

# Former Missouri Attorney General Quietly Withdraws First of Its Kind Content Moderation Rule

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Just before the former Missouri Attorney General Andrew Bailey resigned from office earlier this month, his office quietly issued a withdrawal notice for a rule that would have prohibited social media companies from requiring users to rely on in-house content moderation. The withdrawal effectively halts the rule’s promulgation ... at least for now.

To recap, earlier this year, Bailey made headlines (including [ours](#)) by publicly announcing his filing of the content moderation rule. The rule aimed “to dismantle the ‘Big Brother’ speech-control machinery of corporate America” by requiring social media companies to offer third-party content moderation to users.

The rule, touted by the office as the first of its kind, faced strong criticism through the required notice and comment period. The Computer & Communications Industry Association (“CCIA”) [criticized](#) the rule for posing data security risks to consumers by forcing platform interoperability with unvetted third-party moderation operators, violating the First Amendment rights of social media companies, and creating an environment that would limit platforms’ ability to screen harmful content and build trust with users, among other things. The International Center for Law & Economics (“ICLE”) expressed similar concerns in their published [comment](#), additionally targeting the technical impracticality of the “plug and play” model of the rule—stating that content moderation systems are deeply integrated into the platform’s systems, and new moderation models cannot be just plugged into a platform’s architecture. Both organizations suggested Bailey withdraw the proposed rule entirely.

Free speech advocates also argued that Bailey relied on a flawed interpretation of the Supreme Court’s ruling in *Moody v. NetChoice* as the legal foundation for the AG’s authority. The ICLE wrote that *Moody* did not give states free rein to enforce competition laws as Bailey claimed in the proposed rule announcement. Rather, they argued, the decision is more properly read to grant First Amendment protections to social media platforms that establish standards and practices for filtering content or deciding how to organize user content.

No comments in support of the rule were made publicly available, and no public forum was held with respect to the proposed rule.

Bailey’s office issued the withdrawal two months after the notice and comment period ended. In the withdrawal notice, the Missouri AG’s office stated that the rule was withdrawn due to questions about the feasibility of the rule’s implementation, stating that more work needed to be done before it

could take effect. Notably, the notice specifically stated that the office did not agree with comments that argued it did not have legal authority to enact such a rule.

The notice seems to leave open the possibility that a future Missouri AG, or another state AG with similar authority, could attempt to propose a more feasible version of the rule leading to a test of legal authority. Laying aside the feasibility considerations of any future proposed rule, it's likely that attempts at a similar rule would again face opposition from organizations such as the CCIA and ICLE. In the meantime, we will continue to monitor AG developments in Big Tech.