117TH CONGRESS
1ST SESSION
H. R. 2154

To amend section 230(c) of the Communications Act of 1934 to prevent immunity for interactive computer services for certain claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2021

Mr. MALINOWSKI (for himself, Ms. ESHOO, Ms. JACOBS of California, Mr. NEGUSE, Ms. WASSERMAN SCHULTZ, Mr. PHILLIPS, Ms. LEE of California, Mr. CASTEN, Ms. STEVENS, and Mr. WELCH) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend section 230(c) of the Communications Act of 1934 to prevent immunity for interactive computer services for certain claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Protecting Americans

5 from Dangerous Algorithms Act".

1 **SEC. 2. AMENDMENT TO THE COMMUNICATIONS DECENCY**

2 **ACT.**

3 Section 230(c) of the Communications Act of 1934

4 (47 U.S.C. 230(c)) is amended by adding at the end the

5 following new paragraph:

6 "(3) ALGORITHMIC AMPLIFICATION.—

7 "(A) IN GENERAL.—For purposes of para-

8 graph (1), an interactive computer service shall

9 be considered to be an information content pro-

10 vider and the protection under such paragraph

11 shall not apply for any claim described in sub-

12 paragraph (B).

13 "(B) CONDITIONS FOR CLAIM.—

14 "(i) IN GENERAL.—A claim in this

15 subparagraph requires the following:

16 "(I) A claim in a civil action is

17 brought under—

18 "(aa) section 1980 or 1981

19 of the Revised Statutes (42

20 U.S.C. 1985; 42 U.S.C. 1986);

21 or

22 "(bb) section 2333 of title

23 18, United States Code.

24 "(II) Except as provided in

25 clause (ii), the claim involves a case in

26 which the interactive computer service

1   used an algorithm, model, or other

2   computational process to rank, order,

3   promote, recommend, amplify, or

4   similarly alter the delivery or display

5   of information (including any text,

6   image, audio, or video post, page,

7   group, account, channel, or affiliation)

8   provided to a user of the service if the

9   information is directly relevant to the

10   claim.

11   ''(ii)   EXCEPTION.—Notwithstanding

12   clause (i)(II), the requirement is not met

13   if—

14   ''(I) the information delivery or

15   display is ranked, ordered, promoted,

16   recommended, amplified, or similarly

17   altered in a way that is obvious, un-

18   derstandable, and transparent to a

19   reasonable user based only on the de-

20   livery or display of the information

21   (without the need to reference the

22   terms of service or any other agree-

23   ment), including sorting informa-

24   tion—

1 ''(aa) chronologically or re-

2 verse chronologically;

3 ''(bb) by average user rating

4 or number of user reviews;

5 ''(cc) alphabetically;

6 ''(dd) randomly; and

7 ''(ee) by views, downloads,

8 or a similar usage metric; or

9 ''(II) the algorithm, model, or

10 other computational process is used

11 for information a user specifically

12 searches for.

13 ''(C) EXEMPTIONS.—

14 ''(i) SMALL BUSINESSES.—This para-

15 graph shall not apply to an interactive

16 computer service that (in combination with

17 each subsidiary and affiliate of the service)

18 has 10,000,000 or fewer unique monthly

19 visitors or users for not fewer than three

20 of the preceding 12 months.

21 ''(ii) INTERNET INFRASTRUCTURE.—

22 This paragraph shall not apply to a pro-

23 vider of an interactive computer service,

24 when that service is used by another inter-

25 active computer service for the manage-

1   ment, control, or operation of that other

2   interactive computer service, including

3   for—

4   ''(I) web hosting;

5   ''(II) domain registration;

6   ''(III) content delivery networks;

7   ''(IV) caching;

8   ''(V) data storage; and

9   ''(VI) cybersecurity.''.

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