations on immunity
- Otherwise limiting takedown immunity
 - Online Freedom and Viewpoint Diversity Act, S. 4534, 116th Cong. (2020): limit (c)(1) and remove “otherwise objectionable” from (c)(2)



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Reform Proposals

