Summaries of Amicus Briefs in support of Google in ***Gonzalez v. Google***

January 2023

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NetChoice

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Summary of Briefs Filed

47 briefs total:

- 25 Think tanks, trade groups and other organizations
- 10 Tech Companies
- 10 Academics
- 2 Lawmakers

Partisan breakdown of organizations and lawmakers:

- 5 left-leaning organizations: Progressive Policy Institute, Chamber of Progress, Center for Democracy and Technology, EFF, ACLU
- 1 left-leaning lawmaker: Sen. Ron Wyden
- 3 right-leaning organizations: American Action Forum, Washington Legal, CGO
- 2 right-leaning lawmakers: Former Sen. Rick Santorum and former Rep. Chris Cox
- 5 libertarian organizations: Cato Institute, R Street, Reason, TechFreedom, Copia Institute

Think Tanks, Special Interest Organizations and Tech and Trade Groups

ACT | The App Association

The certainty Section 230 provides is necessary for small online businesses to compete.

- The use of algorithms to curate and recommend content generated by third parties is critical to operating any platform, particularly small business platforms.
- Section 230 has played an integral role creating an environment where small businesses, entrepreneurs, and innovators can thrive in the digital economy.
- For many years and across the circuits, well-reasoned decisions have reinforced the vital liability protections needed by small businesses and startups. A departure from the court of appeals' decision and decades of precedent would inappropriately depart from clear Congressional intent and severely disadvantage small businesses seeking to compete against large established firms across technology markets.
- Altering Section 230's protections would undermine the robust and ongoing debate underway in Congress today.

American Action Forum

A finding for Google will honor Congress's express deregulatory intent, give effect to every word of Section 230, safeguard a competitive marketplace, and promote innovation and competition in the technology sector.

- 230's legislative findings make clear that it was adopting a deregulatory regime to create space for internet companies, large and small, to flourish in a free and competitive marketplace. Section 230 has worked wonders to this end, promoting wealth creation and economic expansion at a clip unrivaled in history.
- The statute's sweeping immunity comfortably applies to service providers when they point users in the direction of information provided by another content provider.
- Section 230's immunity provision ensures that upstart companies do not buckle under the weight of exorbitant litigation costs, lowers the barriers to entry, and fosters an entrepreneurial and competitive marketplace. Small companies proliferate on the internet, providing many "services, such as how-to videos; educational resources; product and service reviews; comment sections; restaurant recommendations; film, television, and book reviews; and online marketplaces for independent sellers."

- Rather than risk stifling that growth, this Court should read Section 230 consistent with the statute's text.

American Civil Liberties Union and Daphne Keller

If the recommendation implicit in selecting particular material to display is sufficient to negate Section 230 immunity, there would be nothing left of the statute's protection.

- The Internet has democratized speech, creating a forum for public self-expression and connecting billions of speakers and listeners who never could have found each other before.
- Plaintiffs and the United States argue that a platform's publication of third-party content is not protected because there is an "implicit message" of "recommendation" of that content.
- Section 230 bars plaintiffs' claim because the crux of their complaint is that they were harmed by the publication of ISIS-related videos, and YouTube was the publisher of those videos. Such a claim falls in the heartland of Section 230 immunity, because it seeks to treat YouTube "as the publisher" of someone else's content.
- Section 230 is not a broad grant of immunity to platforms. It does not apply to platform conduct that falls outside the publication of others' content.
- Virtually every decision to publish third-party content online involves such an implicit "recommendation."
    - If the recommendation implicit in selecting particular material to display is sufficient to negate Section 230 immunity, there would be nothing left of the statute's protection. Recommendations, in the sense plaintiffs use it here, are inextricable from the very act of publishing third-party content online in the first place.
    - Plaintiffs here seek to hold YouTube liable for third party content where it did no more than list that content as potentially of interest—something every decision to publish implies. Because that type of decision is inextricable from the very act of publishing, Section 230 immunity attaches.

Authors Alliance and Internet Creators

A finding for Gonzalez inhibits new content creators' ability to gain large audiences.

- Section 230's protections for Internet platforms have enabled online creators to reach and grow new audiences on the Internet: Platform recommendations allow expression to flourish by elevating independent and emerging creators' works.
- Altering Section 230's intermediary-liability protections for recommendations could have significant consequences for current and future creators and for free expression online. (Major platforms might be less likely to host and promote independent creators' content. New and emerging creators may be unlikely to reach new audiences.)

- A finding for Gonzalez means speech generally could be chilled online, hindering Congress' policy goals of fostering a free and open Internet

Bipartisan Policy Center

- Section 230 is the product of bipartisan consensus.
- Courts' consistent interpretation of Section 230 for nearly 30 years is the foundation of the modern internet.
- Congress is currently considering proposed reforms to Section 230: judiciary should not short-circuit this process.

Cato Institute

Statutory interpretation-focused brief explaining the fallacy of the "traditional editorial functions" test petitioners use.

- Over the course of this litigation, Petitioners have attempted to support their claim that YouTube's algorithmic recommendations of third-party content based on users' past engagement does not qualify for Section 230's protection with two mutually incompatible theories.
    - First, in their petition for certiorari, Petitioners argued Section 230 protections are contingent on passing a novel "traditional editorial functions" test.
    - Second, in their brief on the merits, Petitioners claim that, under a different test that has conventionally been used by the lower courts to resolve Section 230 cases, YouTube's recommendation algorithms do not qualify for Section 230 protection.
- Both theories are wrong. Petitioners' "traditional editorial functions" test is unsupported by the text of Section 230, and it is not even consistent with the lower-court decisions that purportedly make use of it.
- The conventional, three-pronged "Barnes test," which 3 lower courts typically use to determine whether Section 230 applies, is a much better fit. Google's algorithmic recommendations satisfy all three prongs of the Barnes test and are thus entitled to Section 230 protection.
- YouTube's labeling relevant videos with the words "up next" does not void Section 230 protection, just as a newspaper guiding readers to the remainder of a front-page story with the words "continued on page 25" would not void that newspaper's own legal protections.
- Even if recommendations were distinct pieces of content rather than necessary byproducts of organizing content, those recommendations would be generated by user inputs subject to neutral algorithmic rules and thus not speech developed by YouTube.

Center for Democracy and Technology and Six Technologists

Explaining technological impracticability of perforating protection for "display" and "recommendation," the practical effects of a ruling for Gonzalez on free discourse, and reminding the Court that a ruling for Google will still leave open avenues to hold providers legally responsible for their actions.

- The distinction Gonzalez and the United States attempt to draw between recommendations and "traditional functions" does not exist. Making choices about what content to display and how to display it is the quintessential activity of traditional publishers.
- The distinction Gonzalez suggests between display and recommendation of content is technologically arbitrary and unworkable. Recommendation is functionally indistinguishable from selecting and ordering or ranking items for display, something every provider must do.
- If the Court finds for Gonzalez, providers will be discouraged from using novel ranking algorithms, which will harm Internet users.
    - Ranking algorithms are necessary to make many services useful.
    - Ranking algorithms are also a key component of content moderation for most major services; reducing the visibility of problematic (but not actually illegal) content better protects freedom of expression than deleting it entirely.
- A holding for Gonzalez will create strong incentives for providers to limit speech: a provider would rationally seek to minimize the risk of liability by taking steps such as imposing categorical limits on the type of content it ranked and displayed.
- Even though claims based on algorithmic selection and ranking of content treat providers as publishers, Section 230's liability shield is not absolute.
    - Among other things, it does not apply if the provider even partially creates or develops the information that gives rise to a legal violation.
    - A finding for Gonzalez will still leave open avenues to hold providers legally responsible for their actions.

Center for Growth and Opportunity et al.

"Enabling tools" are explicitly protected by Section 230, Section 230 does not squelch conservative speech, and Section 230 facilitates competition.

- Automated recommendation systems are what Section 230 calls "enabling tools," which are used by "access software providers" to "choose," "display," and "forward" "content." § 230(f)(4).
- And as the government notes, "[i]t would make little sense for Congress to specifically include entities that provide 'enabling tools' that 'filter,' 'organize,' and 'reorganize' content as among those to which Section 230(c)(1) applies, only to categorically withdraw that protection" elsewhere. It cannot be that the very functions that qualify platforms for protection under Section 230 also disqualify them from its protections.

- Petitioners' factual misconception is that Section 230 lets platforms squelch conservative and heterodox speech with impunity.
    - Doubtless platforms have squelched speech at times, but the overall data and history of the internet reveal a more complex picture.
    - The largest social-media platform in the world is Facebook, with almost three billion users, and is dominated by speakers on the right. "So often does Ben Shapiro lead the rankings, for example, that National Public Radio declared that "Ben Shapiro rules Facebook." Meanwhile, over on Spotify, the top podcast is hosted by Covid-vaccine skeptic and frequent critic of the left Joe Rogan, whose show collects 190 million downloads a month, numbers Fox News star Tucker Carlson (with some three million nightly viewers) would envy."
- No company has ever dominated Big Tech for long. "IBM was dethroned by Microsoft. Hewlett-Packard was beaten by Apple. AOL was bested by Yahoo, which was knocked off by Google. And the creative destruction continues. Twitter is famously under new ownership. Facebook's stock has plummeted. And social media upstarts Parler, Gab, and Rumble are growing." Reports of the death of competition under Section 230 are greatly exaggerated.
- Exposing all platforms to liability would mainly hurt startups, which later may challenge today's leaders. It would also discourage turnover at the top of those platforms.

Chamber of Progress

Section 230(c)(1) codified the First Amendment's protection for intermediaries. Gutting 230 would especially harm marginalized speakers and audiences.

- Long before the Internet, this Court recognized that those who transmit the speech of others are vulnerable targets for censorship: constraining the messenger results in collateral censorship of all who rely on that intermediary to reach a wider audience.
- Intermediary liability has proven especially threatening to marginalized, dissident, and disfavored speakers, whose ability to reach an audience and contribute to global discourse depends upon intermediaries to disseminate their controversial messages.
- Intermediaries do not forfeit their Section 230 immunity by exercising their First Amendment right to select and promote content.

Developer's Alliance

Technical brief from software developers explaining how algorithms developed, how they work, and why trying to apply common law concepts to the internet is unworkable.

- "In order to understand the text and purpose of 47 U.S.C. § 230 one needs to understand how engineers, software developers and computer scientists have designed the systems that Section

230 is written to address, why common law analogies are inapt, and to understand how the language and culture of computer science is reflected in the text of the law."

- Recommendation systems are not mentioned in Section 230, but they're reflected in moderation systems that "… pick, choose … display, … search, … organize" content.
    - Recommendation is based on search. A search engine's task is to find, index, and rank searchable content — predominantly the text that makes up most of the Internet.
    - Search differs from moderation in that it relies mostly on metadata and is not reliant on an understanding of the underlying content.
- While legal professionals use the analogy of printed books as a stand-in for the many elements that come together to create a web page, computer professionals use terms borrowed from their academic history such as libraries and journals, logic, and communications networks.
    - This has resulted in overlapping terms and tangled meanings.
    - The legal analogies miss the point.
- Section 230 continues to fulfill a critical purpose as a bulwark against the temptation of imposing 19th century law to a system beyond contemplation when those precedents were born.
- Section 230 emerged because common law concepts threatened to subvert the foundational systems the internet was built upon. Gutting Section 230 now will do just that nearly 30 years later.

Economics fellows of the Technology Policy Institute

Explaining the economic inefficiencies that will result from Petitioners' theory.

- The digital economy depends on algorithms that direct particular content to users based on its likely relevance to them.
- The economic benefits of targeted content extend far beyond the revenues the platforms themselves generate from digital advertising: The targeting of search results, advertising, and other content to users fuels the overall digital economy and generates massive benefits for all consumers of information, goods, and services and for the firms that use the platforms to reach them.
- Any decision in this case that could change the structure of the digital economy must consider the decision's full economic consequences, including the effects on other firms and on consumer welfare resulting from online platforms' targeting of relevant content to their users.
- Though the underlying litigation here focuses on alleged harms caused by algorithmic recommendation of content, the Court should consider what the alternatives to targeted content would be and what effects might flow from those alternatives!
- Improvement in targeting methods requires an environment that fosters innovation: The point here is that developers are constantly analyzing data to better understand how targeting technology works (and doesn't work) so that targeting algorithms can be improved. They should be able to continue to do this work in a legal environment that fosters innovation that will help

websites deliver and display content in ways that consumers prefer and that benefit the broader economy.

Electronic Frontier Foundation, American Library Association, et al.

Explaining that the entire point of hosting UGC is so that others can access it – which is done by providing URLs – yet petitioners' theory would create a massive disincentive for URL-hosting services to perform this function.

- Online intermediaries proved essential in hastening the internet's evolution from a military project to a tool used by virtually everyone, and they provide the underlying structure that enables the internet "to alter how we think, express ourselves, and define who we want to be."
- The text, structure, and purpose of Section 230 confirm that Congress granted online intermediaries robust protections precisely because it decided that immunizing them from lawsuits related to harmful content created by their users and from lawsuits related to managing user content would provide significant benefits.
- Petitioners advance a radical argument to narrow Section 230(c)(1) that runs contrary to the statute's text, structure, and purpose: a narrow interpretation of Section 230(c)(1) that would drastically erode the significant benefits Congress sought in enacting the statute.
    - Petitioners seek to exclude from Section 230(c)(1)'s immunity a platform's decision to recommend, notify users about, or even provide a URL (or link with a URL) to content so internet users can access the content.
    - If providing a URL to content falls outside Section 230(c)(1), as Petitioners argue, then all hosting of third-party content is unprotected.
- Creating such a legal distinction would harm internet users' ability to communicate freely and to connect with others online, by radically altering how easily everyone can create and share content online.
- The entire point of hosting third-party content—or any content—is so that others can access it. And the way everyone accesses content online is via URLs.
- Under the legal regime proposed by Petitioners, online intermediaries would be forced to curtail users' ability to access content that has not been vetted for potential legal exposure. Even under Petitioners' narrowest argument to limit Section 230(c)(1), online platforms would censor far more user expression if they could be liable for it.

Internet Infrastructure Coalition et al.

Collection of internet service providers explaining this case will affect far more than "big tech," that Gonzalez's theory has no principled or workable basis, and would "threaten the online foundations of the modern economy."

- This case targets a specific subtype of interactive computer service providers ("Big Tech"), but it will affect many other types of businesses that fall within the definition of "interactive computer service": The statute also protects the least known service providers which are part of the essential technological underpinning of the Internet.
    - Many core features and functions of the Internet infrastructure rely upon algorithms to meet customer demands, to maximize network efficiency and throughput, and to protect the Internet infrastructure (and, as a consequence, physical infrastructure) from cyberattacks.
    - The statute allows for liability of those who *misuse* the tool, not those who provide it. This is critical.
    - Section 230(c)(1) has been instrumental in promoting the explosive growth of communication methods available to the public. Gutting it will affect the core of the internet's functionality and the commerce it supports.
- The term "targeted recommendations" misdescribes and maligns the actual operation of the automated algorithms that are necessary at every level of the Internet to organize, process, route, convey, and transport information and communications.
- For 25 years courts have uniformly applied the law. If circumstances now call for a policy different from what Congress established in 1996, Congress alone should reconsider it.

Internet Society

Through Section 230, Congress expressly sought to protect and enable a medium for unique modes of interactivity. A finding for Gonzalez is contrary to statutory intent and will hamper interactivity.

- From the beginning, the Internet has been a fundamentally interactive place where individuals actively participate in public discourse, rather than merely consume it.
- Participants may interact with other individuals or with the wider public in ways never before imagined. Congress preserved and encouraged this interactivity through the intermediary protections of Section 230.
- Congress sought to protect continued innovation and creativity in enacting Section 230. That innovation has allowed for the Internet to scale to carry previously unimaginable amounts of information and utility—which would not be possible without technologies like algorithms.
- Grafting an atextual "traditional editorial functions" limitation onto the statute would severely undermine the Internet's innovative benefits.

- Section 230 immunity also benefits a wide range of Internet participants at many levels of the Internet stack, from bloggers across the political spectrum to small businesses to cybersecurity firms to large "user generated content" platforms.

M. Chris Riley, Floor64, Inc., the Copia Institute, and Engine Advocacy

TechDirt relies on Section 230 to have a decentralized comment section, Section 230 affects all layers of the internet stack, Section 230 necessary for competitors to be able to unseat dominant platforms.

- A finding for Gonzalez would fundamentally rewrite Section 230 to no longer be a purposefully broad law. This will negate its protective effect
- Finding for Gonzalez would recast service provider functions as content creation and obviate Section 230's protective effect
- Amici exemplify how curtailing Section 230 would hurt online services
    - Without immunity for *users* who upvote and downvote comments on TechDirt, the comment section would be useless and filled with abuse and spam
    - Floor64's hosts and domain registrars are necessary for Floor64 to exist and produce expressive content. These "deep stack" entities rely on Section 230 immunity as well.
- To diminish dominant platforms' market share, there must be ease of market entry. Section 230 is a prerequisite for easy market entry.
- Judicial reinterpretation curtailing Section 230 will not make the Internet better: "No law can fix the ills of humanity so often on display on the Internet. But a good one, like Section 230, can help us cope with humanity's worst while enabling its best."

Marketplace Industry Association and Match Group

Necessity of robust Section 230 protection for small companies and market entrants.

- Startups and midsize technology companies need Section 230 to survive and compete much more than larger companies do.
- Algorithmic display and curation is necessary technology in today's age: a broad limitation of (c)(1) around targeted recommendations will create an avalanche of frivolous claims that will destroy small companies.

NetChoice, Computer & Communications Industry Association, et al.

Algorithms are core components of the most basic functionality of the internet. Accepting Gonzalez's theory will make digital services less enjoyable and less useful.

- Content organization has always been a key part of what makes the Internet usable and useful. The volume of UGC has grown too large to organize by analog means such as alphabetically or chronologically.
- As people increasingly "rely[] on interactive media for a variety of political, educational, cultural, and entertainment services," 47 U.S.C. § 230(a)(5), digital services increasingly use algorithms to organize content and present it to users in a useful way. That organizing function is at the core of what digital services do, and what Section 230 protects.
- Accepting petitioners' view that organizing content amounts to making an unprotected "recommendation" would render Section 230 meaningless and leave many digital services less usable and less useful.

Product Liability Advisory Council

Responding to two of petitioners' amici's claims about Section 230 and product liability.

- Though this case is about 230(c)(1) and recommendation algorithms, some amici (Child USA and EPIC) asserted in amicus briefs that claims against websites grounded in product liability, negligence, and other common law principles are categorically excluded from the defense provided by Section 230.
- There is no occasion for the Court to address the issue here but the amici are wrong: Section 230 applies to these common law claims to the same extent and in the same manner that it applies to other causes of action.
- Section 230 includes a provision excluding specified causes of action. That list does not include product liability, negligence, or other common law claims. Amici's contrary arguments rest on policy or interpretations of Section 230 that are inconsistent with the statute's plain language. There is no basis for holding that Section 230 does not apply to these common law claims.

Progressive Policy Institute

The vibrant speech and economic marketplace online today relies on a stable coherent legal regime that petitioners' theory will upend.

- Our vibrant, competitive online marketplace is made possible by Section 230. While the Covid pandemic and inflation have ravaged other industries, the digital economy has been a bulwark—continuing to create jobs in record numbers and counterbalancing inflationary pressures.
- That resilience is thanks to massive investment in these services and technologies—investment that depends on a stable, coherent legal regime and protection from limitless liability.
- The algorithmic recommendations at the heart of this case are critical to our digital economy's strength and dynamism.
- There is no limiting Petitioners' theory to insulate search engines—or even content moderation itself. The internet cannot function without sorting and ranking mechanisms.
- Attempts at fine-tuning and improving the Section 230 regime should be left in the hands of elected and properly appointed policymakers 4 operating through the legislative process or administrative tools like notice-and-comment rulemaking—not this Court.

Public Knowledge

Gonzalez's claims are foreclosed by Section 230, but Section 230 does NOT prevent litigants from holding online marketplaces accountable for selling dangerous products. Still, Congress, not the courts, should narrow Section 230 to better promote "internet freedom and family empowerment" while reducing online harms.

- Theories of liability that depend on the harmful contents of third-party material constitute "treating" a provider as a publisher and are barred by the statute.
- Section 230 protects the publication of third party content. But it protects only that.
    - Just as some plaintiffs attempt to evade Section 230 by characterizing their claims in other terms, some defendant providers attempt to use Section 230 as a defense in situations where it simply does not apply.
    - This case is the Court's first full opportunity to consider the meaning and scope of Section 230. It should take the opportunity to provide clarity as to both the reach, and the limits, of Section 230.
- Section 230 is not a perfect statute, but its fundamental policy goals of free expression, competition, and user control are sound.
- Congress, and not the courts, should take initiative to better promote these goals while reducing online harms.

Reason Foundation

Algorithms that point users of interactive computer services to the content of others generally do not themselves create or develop content from the recommending person or entity.

- Congress accurately predicted the benefits of Section 230, which allows providers and users of interactive computer services to innovate, collectively expand the reach of protected speech, and generate economic growth without the crushing transaction cost of liability based on the speech of others
- Algorithms or other actions that merely suggest information content provided by another content provider do not generally convert that content into "information provided by" the recommending user or provider of an interactive computer service.
- The plain text of Section 230 draws a distinction between redistribution of "information provided by another information content provider" and information content provided by a user or interactive computer service itself

Software & Information Industry Association

Recommendation algorithms are clearly encompassed by (f)(4)'s "access software provider and petitioners' arguments fundamentally misunderstand how recommendation algorithms work.

- The plain meaning of Section 230(f)(4) encompasses the modern tools that enable platforms to organize and deliver content, including Google and YouTube's predictive algorithms
- The government's distinction between "recommendations" and "searches" displays a fundamental misunderstanding of how information filtering tools work: Petitioners presume that the algorithms know the content of the videos they recommend. Their misunderstanding cannot (and should not) supplant the plain meaning of Section 230(f)(4), which encompasses content recommendations, because it would create disastrous consequences that would stymie the information delivery economy.
- Section 230 expressly anticipated and encompasses the use of modern algorithms and machine learning in content moderation, and there is no reasonable distinction for exempting Google or YouTube's predictive tools
- Congress's decision to provide interactive computer services with Section 230 protection has fostered growth and innovation in the business of information, and it is Congress's prerogative to change the legal incentives

TechFreedom

Explaining the "publisher versus platform" fallacy and its origins, and discrediting the popular framing of Section 230 as a boon only for "Big Tech." Putting new limits on Section 230 would not satisfy the law's opponents.

- SCOTUS said in *Brown* that: "'The basic principles of freedom of speech and the press,'" "'do not vary' when a new and different medium of communication appears." Section 230 was enacted to honor this principle, and has consistently done so.
- A popular fallacy among Section 230's critics is that Section 230 distinguishes between "platforms" and "publishers."
    - This idea holds that a "platform" must be "neutral" to enjoy Section 230 protection. This theory is no more than a wishful attempt to rewrite the statute.
    - However, a revised version of the idea—recently accepted by the Fifth Circuit—posits that Section 230 transforms each entity it protects from a "publisher" into a "platform" that can be compelled by the government to speak. This is false – Section 230 does ot short-circuit the First Amendment!
- "The fact that so many believe so strongly that curtailing Section 230 will serve utterly disparate ends should give any serious person pause."
- Putting new limits on Section 230 would not satisfy the law's opponents.
    - Narrowing Section 230 would result in more, not less, content moderation. More liability exposure means more caution in displaying (or recommending) content.
    - Narrowing Section 230 would simultaneously create (1) more online spaces for misinformation and hate speech and (2) fewer online spaces for marginalized voices.

Trust & Safety Foundation

Internet trust and safety teams rely on algorithmic tools to keep the internet safe and enjoyable. The Internet will be worse off, and platforms will be more censorial, if companies are reluctant to use these tools.

- In the United States, T&S teams can rely on Section 230 to help limit the amount of content that must be filtered or de-amplified: Even the most well-resourced T&S teams have neither the time nor resources to fully vet the legal risk of every piece of legally questionable content.
- Though these tools are indispensable, they are also not sophisticated enough to assess precisely the relative legal risk of all types of user-generated content.

- Limiting Section 230's protection for filtering software will be extremely burdensome to T&S teams and lead to more content removal as T&S teams are instructed to avoid crippling liability for the platforms they work for.
- Limiting Section 230's protections could also harm user speech and platform competition.
    - Platform design may shift from facilitating and encouraging user generated content to limiting or foreclosing it.
    - Smaller platforms may be unable to allocate the resources to manage increased intermediary liability risk, forcing them to leave the market, merge with a larger competitor, or not even enter it in the first place.

U.S. Chamber of Commerce

"Implied messages" created by recommendation algorithms do not provide sufficient basis to treat recommended UGC differently under (c)(1). Court should take care not to decide a question broader than the one actually presented.

- For two reasons, Section 230(c)(1) bars petitioners' claim predicated on the "implied message" YouTube's "up next" bar offers.
    - First, implied messaging is inherent in publishing any diverse content. Without some scheme of organization, a set of information would be unusable or meaningless. That inherent feature of publishing cannot be the very feature that exposes a website to liability.
    - Second, whatever the status in general of implied messages through organization of third-party content, petitioners' claim here depends on proving that YouTube published that third-party content.
- Petitioners' interpretation of Section 230 would expose to liability every company that hosts third-party content— in practice, virtually every company operating on the internet. The threat of such suits—asserting theories that "implied messages" recommending third-party content inflicted harm—would create powerful incentives for websites to offer content in a less organized, less personalized, and less accessible way, directly contrary to Congress's goals.
- The Court should thus hold that Section 230(c)(1) shields the specific practices challenged here. But the Court should not venture farther afield to address other questions under Section 230. The issue here is of surpassing importance to the vitality of the internet; other issues implicating the scope of Section 230 should be reserved for cases that squarely present them.

Washington Legal Foundation

Legal theory brief concerning statutory interpretation/construction and vertical federalism. Responds to many arguments from amici supporting Gonzalez.

- It is fundamental to the rule of law that courts interpret statutes using a plain-text reading of it.
    - Plain-text puts parties on notice about what actions may subject them to liability and which actions they can take without fear of large adverse judgments.
    - Sometimes policymakers don't like a statute's outcomes. That does not mean that courts may do what they're unable to achieve.
- A plain-text reading of Section 230 shows Congress conferred broad immunity for providers and users of "interactive computer services," which includes sorting and organizing content. Plaintiffs' claims are barred because they seek to hold Google liable for publishing third-party content.
- Amici supporting Gonzalez show the pretextual reasons many are undermining the obvious plain-text interpretation of Section 230 in this case:
    - Some amici seek to use "the court system as a personal ATM machine for the plaintiffs' bar. Anything that provides immunity for defendants is objectionable to these groups, like the American Association for Justice."
    - Other amici, like Seattle School District No. 1, want the government controlling every aspect of our lives. In their view, the marketplace of ideas doesn't work and Big Brother knows what is best for business and individuals.
- Affirming the Ninth Circuit's decision would not weaken federalism.
    - Amici Tennessee et al argue that "due respect for federalism supports a narrow view of 'publisher' immunity that does not reach the targeted promotion of content."
    - Construing Section 230 to preempt state law claims is consistent with originalist interpretation of Congress's authority to regulate interstate commerce.
    - Allowing federal preemption of state-law claims fits with first principles of vertical federalism.

Tech Companies

Automattic, Inc.

Section 230's protection for rec algos is necessary for small businesses to thrive and for controversial speech to be hosted without hesitation. A finding for Gonzalez will create an influx of international litigation and subject states to a patchwork regime of up to 50 different laws.

- Automattic isn't big. Its workforce is several orders of magnitude smaller than Google. But it can still manage and carry so much online expression, including speech that pushes boundaries—, because of Section 230.
- Section 230's protections for intermediaries translate into protections for users. Automattic's choice to host critical or dissenting content (regardless of its ideology or point of view), in the face of actual or perceived legal threats, creates an environment where users can speak out.
- Without 230's robust protections, platforms would be inundated with costly lawsuits both in the United States and abroad: Plaintiffs worldwide would seek to domesticate foreign orders obtained in jurisdictions with less robust speech protections.
- Further, under a finding for Gonzalez, intermediaries that make prioritization decisions would be exposed to a patchwork of fifty different (and often incompatible) state laws.

Craigslist

Craigslist would not exist without recommendation algorithms to sort posts by geography and quality. The distinction between "search" and "recommend" petitioners' use is unmoored from the practical reality of how the internet works.

- Craigslist would not exist without Section 230. Organized geographically, craigslist provides traditional classified subject categories (such as "jobs" and "housing") in which users can post their ads. craigslist also provides a keyword search function, along with filtering and sorting methods (driven by algorithms, with the inputs generally supplied by users themselves) to help users quickly and easily find what they are looking for.
- The crabbed reading of Section 230 that petitioners and the government propose is "highly artificial and unworkable" and unmoored from the practical realities of how online publishing and the Internet work and would expose craigslist to risks that would render its popular service untenable.
    - There is no bright-line distinction between "searches" performed by search engines and "recommendations" generated by social media sites (often using algorithms) because

both “recommendations” and “searches” are simply ways to organize and prioritize the vast quantities of information published online.
    - Both “searches” and “recommendations” frequently involve the same inputs and processes: a user’s selection of keywords or categories, automated organization and arrangement (via computer algorithms), categorization by subject matter, as well as various sorting and filtering methods.
    - Search results often could be characterized as “recommendations” (the website is, in some sense, recommending results shown on the first page over those shown on the second, etc
- Petitioners seek to carve up Section 230 immunity based on whether a URL is either (i) created and hosted by a third-party website (for example, if Google links to a URL hosted on the Wall Street Journal’s website) or (ii) created and hosted by the website itself (for example, a link to a URL on Google’s own site).
    - According to petitioners, Section 230 potentially applies in the first scenario, but not the second because the URL in the second situation is purportedly the primary website’s own content or information.
    - This rule, if adopted, would be profoundly destabilizing.
- Petitioners’ hyper-technical distinction based on where a URL is hosted is arbitrary and nonsensical and would undermine crucial Section 230 protection for all but a small number of websites that provide Internet-wide search functions (directing users to other websites).
- The Court should also reject the government’s invitation to endorse a sweeping rule that could expose “online marketplaces” (a vague and undefined term) to the potentially crippling burdens of products-liability suits.
    - (In a single, conclusory paragraph of its brief, the government asserts that Section 230 “should not bar a products liability claim against an online marketplace, even if a third-party retailer creates the product’s online listing.”)
    - nothing that craigslist does should strip it of Section 230 protection from products-liability lawsuits based on goods or services advertised on craigslist by third-parties. In no sense is craigslist a “seller” of those goods or services.

Internet Works, Etsy, Glassdoor, Pinterest, Roblox, et al.

Petitioners' arguments misunderstand the common-law concept of publication. An opinion that ventures beyond the QP could profoundly disrupt settled expectations.

- Under any defensible interpretation of the word "published" in 230(c)(1), imposing liability on a website for arranging and displaying UGC to users on an individualized basis would treat the website as the publisher of the content.
- Petitioners' position rests on a distorted account of how the concept of publication drawn from the common law of defamation translates to Section 230.

    - the common law is clear that transmitting UGC to even a single recipient constitutes an act of publication, but *every* such act of publication could be deemed to convey an implicit recommendation in precisely the same way as a website's individualized display of content.
    - No reason to believe a Congress that intended to draw upon the common law would have thought that recommending content exceeds the role of a publisher.
- Petitioner's theory would profoundly degrade user experience and the functionality of platforms: Economic activity would be suppressed, small platforms would go out of business, sexually explicit content more easily accessible by minors under a regime where all legal content must be treated neutrally. Even a website's users could be held liable.
- A departure from 27 years of precedent will devastate the existing internet ecosystem.

Meta

Highlighting that Meta's significant anti-terrorist content efforts that would be hindered by a ruling for Gonzalez and explaining this case is an inappropriate vehicle to consider the "removal/recommendation distinction."

- Meta has long had strict policies prohibiting terrorists and terrorist groups, as well as posts that praise or support such individuals and groups, on its services.
    - Meta has invested billions of dollars to develop sophisticated safety and security systems that work to identify, block, and remove terrorist content quickly
    - In the third quarter of 2022 alone, Meta blocked or removed nearly 17 million pieces of third-party content for violating its terrorism policies, and it identified 99.1 percent of that content on its own.
    - If terrorism-related content evades Meta's first-line defenses, Meta has in place measures to mitigate the risk that it will be shown to others.
- It is far from clear that the purported distinction between carrying and recommending would matter in this case, as petitioners have never alleged that any "recommended" content precipitated the horrific attacks of terrorism that caused their injuries. (there are no allegations that the terrorists who carried out those attacks even viewed social media—much less that they viewed ISIS videos on YouTube because Google "recommended" them. The absence of any such allegations makes this case an inappropriate vehicle to draw such a distinction.)
- Given the sheer volume of content on the internet, efforts to organize, rank, and display content in ways that are useful and attractive to users are indispensable.
- As a result, exposing online services to liability for the "recommendations" inherent in those organizational choices would expose them to liability for third-party content virtually all the time. That result would be impossible to reconcile with §230's plain text and evident purpose.

Microsoft

Explaining algorithmic recommendations' functional similarity to search engines, whose activity is explicitly protected by Section 230's text.

- Vital online services ranging from search engines to news sites to networking and social coding platforms use algorithms driven by user input to arrange and present UGC.
- Petitioners fail to offer any principled or sensible way to differentiate uses that are protected by Section 230 from those that are not.

Reddit

Users' immunity for using recommendation algorithms is necessary for Reddit's decentralized moderation, which relies on community upvoting and downvoting, to work.

- Section 230 protects Reddit, as well as Reddit's volunteer moderators and users, when they promote and recommend, or remove, digital content created by others.
    - Reddit employs a community-based approach to content moderation, where rules are enforced by volunteer user-moderators. Users also directly determine what content gets promoted or becomes less visible by using Reddit's innovative "upvote" and "downvote" features.
    - Section 230 immunizes Internet "users," not just platforms.
- Without robust Section 230 protection, Internet users would face many more lawsuits from plaintiffs claiming to be aggrieved by everyday content moderation decisions. (Reddit's moderators have been sued in the past, and Section 230 was the tool that allowed them to quickly and inexpensively avoid frivolous litigation.)
- Reddit gives its user-moderators access to algorithmic tools that they can customize to make day-to-day content moderation less burdensome and more effective. Section 230 was designed to incentivize the creation of algorithmic tools like these, and there is no principled basis to take their use outside the statute's protection.

Twitter

The Court should reverse in Taamneh, which would also resolve the claims in this case.

- Section 230 ensures that websites like Twitter and YouTube can function notwithstanding the unfathomably large amounts of information they make available and the potential liability that could result from doing so.

- This case asks the Court to answer a narrow question about Section 230's reach: whether and to what extent Section 230(c)(1) applies when a website selectively displays particular third-party content to particular users.
- But this case is inapt for the Court to address Section 230 at all because, as Twitter explained in Taamneh and the United States agrees, the aiding-and-abetting claims in this case fail to state a claim.
- Thus, the Court should reverse in Taamneh, which would also resolve the claims in this case.
- If the Court nonetheless addresses Section 230(c)(1), it should affirm. Under both the ordinary meaning of this language and the meaning derived from the common law, this instruction prohibits holding providers or users liable for disseminating or making available content originated by others. Plaintiffs (petitioners here) agree with this basic understanding, and so does the United States.
- What Plaintiffs style as "recommendations"—a sidebar displaying thumbnails of videos similar to what the user has watched previously—are simply a means of making particular content available to users, which both Plaintiffs and the United States acknowledge is protected by Section 230(c)(1).

Wikimedia Foundation

Section 230 is critical to the ability of nonprofits and smaller companies to compete. Petitioners' interpretation of it is illogical, inconsistent, and would lead to absurd results.

- Section 230 is critical to the vibrant, diverse Internet as we know it today, and especially to the ability of smaller companies and nonprofits like Wikimedia Foundation to exist and compete online.
    - The arguments Petitioners press here, bereft of any clear limiting principle, threaten to expose websites to liability for basic decisions about how to arrange, format, display, or link to user-generated content. Wikimedia Foundation's Wikipedia project functionally owes its existence both to user-generated content and to the immunities afforded by Section 230(c)(1).
    - Petitioners' theory calls into question Wikimedia Foundation's ability to format Wikipedia's own homepage and interface. It also implicates efforts by Wikimedia Foundation to facilitate the linking of articles on its sites using URLs that Wikimedia Foundation, in part, creates.
- Petitioners' suggestion that defendants can ultimately prevail on the merits of any claims without Section 230's shield ignores the purpose of Section 230 in the first place and is cold comfort for companies that cannot afford the cost of defending scores of meritless lawsuits.
- Petitioners' flawed theory of Section 230 has it backwards: rather than locking in advantage for major technology players, Section 230 ensures that websites with small budgets but large impacts can exist and compete against the big players.

- Petitioners' interpretation would hollow out Section 230 and call into question its protections for platforms that need it the most.

Yelp

Section 230(c)(1) allows Yelp to create reliable and relevant service. Recommendations are not new information/"implied messages" created by the publisher, but rather, an integral part of the publication process.

- Petitioners and the Government argue that Google made a choice in designing YouTube's recommendation algorithm, and that choice means that all resulting recommendations are "created by" Google and thus outside of Section 230(c)(1), but choosing how to organize and communicate information that someone else creates is a necessary part of publishing that third-party information.
- Yelp does not often align itself with Google. (Yelp is a much smaller company that competes with Google in local search, and Yelp publicly supports ongoing antitrust actions against Google.) But in this dispute Yelp's recommendation software provides a useful illustration of the inconsistencies and dangers of petitioners' position.
- Around 15 to 30 percent of all online reviews across the internet are estimated to be fraudulent. These unreliable reviews pose "a significant threat for online review portals and product search engines" because fraudulent reviews can cause consumers to lose trust in the reliability of the review platforms.
- Without immunity, services would avoid rec algos by necessity. Deceptive reviews would flourish and consumers would be harmed.

ZipRecruiter

Employment marketplaces depend on algorithmic matching, algorithms are enabling tools, not content. The government + Gonzalez's theory threatens the basic structure of internet platforms.

- In its effort to develop a nuanced position, the government adopts the core fallacy underlying petitioners' case: that "the effect of YouTube's algorithms is . . . to communicate a message from YouTube."
    - The use of algorithms to organize information on an internet platform no more communicates a message than sorting millions of documents into filing cabinets and then indexing the location of those materials.

    - In performing these tasks, YouTube acts as an “internet computer service,” not an “information content provider,” within the meaning of Section 230, as the government correctly acknowledges.
- Adopting petitioners’ position would reverberate far beyond recommendations of terrorist content; undermining Section 230 protection for a broad array of platforms that use algorithms to get information to those who need it.
- Algorithmic computations are the building blocks of the modern internet, used by billions of people to ease basic search processes, like finding a job. Withdrawal of Section 230 protection with respect to those algorithms would impair this important and beneficial work.
- “This Court has repeatedly noted that in cases implicating “new innovations,” it must “tread carefully” so as not to “‘embarrass the future.’” Judicial reconstruction of Section 230 at this late date would not only embarrass the future; it would embarrass the present.”

Lawmakers

Sen. Ron Wyden and Former Rep. Chris Cox

Section 230 was written in a technology-neutral manner that would enable the provision to apply to subsequently developed methods of presenting content – though recommendation algos are direct descendants of technology available in 1996. The plain meaning and legislative intent of Section 230 both support a finding for Google.

- Congress intentionally drafted Section 230 in a technology-neutral manner that would enable the provision to apply to subsequently developed methods of presenting and moderating user-generated content.
- Recommending systems that rely on algorithms are the direct descendants of the early content curation efforts that Congress had in mind when enacting Section 230.
- Whether an interactive computer service like YouTube enjoys immunity under Section 230 turns on two prerequisites that work together to meaningfully limit the situations in which platforms may be immune from suit.
    - An interactive computer service is immune only if (1) it is not "responsible, in whole or in part, for the creation or development of" the content at issue, 47 U.S.C. § 230(f)(3), and (2) the claim seeks to "treat[]" the platform "as the publisher or speaker" of that content, id. § 230(c)(1).
- Under the ordinary meaning of those terms, a platform is entitled to immunity with respect to a claim only if it is not complicit in the creation or development of the allegedly harmful content the claim puts in issue, and only if the claim would impose liability on the platform for communicating the content to others.
- The fact that YouTube uses targeted recommendations to present content does not change that conclusion; those recommendations display already-finalized content in response to user inputs and curate YouTube's voluminous content in much the same way as the early methods used by 1990s-era platforms.
- Section 230 does not permit the Court to treat YouTube's recommendation of a video as a distinct piece of information that YouTube is "responsible" for "creat[ing]," 47 U.S.C. § 230(f)(3).
- The government's attempt to define the category of non-immune, recommendation-based claims by positing that a recommendation constitutes a new piece of "information" ineligible for immunity finds no support in the statute and would preclude even the possibility of immunity for recommendation-based claims.
- A finding for Gonzalez will create absurd consequences:
    - "The government's reasoning—that presenting a video to a YouTube user amounts to an implicit statement by YouTube—would apply equally to all content presentation decisions, not just recommendations."

- “For instance, whenever a platform’s content moderation is less than perfect, the platform could be said to send an implicit message that users would like to see the harmful content remaining on the site. If that were sufficient to deny immunity, platforms would be subject to liability for their decisions to present or not to present particular third-party content—the very actions that Congress intended to insulate from liability.”

Former Sen. Rick Santorum and the Protect the 1st Foundation

Section 230 adds procedural protections to the First Amendment and makes the internet more family-friendly.

- Section 230 Complements the First Amendment by protecting internet-based platforms from facing liability for exercising their First Amendment speech and associational rights
- If platforms faced liability for merely organizing and displaying user content in a user friendly manner, they would likely remove or block controversial speech from their algorithmic recommendations, thereby minimizing its impact.
- A ruling for Petitioners would also make it virtually impossible for platforms to use algorithms that allow users to find content from like-minded sources and, equally important, to avoid content, like pornography and bigoted speech, they find objectionable.
- And, faced with a flood of litigation based on their display of user content, emerging social media platforms would be unable to survive, eliminating alternative speech venues for users dissatisfied with “Big Tech.”
- Finally, Petitioners’ and the United States’ request that this Court rewrite the statute would displace Congress from its rightful role in deciding whether Section 230 should be amended
- Santorum also published in Newsmax on his filing on 20-Jan.

Academics

Article 19 and the University of California—Irvine

The Court's application of Section 230 should be guided by First Amendment values and international free speech norms.

- Even where the First Amendment and Section 230 do not apply, foreign courts and regulatory bodies seeking to protect free expression online have adopted scienter requirements that protect websites from liability for third-party content that has not been adjudicated as unlawful.
- If the Court were to reverse the Ninth Circuit's judgment or limit the broad immunity that the court of appeals applied, the inevitable result would be extensive and arbitrary removals of content and the suppression of user speech.
- Congress, this Court, and international judicial bodies have consistently acted to prevent such an outcome, recognizing that standards of intermediary liability directly affect the freedom of individuals' expression.
- Court should defer to Congress for any modifications of Section 230

Economists Ginger Zhe Jin, Steven Tadelis, Liad Wagman, and Joshua D. Wright

Macro and microeconomic effects of gutting Section 230.

- Section 230's liability provisions enable Internet companies that disseminate third-party content to focus on their core services, which produces wide-ranging economic and societal benefits
- Weakening those liability protections would endanger the benefits these websites provide
    - Just the threat of liability will create strong economic incentives for websites to err on the side of removing content that is even arguably objectionable; Lawful but controversial expression would be especially vulnerable, threatening free expression online.
    - Narrowing Section 230's protections would also harm the economy. Increased liability would discourage website innovation. If every new feature involving third parties increases websites' liability, basic microeconomics dictates that fewer will be developed.
- More generally, weakening Section 230's protection would also make the Internet less competitive. The greater the risk of liability (and the higher the costs associated with avoiding it), the more difficult it becomes for start-up firms to enter the market. These barriers to entry would mean that larger websites and businesses would face less competition, with concomitant effects on innovation, quality, and price.

Prof. Eric Goldman

Explaining Section 230 promotes civic free speech values by adding procedural and substantive protections to free speech rights.

- Section 230 provides many overlooked *substantive* protections for First Amendment-protected speech by implementing pro-speech procedural mechanisms. These procedural advantages include how Section 230:
    1. provides publishers with assurances that their decisions are legally protected, regardless of how a Plaintiff frames the claim;
    2. establishes a single national standard for compliance;
    3. facilitates resolutions on motions to dismiss without expensive and time=consuming discovery; and
    4. enables Constitutional avoidance.
- Gonzalez's proposed distinction between "targeted recommendations" and "traditional editorial functions" would undermine Section 230's procedural benefits.
    - By discouraging automated content prioritization, the distinction would drive publishers towards more costly solutions to present content that would circumscribe users' abilities to publish content of all types.
    - The First Amendment may not provide as robust substantive and procedural protections for targeted recommendations as Section 230 currently provides, so the Plaintiffs' efforts to curb Section 230 for targeted recommendations would dramatically change the considerations of online publishers.
- Congress has the exclusive authority to amend Section 230.

Information Science Scholars

Section 230 should not treat recommender systems differently from search engines, which use the same technology. Recommendation algos are explicitly covered by 230(f)(4), which defines "access software providers."

- Access to all the world's information has created a need for ways to find the right information. Section 230 encourages that process by providing certain immunities to interactive computer services when they provide users with access to information from others on their servers.
- Section 230(f)(2) and (f)(4) provide that one type of interactive computer service is an "access software provider," which it defines to include providers of tools that filter, pick, choose, search, subset, or organize content. Because recommender systems filter, pick, and choose content to recommend to a user, the providers of the recommendations are access software providers.
- Section 230 does not draw a distinction between computer systems that rely on explicit user requests for information and those that rely on implicit requests via a user's actions.

- Many common functions protected by Section 230 are based on implicit requests. In a directly analogous way, YouTube provides users with access to its computer servers when it responds to the signals contained in users' actions, regardless of whether they have formulated explicit search queries.
- Under the standard understanding of client-server architectures, a computer can act as a server even when a human user is not making explicit requests to it, and acts as an interactive "server" whenever it is receiving requests from a "client" computer program, which in the case of YouTube could be a web browser or a smartphone app. Finally, search engines, too, provide recommendations.
- There is fundamentally no distinction between the rankings that search engines perform and the operations that recommendation systems perform: by ranking the search results provided in response to a query, a search engine recommends some results more highly than others.
- Nothing in Section 230, or in the way these systems are designed, supports distinguishing between liability for recommendations made by search engines and recommendations made by YouTube.

Internet Law Scholars (Eugene Volokh, Kate Klonick, et al.)

ICS's automated recommendations fall comfortably within 230(c)(1)'s scope.

- Google's position is supported by clear text, and powerful statutory context, including express findings and purposes that it wrote into the statute itself.
- Section 230(f)'s definitions make clear, Congress understood the term "interactive computer service" to include services that "filter," "screen," "pick, choose, analyze," "display, search, subset, organize," or "reorganize" third-party content. Automated recommendations perform exactly those 4 functions, and are therefore within the express scope of Section 230's text.
- Section 230(c)(1)'s use of the phrase "treated as the publisher or speaker" further confirms that Congress immunized distributors of third-party information from liability.
    - At common law, a distributor of third-party information could be held liable only when the doctrine permitted the distributor to be treated as the publisher.
    - Petitioners and the United States agree Congress understood and incorporated that common-law meaning of "treated as the publisher" into Section 230(c)(1).
    - Given that a distributor cannot be "treated as the publisher" of certain third-party information, however, there is no alternative mechanism for holding the distributor liable based on the improper character of the information.
    - Congress enacted Section 230(c)(1) specifically to avoid the sweeping consequences that the common-law regime of knowledge-based distributor liability would inflict on the developing internet.
- Other statutory enactments illustrate that Congress knew how to impose liability on distributors when it wanted to—such as in the Digital Millennium Copyright Act, for example, where

Congress also wrote a detailed notice-and-takedown framework into the statute to ensure that distributors received adequate procedural protections as well.

- Petitioners' and the United States' attempts to distinguish between mere automated recommendations (for which distributors purportedly could be liable) and the recommended content (for which they could not) find no support in the text.
- If any changes to federal statutory regulation of the internet are necessary, this Court should leave them to Congress.

Knight First Amendment Institute

Without recommendation algorithms, social media platforms would lose much of their value as forums for speech. The "material contribution" test allows platforms to be held liable for their own contributions to illegality. Under that test, Petitioners' claims must be dismissed.

- "Millions of Americans turn to the internet…or practically continuously…to learn the news, communicate with others, hear from political leaders, advocate for political change, listen to music, watch movies, participate in (virtual) meetings, consult dynamic and search for information." These activities— all of which involve the exercise of First Amendment rights—are made possible by recommendation algorithms.
- Algorithms can sometimes have pernicious effects— for example, amplifying content that is sensational, extreme, false, or polarizing. Nonetheless, without recommendation algorithms, the internet would be useless jumbles of information.
- Legislatures can address or mitigate the harms associated with amplification through other mechanisms, including by requiring platforms to be more transparent, establishing legal protections for journalists and researchers who study the platforms, and mandating interoperability and data portability.
- The best way to interpret Section is to read it to mean that platforms are immunized for their use of recommendation algorithms unless they materially contribute—in a manner that goes beyond mere amplification of speech—to the alleged illegality.
- The gravamen of Petitioners' claim is that YouTube amplified particular content. Amplification is inseparable from publishing. Respondent is shielded by Section 230 here because amplification, without more, does not amount to a "material contribution" to the alleged illegality.

National Security Experts

A finding for Gonzalez would encourage platforms to leave up and not downrank dangerous content, which will compromise national security.

- National security requires online platform providers to seek out dangerous foreign adversary content and to take it down or take other measures to stop its spread. Upholding the judgment below would encourage online platform providers to continue to aggressively combat foreign adversary information.
- A finding for Gonzalez would create an environment where online content providers would need to be cautious about removing or downranking objectionable and dangerous content and would be discouraged from developing advanced methods of identifying such content
- The best way to advance national security is to continue to shield online platform operators from liability with respect to third-party material, including when a platform algorithmically creates and displays a list of third-party content that may be of interest to a particular end user.
- Since removing or downranking content cannot be separated from "promoting" other content, Section 230 immunity encourages providers to act decisively to stem the spread of dangerous content.

N.Y.U. Stern Center for Business and Human Rights

Distinction between active and passive treatment of UGC is illusory and would gut Section 230's important purpose. However, Section 230 should possibly still be amended by Congress so platforms CAN be sued for their own misconduct.

- Almost every social media platform, and any websites incorporating third-party content, present that third-party content in a manner that would be unprotected under petitioners' and the government's rule. Petitioners' approach would thus eviscerate Section 230's free speech protections and the many platforms that exist because of them.
- Without Section 230's liability shield, internet platforms would reduce or eliminate third-party content, rather than take on the impossible and risky task of trying to filter all potentially actionable content. "Collateral censorship" would be the cheapest route, and the one most providers would take, to the detriment of valuable online speech.
- Recommendations" are not a narrow category that can be easily excised from Section 230's scope. They are the essence of what today's internet platforms do.
- Petitioners fail to identify any way to meaningfully distinguish "recommendations" from other approaches to third-party content. Search results on Google are the product of algorithmic recommendations, as is content "pushed" to a user. URLs and notifications are also ways that platforms make recommendations. There is no meaningful distinction between these ways of handling user content that limits the scope of a proposed "recommendations" exception.

- And any distinction between "active" or "passive" treatment of user content has no application to today's internet, in which all or almost all platforms use some kind of "recommending" by algorithm.
- if further exceptions to Section 230's liability shield are warranted, the legislature is well-equipped to craft them.

Reporter's Committee for Freedom of the Press and the Media Law Resource Center

Petitioners' interpretation of Section 230 would hinder core modern journalistic activities.

- Section 230 provides an incentive for platforms to host third-party content that is generated in real-time, or close to real-time, which is essential for journalists covering breaking news.
- Journalists and news organizations use the platforms to amplify reporting on a range of topics, including those that may be regarded as controversial—for example, detailed reporting on a crime or on the activities of an extremist organization—and that could give rise to litigation against any platform that hosts this content.
- Under Section 230, online platforms have become essential tools for journalists and news organizations to identify sources and stories and to communicate with readers.
- Petitioners' interpretation of Section 230 Is unsupported by its text and would hinder core modern journalistic activities

Scholars of Civil Rights and Social Justice

Section 230's protections are necessary for marginalized voices to readily share their perspectives online. The "neutral tools" standard should be preserved.

- Section 230 was enacted to create a forum where underserved and marginalized voices can thrive. The technology at stake in this case is indispensable for these communities.
- Courts interpreting Section 230 have embraced a "neutral tools" standard that upholds the law's objective to foster a free and open internet while empowering platforms to moderate the content they host.
    - This standard flows directly from the statute, recognizing the principle of neutrality embedded in its text and giving effect to its directive to promote content moderation without undermining free expression.
    - Time and again, the standard has held platforms accountable for wrongdoing without encroaching on Section 230's protective shield.

- Undercutting it would do no more to police internet platforms, but it would force them to choose between moderating content more severely, or else not at all.
- The neutral tools standard strikes the proper balance between fostering free speech, promoting COMO, and holding platforms accountable. Weakening it will harm the civil rights of the most marginalized users.