

116TH CONGRESS
2D SESSION

H. R. 8636

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

OCTOBER 20, 2020

Mr. MALINOWSKI (for himself and Ms. ESHOO) introduced the following bill;
which was referred to the Committee on Energy and Commerce

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”.

6 **SEC. 2. AMENDMENT.**

7 Section 230(c) of the Communications Act of 1934
8 (47 U.S.C. 230(c)) is amended by adding at the end the
9 following new paragraph:

1 “(3) ALGORITHMIC AMPLIFICATION.—

2 “(A) IN GENERAL.—For purposes of para-
3 graph (1), an interactive computer service shall
4 be considered to be an information content pro-
5 vider and the protection under such paragraph
6 shall not apply for any claim described in sub-
7 paragraph (B).

8 “(B) CONDITIONS FOR CLAIM.—

9 “(i) IN GENERAL.—A claim in this
10 subparagraph requires the following:

11 “(I) A claim in a civil action is
12 brought under—

13 “(aa) section 1980 or 1981
14 of the Revised Statutes (42
15 U.S.C. 1985; 42 U.S.C. 1986);
16 or

17 “(bb) section 2333 of title
18 18, United States Code.

19 “(II) Except as provided in
20 clause (ii), the claim involves a case in
21 which the interactive computer service
22 used an algorithm, model, or other
23 computational process to rank, order,
24 promote, recommend, amplify, or
25 similarly alter the delivery or display

1 of information (including any text,
2 image, audio, or video post, page,
3 group, account, or affiliation) pro-
4 vided to a user of the service if the in-
5 formation is directly relevant to the
6 claim.

7 “(ii) EXCEPTION.—Notwithstanding
8 clause (i)(II), the requirement is not met
9 if—

10 “(I) the information delivery or
11 display is ranked, ordered, promoted,
12 recommended, amplified, or similarly
13 altered in a way that is obvious, un-
14 derstandable, and transparent to a
15 reasonable user based only on the de-
16 livery or display of the information
17 (without the need to reference the
18 terms of service or any other agree-
19 ment), including sorting informa-
20 tion—

21 “(aa) chronologically or re-
22 verse chronologically;

23 “(bb) by average user rating
24 or number of user reviews;

25 “(cc) alphabetically; and

1 “(dd) randomly; or

2 “(II) the algorithm, model, or
3 other computational process is used
4 for information a user specifically
5 searches for.

6 “(C) SMALL BUSINESS EXCEPTION.—This
7 paragraph shall not apply to an interactive
8 computer service that (in combination with each
9 subsidiary and affiliate of the service) has
10 50,000,000 or fewer unique monthly visitors or
11 users for a majority of the preceding 12
12 months.”.

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