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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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October 28, 2020

The Honorable Ajit Pai
Chairman, Federal Communications Commission
455 12th Street, SW
Washington, D.C. 20554

Dear Chairman Pai:

We write to express our strong objection to the Federal Communications Commission's (FCC) recent announcement that it will move forward with a rulemaking to "clarify" the meaning of Section 230 of the Communications Decency Act. This announcement, declared less than three weeks before one of the most significant elections in U.S. history, is an act of political theater to help support President's Trump flailing campaign and exacerbates the threats our country faces from foreign adversaries.

President Trump has regularly trafficked in baseless conspiracy theories and outright falsehoods. When social media companies took reasonable steps to curb the spread of such misinformation, he leveraged the full might of the Federal government to intimidate those companies and settle his personal grievances. The FCC's current actions are the direct result of such petty and unpresidential vendettas. On May 28, just days after Twitter fact-checked two of his tweets, President Trump signed Executive Order 13925 (85 Fed. Reg. 34079) directing the National Telecommunications and Information Administration to file a petition for a rulemaking by the FCC to clarify Section 230. The Executive Order was based on the unfounded belief that social media platforms are biased against conservatives and places executive branch agencies in the unacceptable position of trying to administratively constrain First Amendment protections.

Section 230 has allowed U.S. tech companies to develop innovative platforms and technologies to benefit consumers around the world. Congress also recognizes that the technology sector has

undergone massive transformations in the past 25 years and that certain aspects of Section 230 might merit modification. Instead of rushing to act in a way that could harm millions of Americans, Congress has embarked on a deliberate and nuanced examination of such changes. In the meantime, Congress has expressed disapproval for this Administration's overtly political Executive Order and the wasteful burden it places on American taxpayers. For instance, many legal scholars have called into question the legality of E.O. 13925. In fact, the House of Representatives passed a provision in H.R. 7617, the Fiscal Year 2021 Appropriations Minibus, to prohibit the use of taxpayer funds to implement this Executive Order while Congress continues its work.

Given these circumstances, the FCC's announcement on October 15 to pursue a rulemaking to "clarify" Section 230 was inappropriate for an independent agency tasked with protecting America's communications infrastructure. The decision was undoubtedly the result of political pressure from the White House. Just one day prior, President Trump had tweeted "REPEAL SECTION 230!!!" in response to Twitter's removal and Facebook's reduced distribution of a New York Post story discussing hacked materials of Hunter Biden—a story of such dubiousness that the publication's own reporter refused to put their name on it.

Regardless of the ultimate legal verdicts around E.O. 13925 and the FCC's rulemaking, Trump's comments and the FCC's announcement are already having impact. Twitter has responded that due to "feedback" it will change its policies towards hacked materials. And other social media platforms will now also face pressure to permit libelous, false, or dangerous content and conspiracy theories to avoid facetious and self-serving claims of "anti-conservative" bias. The FCC should immediately fulfill its statutory mandate to protect the national defense, the safety of life and property, and the public interest by reconsidering its decision and cease further activity on the Section 230 rulemaking.

Sincerely,



Norma J. Torres
Member of Congress



Mike Quigley
Member of Congress