

PLATFORM ACCOUNTABILITY AND CONSUMER TRANSPARENCY ACT

Senators Schatz (D-HI) and Thune (R-SD)

Enacted in 1996, Section 230 of the Communications Act offers broad protections to “interactive computer services” (i.e., online platforms) for user-generated online content on their sites. However, these protections have led to opaque content moderation practices, a lack of online platform accountability, and an inability to enforce federal regulations in the digital world. Accordingly, while Section 230 protections for online platforms may have been appropriate twenty-five years ago, it is now time to reexamine the obligations of online platforms under the law.

The *Platform Accountability and Consumer Transparency Act*, (the *PACT Act*), co-sponsored by Senators Schatz and Thune, imposes new responsibilities on platforms for content hosted on their sites. The bill’s three pillars of *transparency*, *accountability*, and *consumer protection* will ensure that Section 230 protections and online platforms’ content moderation practices put consumers first.

The PACT Act will promote *transparency* by:

- Requiring online platforms to explain their content moderation practices in an acceptable use policy that is easily accessible to consumers;
- Implementing a biannual reporting requirement for online platforms that includes disaggregated statistics on content that has been removed, demonetized, or deprioritized; and
- Promoting open collaboration and sharing of industry best practices and guidelines through a National Institute of Standards and Technology-led voluntary framework.

The PACT Act will promote *accountability* by:

- Requiring large online platforms to provide due process protections to consumers by having a defined complaint system that processes reports and notifies users of moderation decisions within twenty-one days, and allows consumers to appeal online platforms’ content moderation decisions;
- Amending Section 230 to require large online platforms remove court-determined illegal content and activity within four days; and
- Allowing smaller online platforms to have more flexibility in responding to user complaints, removing illegal content, and acting on illegal activity, based on their size and capacity.

The PACT Act will promote *consumer protections* by:

- Exempting the enforcement of federal civil laws from Section 230 so that online platforms cannot use it as a defense when federal regulators, like the Department of Justice and Federal Trade Commission, pursue civil actions online;
- Allowing state attorneys general to enforce federal civil laws against online platforms; and
- Requiring the Government Accountability Office to study and report on the viability of a FTC-administered whistleblower program for employees or contractors of online platforms.