



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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January 31, 2023

The Honorable Mike Thompson
Chair
Committee on Federal and State
Affairs
Kansas State Senate
300 SW 10th Street
Topeka, KS 66612

The Honorable Rick Kloos
Vice Chair
Committee on Federal and State
Affairs
Kansas State Senate
300 SW 10th Street
Topeka, KS 66612

The Honorable Oletha Faust-Goudeau
Ranking Minority Member
Committee on Federal and State
Affairs
Kansas State Senate
300 SW 10th Street
Topeka, KS 66612

RE: SB 50, Prohibiting internet social media terms of service that permit censorship of speech, TechNet Opposition

Dear Chair Thompson, Vice Chair Kloos, Ranking Minority Member Faust-Goudeau and Honorable Members of the Senate Committee on Federal and State Affairs:

I write on behalf of TechNet respectfully in opposition to Senate Bill 50, which will create penalties for social media companies that remove objectionable content from their platforms.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Our members are committed to keeping their users safe online, which why they review millions of pieces of content every day in order to remove harmful content that conflicts with their policies.

The State of Kansas should encourage social media platforms to have content policies, as they govern the removal of content showing the exploitation of children, bullying, harassment, pornography, and spam. Instead, SB 50 creates an incentive for companies to not prohibit and remove any objectionable content in order to avoid being accused of violating the provisions of this bill.

Social media platforms understand that they have an obligation to remove objectionable content, otherwise their users will be subjected to dangers like images of child endangerment, financial scams, spam, and other harmful links. Companies take this responsibility seriously, removing harmful content in an unbiased manner while keeping their services open to a broad range of ideas. In the overwhelming number of cases, removal of offensive content is accomplished as intended. However, the sheer volume of content – hundreds of millions of posts per day – ensures that both artificial intelligence and human reviewers at companies cannot get it right 100 percent of the time. Billions of transactions, after all, will inevitably lead to errors. It would be fundamentally unfair to implement such a draconian penalty for instances where code misfired or a simple mistake was made.

Additionally, the bill runs counter to the American free speech law governing content liability on the internet, the federal Communications Decency Act. Since its enactment in 1996, Section 230's two key provisions have empowered online intermediaries to remove harmful content while providing them with the same "conduit immunity" that commonly exists in other real world offline contexts – for example, not holding a bookseller liable for libelous books, but rather the individual who committed the libel.

Due to Section 230, American companies have the right to curate information on their service to meet the needs and expectations of their customers. Section 230 has supported innovation across the internet while also encouraging companies to be "Good Samaritans" by allowing them to "to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected."

In 2021, two bills similar to SB 50 passed in Florida and in Texas. The bills were challenged and two different federal courts enjoined the bills for violating the First Amendment because the bills intrude on social media's editorial judgment and compels private businesses to host speech they otherwise wouldn't. If SB 50 passes, it will most certainly be challenged and found to be unconstitutional for similar reasons.

For these reasons, TechNet opposes SB 50. We thank you in advance for your consideration, and please do not hesitate to reach out with any questions.

Sincerely,

A handwritten signature in black ink that reads "Ruthie Barko". The signature is written in a cursive, flowing style.

Ruthie Barko
Executive Director, Colorado & the Central U.S.
TechNet

Cc: Honorable Members of the Senate Federal and State Affairs Committee