

Executive Order Strikes at Section 230, But Legal Impact Likely to be Limited

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In [previous posts](#), we've written about Section 230 of the Communications Decency Act. Like it or hate it, Section 230 has become integral to the internet, and it's no exaggeration to say that social media probably couldn't work without it.

As a refresher, Section 230 generally states that an online platform can't be held liable as a publisher or speaker for content provided by someone else. The law does not provide a blanket immunity, however. Platforms can be held liable when they are "responsible, in whole or in part, for the creation or development" of unlawful content. The question in many CDA cases is at what point a platform crosses the line between simply allowing others to post content and playing a role in the creation of that content. (Click [here](#) for a look at how one of those cases played out.)

Another provision states that a platform cannot be held liable for actions taken in good faith to restrict access to material that the platform "considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected."

The question of when a platform can be liable for content became a little more murky last week, after President Trump signed an [Executive Order on Preventing Online Censorship](#). The Order, which came after Twitter decided to [fact-check](#) a pair of the President's tweets, is purportedly designed to stop online platforms from making content moderation decisions that discriminate against particular viewpoints.

Although the Order includes provisions that have alarmed some social media platforms, there are questions about whether the Order is constitutional, and some experts predict that the impact will be limited. For a more detailed analysis, [see what our friends at CommLaw Monitor have to say](#).