September 24, 2020

The Honorable Jan Schakowsky
Chair, Subcommittee on Consumer Protection and Commerce
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
Ranking Member, Subcommittee on Consumer Protection and Commerce
House Energy and Commerce Committee
2322 Rayburn House Office Building
Washington, D.C. 20515

RE: Hearing on “Mainstreaming Extremism: Social Media’s Role in Radicalizing America”

Dear Chair Schakowsky and Ranking Member McMorris Rodgers:

Consumer Reports (CR) welcomes today’s hearing, which will examine the role that social media plays in polarizing and radicalizing Americans, thus accelerating the spread of the violence and harm that extremism can precipitate. Current law which governs online platforms fails to provide sufficient incentives for platforms to reduce misinformation and prevent other abuses, such as artificial amplification: indeed, it even shields platforms when their own algorithms promote harmful, misleading, or inflammatory extremist content. Just as the Subcommittee notes that increasingly polarized extremism poses the greatest threat of terrorism, platform-facilitated extremism has contributed to the rapid proliferation of dangerous conspiracy theories like QAnon, which disseminate and promote, for example, anti-vaccination and anti-mask sentiments that pose significant risk to consumer health. Social media platforms must

---


be held accountable for the harm caused by, and sufficiently incentivized to prevent and mitigate, the kinds of harms that their businesses currently enable, amplify, and profit from.

Consumer Reports’ Work on Platform Responsibility

This Subcommittee’s hearing (“Buyer Beware: Fake and Unsafe Products on Online Marketplaces”) held earlier this year, at which CR testified, touched upon some of the difficult challenges caused by online disinformation,3 as did June’s joint hearing on divisive disinformation online (“A Country In Crisis: How Disinformation Online Is Dividing The Nation”), to which we also expressed our concerns via letter.4 We urged stronger incentives for platforms to protect consumers from fraudulent and illegal consumers in our comments to the Federal Trade Commission on their Endorsement Guidelines updates in June.5 And last month, we submitted public comments to the Federal Communications Commission in part further highlighting the demonstrable need to strengthen incentives for effective content moderation.6 Since those hearings, the issues being discussed today have come into even sharper relief: the spread of harmful, extreme conspiracy theories and misinformation has continued despite various platforms’ attempts to patrol and remove the offending content.7

This past spring, a CR journalist created seven paid ads that intentionally violated Facebook’s pledge to prohibit COVID-19 ads on its platform that encouraged people to drink bleach or ignore social distancing guidelines. Sadly, all seven ads—which included claims that “coronavirus is a HOAX” or to “stay healthy with SMALL daily doses” of bleach—were approved. While CR pulled the ads before they were published by Facebook and viewed by the public, this demonstrates just one of many instances in which Facebook was unable to stop not just the spread of misinformation, but would have been paid for the proliferation of that dangerous misinformation, despite an ad approvals process. This type of paid misinformation

---

6 CR’s September 2, 2020 comments to the FCC can be found here: https://advocacy.consumerreports.org/research/cr-comments-to-the-fcc-on-section-230/.
could cause obvious harm to consumers—and is one of many such issues that QAnon and other extremist offshoots have helped foment over the past several months.\(^8\)

**Platforms Do Not Have Sufficient Incentives to Address Misinformation and Illegal Activity**

As the Subcommittee noted, while extremists use a wide range of social media platforms, between 2005 and 2016, the majority of extremists (near two-thirds) used Facebook to promote extremism.\(^9\) Similarly, now QAnon extremism has found a distinct home on the platform, with Facebook failing to act decisively and explicitly on QAnon until August of this year—a month after Twitter, and nearly two years after Reddit explicitly banned key communities centered on the matter—after which, a number of the conspiracy theorists made their new home on Facebook (and more recently, on Facebook-owned Instagram.).\(^10\) New York Times cybersecurity reporter Sheera Frenkel reflected this week on a parallel rise in extremist content online back in 2015:

I wonder how different our world would look if Facebook, YouTube and Twitter joined Reddit in taking coordinated, effective action against QAnon. That’s what the companies did in 2015 when the Islamic State was using social media to recruit new followers. You could see almost in real time that ISIS lost much of its ability to recruit online.

In my mind, that was the clearest example of the internet companies — when they were motivated to do so — taking action to remove a dangerous group that was pervasive on their sites. This action was supported by the White House, and the internet companies felt empowered to make an overwhelming show of force.\(^11\)

Most striking in Frenkel’s observation is the caveat: “when they were motivated to do so.” While Section 230 of the Communications Decency Act (Section 230) makes it possible for platforms to moderate content, it does nothing to actively encourage that moderation. Internet platforms clearly have the capacity to do more to combat misinformation; while they bear some goodwill costs for providing a bad experience to users, they do not bear all the societal costs.

---


from extremism and misinformation, and lack of competition leaves consumers few alternatives in the marketplace. Users who wish to promote extremist content (either in good faith or bad) can amplify their message by creating fake accounts and engagement to game sorting algorithms to artificially boost visibility. While platforms prohibit such "coordinated inauthentic activity," the rules are often unclear, and enforcement is sporadic. Indeed, platforms today have material disincentives to moderate deceptive and harmful activity: investing in comprehensive platform moderation would be expensive, while fake reviews, views, accounts, and other social engagement artificially amplify the metrics by which platforms are judged by users and investors—and extremist content, in particular, often begets even more engagement—which can in turn continue to spread extremism and the harmful misinformation that can accompany it. And indeed, it has already been reported that platforms, even once explicitly aware of these trends, have actively stifled internal efforts to address them. Without strong counter-incentives, platforms cannot be trusted to govern themselves to standards adequate to protect even their own users—let alone consumers broadly—from harm.

Potential Reforms

There are a number of ways that Congress can provide strong incentives and sufficient motivations for platforms to more effectively address and mitigate the harms that they facilitate. As CR has previously discussed, any conversation around content moderation will—and should—invariably include discussion of Section 230 as it nears a quarter-century in age. There are, of course, further methods for both incentivizing platforms to take responsibility and for holding

---


them accountable for harm that they enable. Ultimately, action in these spaces will ideally be driven by a return to an innovative, transparent, competitive, and open internet: one where platforms are better held accountable for activity they facilitate, and also perhaps one where, structurally, the activity on, and decisions of, any one platform simply cannot ultimately cause the same level of harm as is possible today.

Section 230 originally aimed to encourage the open internet, by broadly insulating online platforms from being treated as publishers, insofar as an offline publication is subject to liability for the content it distributes. Yet any serious discussion on the internet and on content moderation in 2020 must discuss the sheer scope of immunity it presently grants to platforms. Combating misinformation online alone is shaping up to be among the great challenges of the digital age—let alone extremism-fueled misinformation. CR does not support the wholesale repeal of Section 230 by any stretch. Indeed, as discussed in our public comments to the Federal Communications Commission, we especially oppose any limiting of Section 230 immunities in response to platforms fact-checking or providing context on misinformation.16

However, we would encourage a thorough Congressional re-evaluation of what Section 230 updated for the modern era might look like, as a number of creative proposals deserve further engagement and consideration. Possibilities range from propositions adding a reasonableness standard,17 to those limiting the immunities for civil rights violations,18 to those restricting immunities for paid,19 targeted,20 or algorithmically recommended21 content—amongst a number of other proposals that could incentivize and functionally require improved platform moderation.

Congress could also consider legislation and structural remedies designed to ensure a fairer, more transparent, less concentrated online marketplace. Increasing competitive pressure on online platforms, specifically, could help in a few key ways. Competition could help push platforms toward delivering a product that is more effectively and transparently moderated, and

16 CR’s September 2, 2020 comments to the FCC can be found here:https://advocacy.consumerreports.org/research/cr-comments-to-the-fcc-on-section-230/.
therefore of higher quality for consumers. Increased competitive pressure could also come in the form of interoperability: other companies developing different sorting algorithms for media feeds could introduce diversity to the ecosystem, decreasing the reach of any one platform’s moderation inclinations or abilities.\textsuperscript{22} To this effect, the proposed bipartisan Filter Bubble Transparency Act, designed to empower consumers with knowledge of recommendation algorithms or be able to see a feed without opaque algorithmic curation, could further transparency into algorithmic recommendations and ultimately help mitigate the spread of extremist content.\textsuperscript{23} At the same time, efforts to facilitate and increase competition could reduce the market share of any given platform, and could decrease the reach, and therefore the efficacy of extremist content on its network.

Congress could further consider increasing and improving resourcing for the FTC and other relevant agencies, as Section 5 of the FTC Act may even require some level of moderation of harmful content to protect platform users. For at least fifteen years, the FTC has interpreted its Section 5 unfairness authority to require companies to use reasonable data security to prevent third-party abuse of their networks—and it has elsewise previously interpreted Section 5 to require policing of others’ actions—such as in Neovi and LeadClick.\textsuperscript{24} This could reasonably extend, too, to protecting platform users from harmful extremism and related misinformation—and the larger the platform, the greater responsibility to bear and potential harm to remediate.\textsuperscript{25} Ensuring that the FTC has adequate resources to investigate and ensure adequate consumer protections on platforms may also serve to incentivize platforms to improve their moderation capabilities.


The rapid spread of extremism online, and the resultant proliferation of false remedies, conspiracy theories, misinformation, and real-world anti-vaccination and anti-masking sentiment poses significant risk to consumers, opening up huge potential for consumer harm. American consumers deserve relief from the extremism-driven harms that online platforms facilitate and amplify. Online platforms must be better held to account for the spread of extremism, and in some way liable for—or otherwise significantly more incentivized to appropriately handle—or otherwise still, restructured in ways that can help mitigate the rising tide of extremism and its accompanying harms to consumers. We look forward to working with the Subcommittee, colleague organizations, and industry to develop and implement novel solutions to meet this challenge of our time and ensure a safe online marketplace for American consumers.

Thank you for considering CR’s views and allowing us to contribute to the ongoing discussion as we all seek to secure a safe, fair online marketplace for American consumers.

Sincerely,

Laurel Lehman
Policy Analyst

Jonathan Schwantes
Senior Policy Counsel

Justin Brookman
Director, Technology Policy