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The Implications of Section 230 for Black Communities

*Black Communities and the Immunity of Platforms
Regarding Third-Party Content*



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Introduction

This series of issue briefs provides a summary of ***“The Implications of Section 230 for Black Communities,”*** a law review article that examines Section 230 of the Communications Decency Act (Section 230), which grants online platforms immunity from liability for user-generated content. This first brief will explore the dual-edged nature of the statute, analyzing both the opportunities and challenges it presents for Black communities by protecting tech companies from liability for third-party content. The first brief highlights how this immunity from liability for third-party content empowers Black communities by enabling free expression and fostering innovation, while also examining how the same immunity allows harmful practices to persist. The second brief will examine the nuances and legal implications of the statute, specifically how it affects platform moderation practices, including potential biases in content moderation that often disproportionately impact Black users. The third brief will explore the implications of various Section 230 reform proposals with a focus on their unique impact on Black communities ■

Section 230 of the Communications Decency Act grants online platforms immunity from liability for user-generated content.¹ Section 230 includes two key provisions: subsection (c)(1) and subsection (c)(2). This brief will focus on subsection (c)(1), which grants platforms immunity from being treated as the publisher or speaker of any information provided by another user, meaning they generally cannot be held liable for third-party content. This legal protection ensures that, unlike traditional media platforms, online platforms such as Facebook, YouTube, and X (formally known as Twitter) are not treated as publishers or speakers of platform users’ content. As a result, these platforms can host (and remove) a wide range of content without being held legally responsible for what users say or share.

While Section 230’s broad immunity supports the flourishing of Black online communities; it also leads to

a lack of accountability for content on these platforms that can negatively affect Black users’ online experiences. For instance, this immunity is instrumental in fostering the growth and innovation of digital spaces, particularly benefiting diverse communities such as Black online communities. Section 230 provides online spaces where social activism can thrive, where issues often overlooked by traditional media can be amplified, and where Black-owned businesses and creatives can grow and launch successful careers in music, video, and other creative fields. Yet, the same protections that encourage free expression also allow harmful online activities, such as anti-Black harassment, white supremacist organizing, and discriminatory practices in housing, employment, and credit to persist in online spaces.

However, there are notable exceptions to Section 230 immunity. While Section 230 provides substantial protection for online platforms, the statute does not shield platforms from liability in cases involving violations of federal criminal law, intellectual property law, the federal Electronic Communications Privacy Act of 1986, or federal and state sex trafficking laws.²

It is important to note that privacy regulations and other legal frameworks outside the scope of Section 230 also influence the online experiences of Black communities and warrant significant consideration. However, this issue brief series will only focus on Section 230.

This issue brief explores the dual impact of Section 230(c)(1)'s immunity from third-party content on Black communities. First, it outlines the opportunities that platform immunity has created—such as enabling social activism, fostering economic empowerment for Black entrepreneurs and creatives, and shielding small businesses from legal liability for user-generated content. Then, the brief turns to the challenges that this immunity presents, including the persistence of anti-Black harassment, the spread of white supremacist violence, discriminatory practices in online housing, employment, and credit markets, and the facilitation of illegal election interference targeting Black voters. Each section highlights how the same legal protections that foster free expression can also shield harmful conduct, underscoring the urgent need for nuanced policy reforms that center Black experiences online.



Opportunities for Black Communities Supported by Platform Immunity

Section 230(c)(1) significantly affects Black communities by shielding online media platforms from liability for the content posted by their users, enabling users to freely exchange information. Often referred to as the internet's first law, Section 230 has been vital for facilitating social activism, allowing Black communities to connect, organize, and amplify issues often overlooked by traditional media.³

Social activists have launched movements through online platforms, demonstrating the power of Section 230 in empowering voices and driving social change. The broad immunity provided by Section 230 has democratized information dissemination on online platforms, making it easier for movements such as the Black Lives Matter movement to gain momentum.⁴ The video of George Floyd's death, for example, became a global catalyst for change, emphasizing the power of social media in modern activism. Without Section 230, platforms might impose stricter content restrictions to avoid litigation,⁵ which could suppress the voices of Black activists and hinder movements critical of law enforcement.

Section 230 also empowers Black entrepreneurs and creatives by allowing them to leverage online platforms to reach wider audiences and grow their businesses. Black-owned businesses, often small and with limited resources, have benefited from the reach of platforms including Amazon, Etsy, and social media sites that help them connect with customers beyond their local areas.⁶

Similarly, Black creatives have used platforms such as TikTok, YouTube, and SoundCloud to share their work, bypass traditional industry gatekeepers, and build successful careers.⁷

The legal protections offered by Section 230(c)(1) also help protect Black business owners from the financial burden of lawsuits over content on their websites or social media pages. However, even with this protection the cost of defending against such lawsuits can be significant, ranging from \$15,000 to \$40,000 for an initial motion to dismiss⁸ and up to \$500,000 if the case goes to trial.⁹

Challenges Faced By Black Communities Due to Platform Immunity

While Section 230's immunity offers significant benefits to Black communities, it also allows for harmful activities to be targeted against Black Americans on these platforms. Anti-Black harassment, white supremacist violence, discrimination in housing, employment, and credit, and illegal election interference occur online, with Black communities often bearing the brunt of the negative consequences.

Anti-Black Harassment

Section 230(c)(1) shields platforms from being held liable for online harassment faced by Black individuals online. Anti-Black harassment is especially troubling, as it often involves constitutionally protected speech, making it difficult to regulate.¹⁰ Despite existing laws against cyber harassment based on race, enforcement is inconsistent, which allows abuse to persist.¹¹ This lack of accountability could possibly disincentivize platforms from addressing the persistent harassment faced by Black users.

Black individuals disproportionately experience online racial harassment, with 54 percent reporting such incidents compared to 17 percent of white users.¹² Black teenagers are particularly vulnerable, being five times more likely than their white peers to experience race-related cyberbullying.¹³ The psychological toll is severe, leading to anxiety, depression, and even Post Traumatic Stress Disorder (PTSD), as highlighted by a 2022 Anti-Defamation League survey.¹⁴

This harassment also contributes to the segregation of digital communities because those targeted often self-censor or withdraw to avoid further abuse, stifling free expression.¹⁵ The normalization of racism through unchecked online harassment threatens a reversal of civil rights progress.¹⁶

The real-world impact of online harassment is starkly illustrated by Taylor Dumpson's experience as the first Black female student government president at American University. She faced racially charged threats both online and on campus, leading to severe emotional distress and a diagnosis of PTSD. She ultimately filed suit against her harasser, and although she won damages in court,¹⁷ her harasser defaulted on the payments,¹⁸ only emphasizing the difficulty in enforcing these judgments and holding online harassers accountable.

White Supremist Violence

Section 230 immunity for third-party content shields tech platforms from liability in online spaces where white supremacists operate freely, even when users engage in illegal activities. While stakeholders can sue white nationalist organizations to discourage future violence, tech companies that host content promoting violence against Black communities often avoid consequences due to Section 230(c)(1). This legal protection incentivizes platforms to prioritize profits and avoid controversy, rather than addressing safety concerns.

Section 230(c)(1) also enables the spread of radical ideologies online, making it easier for users to propagate violent beliefs and inspire others. 2022, 18-year-old Payton Gendron killed 13 people at a supermarket in Buffalo, New York. Gendron chose the location specifically because it was in a predominantly Black neighborhood, and his actions were driven by the “replacement theory.”¹⁹ He revealed that his initial radicalization began after watching a video of the 2019 mosque shootings in Christchurch, New Zealand, on 4chan.²⁰ Gendron intended to broadcast his attack live on Twitch (a service under Amazon’s ownership),²¹ hoping to inspire others to commit similar acts of violence.²² Although Twitch quickly shut down the stream, the footage was copied and spread on other platforms, including Facebook and X, where it remained accessible even days after the attack.²³ Due to Section 230(c)(1) protections, platforms such as Twitch have little legal incentive to prevent such violent content from being shared on their platform in the first place.

In the aftermath of the Buffalo shooting, New York’s attorney general issued a report criticizing fringe platforms such as 4chan for promoting radicalization²⁴ and mainstream platforms for their slow response in removing the shooting video.²⁵ The report called for the U.S. Congress to amend Section 230, requiring platforms to take reasonable measures to prevent unlawful violent criminal content as a condition for immunity.²⁶

In 2023, a wrongful death lawsuit was filed in response to the Buffalo shooting against companies such as Amazon, Alphabet, Discord, 4chan, Meta, Snapchat and others,²⁷ but the defendants claimed Section 230 prevented the court from considering whether they played a role in the Buffalo shootings.²⁸

Civil Rights and Discrimination in Housing, Employment, and Credit

In *Vargas v. Facebook, Inc.*, Meta (the parent company of Facebook) argued that Section 230(c)(1) shields it from compliance with civil rights laws, but the Ninth Circuit Court of Appeals recently rejected this claim. The court concluded that Meta materially contributes to discrimination by designing platforms that enable discriminatory behavior by users and by employing data collection practices and algorithms that steer housing, employment, and financial opportunities toward white users while excluding Black users.²⁹ If tech companies continue to rely on broad interpretations of Section 230(c)(1), these platforms will perpetuate user-driven discrimination and deepen systemic racial disparities.³⁰

However, some judicial interpretations of Section 230(c)(1) have allowed online platforms to be exempt from certain civil rights obligations that traditional media must follow. For instance, while the Fair Housing Act requires both advertisers and the media to avoid discriminatory practices in housing ads,³¹ online platforms such as Craigslist have been shielded by Section 230(c)(1), even when hosting rental listings that explicitly exclude minorities—listings that specifically stated, “NO MINORITIES.”³² The courts reasoned that Craigslist simply hosted user-generated content without directing these ads, akin to how companies provide software or hardware without influencing user behavior.³³

Nevertheless, courts have clarified that Section 230 immunity may not apply when platforms actively contribute to illegal conduct. In *Fair Housing Council of San Fernando Valley v. Roommates.com*,³⁴ the court ruled that the platform could not claim Section 230 immunity because it actively required users to answer questions about their gender and sexual orientation and used this information to facilitate roommate matching.³⁵ By doing so, the platform went beyond being a “passive transmitter” of user-provided content and became a co-developer that materially contributed to the alleged discriminatory practices.³⁶

Yet, Meta has consistently tried to sidestep the implications of the *Roommates.com* ruling, despite its clear role in enabling discriminatory ad targeting. Rather than addressing these concerns, Meta has leaned on the precedent set in *Craigslist*, arguing that Section 230(c)(1) grants it immunity from legal liability and exempts the platform from adhering to civil rights laws.

Accordingly, the Meta-ProPublica investigative report exposed how Facebook allowed housing ads to exclude users based on racial “ethnic affinity,”³⁷ raising concerns about platforms using Section 230 to dodge civil rights responsibilities. Though initially protected by Section 230 under the Fair Housing Act³⁸ by a federal district court, on appeal the Ninth Circuit later ruled that platforms should not be shielded when they materially contribute to discrimination through their design or data practices.³⁹

Furthermore, platforms in the “gig” or “sharing” economy and job-seeking sites such as LinkedIn and ZipRecruiter also face challenges, as their algorithms can often perpetuate bias — even among users via photos, names, and rating systems, making it difficult to take legal action against such discrimination.⁴⁰ Further, the platforms themselves may use data collections and algorithms that can enable or contribute to discriminatory practices.

These platforms play a crucial role in determining access to essential services, including jobs and housing, thereby impacting equal opportunity.⁴¹ Following the Ninth Circuit’s ruling in *Vargas*, tech companies generally should not qualify for Section 230 immunity if they materially contribute to discriminatory practices, either by platform design or data handling or algorithms.

This rationale can also be applied in the context of consumer protection laws due to the disproportionately high level of Black consumers who are victims of fraud.⁴² According to the Federal Trade Commission (FTC), Black communities are frequently targeted by scams and misleading practices, particularly in payday loan applications and student loan debt relief programs,⁴³ with companies exploiting online data to commit fraud.⁴⁴ Data from the Consumer Financial Protection Bureau (CFPB) shows that financial complaints are most frequently submitted from areas with a high percentage of Black American residents.⁴⁵

While these issues have a significant impact on Black communities, some courts have not fully agreed that platform design contributes to illegal activities in a way that would strip away Section 230(c)(1) immunity,⁴⁶ signaling a need for clearer legal standards in this area.

Illegal Election Interference

While the First Amendment protects a range of speech-related activities, certain actions that disrupt elections, such as using foreign funds for misleading ads targeting Black voters, voter intimidation, and spreading false voting information, are illegal. Unfortunately, even when platforms play a significant role in these illegal activities, state and local governments often hesitate to regulate them due to concerns about Section 230(c)(1) immunity for third-party content.⁴⁷

For example, during the 2016 U.S. presidential election, the Facebook account “Williams & Calvin,” which appeared to be run by two Black men from Atlanta, published an ad aimed at discouraging Black voter participation, stating, “We don’t have any other choice this time but to boycott the election. This time we choose between two racists. No one represents Black people. Don’t go vote.”⁴⁸ It was later revealed that this account was actually managed by the Russian Internet Research Agency (Agency).⁴⁹

The Agency disproportionately targeted Black Americans with more than 1,000 ads and spent around 1.35 million rubles (approximately \$20,257) on ads aimed at this demographic, violating federal laws prohibiting foreign spending in U.S. elections. These Russian disinformation efforts aimed at Black voters continued into the 2020 election cycle.⁵⁰

Several states have laws that forbid domestic entities from misleading voters, including Black voters, about voting requirements and procedures.⁵¹ The federal Voting Rights Act also bans domestic actors from intimidating, threatening, or coercing anyone for voting or attempting to vote.⁵² However, state and local governments are likely reluctant to regulate platforms due to Section 230(c)(1), even when these platforms use data collection and algorithms to target Black voters with misleading content. This hesitation persists even when platforms significantly contribute to illegality.

Although federal and state laws prohibit domestic actors from misleading or intimidating voters, Section 230(c)(1) remains a significant barrier to holding platforms accountable for their roles in such election-related misconduct.

Conclusion

Section 230 immunity for third-party content has been crucial in shaping the online environment, especially for Black communities in America. It has empowered activism, driven social change, and supported the growth of Black-owned businesses and creatives by providing platforms for activists to spark social movements such as Black Lives Matter. Section 230 immunity for third-party content has also allowed Black entrepreneurs and creatives to grow their businesses and reach wider audiences.

Yet, this same protection that encourages free expression also shields harmful activities, such as anti-Black harassment, white supremacist organizing, and discriminatory practices in housing, employment, and credit. While Section 230 provides broad protections to online platforms, it has resulted in a lack of accountability for content that negatively impacts Black communities. Balancing the protection of free speech with the need to prevent harm is a complex issue that requires a nuanced approach to content moderation and legal responsibility.

The next issue brief will examine Section 230(c)(2), which—alongside judicial interpretations of Section 230(c)(1)—forms the basis of platform immunity for content moderation decisions. This issue brief will explore how content moderation immunity empowers platforms to reduce harmful content affecting Black communities, such as disinformation and hate speech, while also addressing challenges such as discriminatory moderation practices and the amplification of anti-Black content for profit or political gain.

Endnotes

- ¹ 47 U.S.C. § 230(c)(1).
- ² 47 U.S.C. § 230(e)(1)–(5).
- ³ In passing Section 230, Congress found that the internet and tech platforms “offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.” 47 U.S.C. § 230(a)(3).
- ⁴ Black Lives Matter is a part of a broader global trend in online engagement by oppressed communities. See, e.g., *Munmun De Choudhury, et. al., Social Media Participation in an Activist Movement for Racial Equality*, Int’l AAAI Conf. on Web & Soc. Media 92, 93 (2016).
- ⁵ Pauline T. Kim, *Manipulating Opportunity*, 106 Va. L. Rev. 867, 926–27 (2020) (examining Section 230(c)(1)’s facilitation of racial and gender inequality in labor markets); (“Congress recognized that if websites were held liable for content posted by others, it would impose an enormous burden on them. . .”).
- ⁶ Brief of Amici Curiae of Scholars of Civil Rights and Justice, in Support of Respondent, *Gonzalez v. Google LLC*, 143 S. Ct. 762 (Feb. 19, 2023), No. 21-1333 [hereinafter Civil Rights Scholars Amicus Brief (*Gonzalez*)] (“Third-party marketplace websites have facilitated connection with global markets, democratized access to systems required for business startups, and streamlined logistics.”).
- ⁷ See generally *Diversity and Inclusiveness in the Online Creator Economy*, Inst. for Intell. Prop. and Soc. Just. 1 (2022).
- ⁸ Evan Engstrom, *Primer: Value of Section 230*, Engine (Jan. 31, 2019).
- ⁹ *Id.*
- ¹⁰ See *Counterman v. Colorado*, 143 S. Ct. 2106, 2111-12 (2023) (case involving Facebook messages to a local singer and musician, holding that a statement is a “true threat” that is not protected by the First Amendment if the perpetrator “consciously disregarded a substantial risk that his communications would be viewed as threatening violence”); Danielle Keats Citron, *Addressing Cyber Harassment: Overview of Hate Crimes in Cyberspace*, 6 CASE W. RESERVE J.L. TECH. & INTERNET 1, 8 (2015) (“Cyber harassment often involves categories of speech that enjoy little to no protection. . . And, cyber harassment involves speech that the Supreme Court understands as conduct—civil rights violations.”).
- ¹¹ Citron, *supra* note 10, at 5.
- ¹² See Emily A. Vogels, *The State of Online Harassment*, PEW RSCH. CTR. (Jan. 13, 2021); see ; see also ADL, *Online Hate and Harassment: The American Experience 2023*, CTR FOR TECH & SOC. 19 (2023) (finding that Black Americans experienced higher rates of both severe online harassment and any online harassment than other racial or ethnic groups).
- ¹³ Emily A. Vogels, *Teens and Cyberbullying 2022*, Pew Rsch. Ctr. (Dec. 15, 2022).
- ¹⁴ ADL, *Online Hate and Harassment: The American Experience 2022*, Ctr for Tech & Soc. 40 (June 20, 2022).
- ¹⁵ Danielle Keats Citron, *Hate Crimes in Cyberspace 196–97* (2014) (detailing situations where online hate speech threatens victims into silence); Mary Anne Franks, *Fearless Speech*, 17 First Am. L. Rev. 294, 307 (2018) (detailing the chilling effects of online harassment, particularly among marginalized communities).
- ¹⁶ See, e.g., Zachary Laub, *Hate Speech on Social Media: Global Comparisons*, Council on Foreign Relations (2019); Noelle Lilley, *Are Social Media Normalizing Campus Racism?*, The Nation (May 21, 2018).
- ¹⁷ *Dumpton v. Ade*, No. 18-1011, at *1–2 (D.D.C., filed Aug. 9, 2019).
- ¹⁸ Mariel Padilla, *Student Wins \$725,000 in Lawsuit over ‘Troll Storm’ Led by the Daily Stormer*, N.Y. Times (Aug. 10, 2019) (“[Mr. Anglin] owes a total of nearly \$20 million to three people, but they have yet to see a cent in payments”).
- ¹⁹ Ben Collins, *The Buffalo Supermarket Shooting Suspect Allegedly Posted an Apparent Manifesto Repeatedly Citing ‘Great Replacement’ Theory*, NBC News (May 14, 2022).
- ²⁰ Office of the New York State Attorney General Letitia James, *Investigative Report on the Role of Online Platforms in the Tragic Mass Shooting in Buffalo on May 14, 2022* (Oct. 18, 2022), at 3 [hereinafter New York AG Investigative Report].
- ²¹ *Id.*, at 9.
- ²² *Id.*
- ²³ Chloe Mayer, *Facebook, Twitter Battling Buffalo Shooting Video 48 Hours On*, Newsweek (May 22, 2022).
- ²⁴ New York AG Investigative Report, *supra* note 20, at 24–26.
- ²⁵ *Id.*, at 34–40.
- ²⁶ *Id.*, at 43–44.
- ²⁷ Bill Hutchinson, *Loved ones sue social media companies over Buffalo massacre*, ABC News (May 12, 2023).
- ²⁸ Andy Paden, *5/14 Lawsuit Against Social Media Companies Can Move Forward, According to Recent Decision*, WGRZ (Mar. 18, 2024) (“The platforms argued that the case should be dismissed due to a U.S. law called Section 230...Elmore said he expects that the platforms will appeal the decision...”).
- ²⁹ See *Vargas v. Facebook*, No. 21-16499, 2023 WL 4145434, at *2–3 (9th Cir. June 23, 2023) (holding that the Facebook Ad Platform was not entitled to Section 230 immunity because lawsuit alleged Facebook’s platform design and algorithms contributed to discrimination).

- ³⁰ See Olivier Sylvain, *Discriminatory Designs on User Data: Exploring How Section 230's Immunity Protections May Enable or Elicit Discriminatory Behaviors Online*, Knight First Amend. Inst. Colum. U. (Apr. 1, 2018) [hereinafter *Discriminatory Designs on User Data*] (examining (c)(1)'s facilitation of racial inequality in housing markets); see also Kim, *supra* note 5, at 869 (examining (c)(1)'s facilitation of racial and gender inequality in labor markets).
- ³¹ 42 U.S.C. § 3604(c) (2012) (making it illegal to make or publish advertisements to rent or sell a dwelling “that indicates any preference, limitation, or discrimination based on race”); *Advertising and Marketing*, HUD (last visited Feb. 10, 2024) (“In nearly all housing, including private housing, public housing, and housing that receives federal funding, the Fair Housing Act prohibits the making, printing and publishing of advertisements that indicate a preference, limitation or discrimination because of race...”).
- ³² See *Chi. Lawyers' Comm. for Civil Rights Under Law, Inc. v. Craigslist, Inc.*, 519 F.3d 666, 668 (7th Cir. 2008); Adam Liptak, *The Ads Discriminate, but Does the Web?*, N.Y. Times (Mar. 5, 2006).
- ³³ *Craigslist*, 519 F.3d at 672 (2008).
- ³⁴ See *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d at 1157 (9th Cir. 2008).
- ³⁵ See *Roommates.com*, 521 F.3d, at 1161-62.
- ³⁶ See *Roommates.com*, 521 F.3d, at 1166-68. Subsequent litigation on the merits concluded that it is not a violation of federal or California fair housing law for people to indicate gender, religious, or other status preferences for people who will live in a home with them. See *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC*, 666 F.3d 1216, 1220–1223 (9th Cir. 2012).
- ³⁷ Julia Angwuin, et al., *Facebook (Still) Letting Housing Advertisers Exclude Users by Race*, ProPublica (Nov. 21, 2017).
- ³⁸ *Vargas v. Facebook*, Case No. 19-cv-05081-WHO (N.D. Cal. Aug. 20, 2021), *rev'd*, No. 21-16499 (9th Cir. June 23, 2023).
- ³⁹ *Vargas*, 2023 WL 4145434, at *2-*3 2.
- ⁴⁰ See Michael Todisco, Comment, *Share and Share Alike? Considering Racial Discrimination in the Nascent Room-Sharing Economy*, 67 Stan. L. Rev. Online 121, 127 (Mar. 14, 2015) (summarizing efforts by the National Fair Housing Alliance to file over 1,000 complaints against discriminatory online postings, and concluding that “pursuing complaints against the thousands of discriminatory advertisers who use the internet” was infeasible).
- ⁴¹ Kim, *supra* note 5, at 869 (“Online platforms increasingly operate as key intermediaries in the markets for employment, housing, and financial services—what I refer to as opportunity markets. Predictive algorithms are also used in these markets to segment the audience and determine precisely what information will be delivered to which users. The risk is that in doing so, these intermediaries will direct opportunities in ways that reproduce or reinforce historical forms of discrimination.”).
- ⁴² Federal Trade Commission, *Serving Communities of Color: A Staff Report on the Federal Trade Commission's Efforts to Address Fraud and Consumer Issues Affecting Communities of Color*, 3, 40 (Oct. 2021). Black communities filed higher percentages of reports related to credit bureaus, banks and lenders, used auto sales, and debt collection. *Id.* at 3, 43.
- ⁴³ See, e.g., *CFPB Sues Online Payday Lender for Cash-Gram Scam*, CFPB (Sep. 17, 2014).
- ⁴⁴ See, e.g., *Id.*
- ⁴⁵ Consumer Financial Protection Bureau, *Consumer Complaints Throughout the Credit Life Cycle, by Demographic Characteristics*, at 4 (Sept. 2021).
- ⁴⁶ See, e.g., *Herrick v. Grindr, LLC*, 306 F. Supp. 3d 579, 589 (S.D.N.Y. 2018) (rejecting plaintiff's manufacturing defect and negligent design claims when platform provides “neutral assistance” ... or tools and functionality that are available equally to bad actors and the app's intended users.”).
- ⁴⁷ See, e.g., Joshua Kim, *Section 230 and Fake News*, NULR of Note (Apr. 12, 2018) (observing that “despite public outcry for Facebook to be held accountable” for Russian disinformation campaigns, the company is largely shielded from liability by Section 230).
- ⁴⁸ Young Mie Kim, *Project DATA, Uncover: Strategies and Tactics of Russian Interference in US Elections: Russian Groups Interfered in Elections with Sophisticated Digital Campaign Strategies* 9 (2018).
- ⁴⁹ See Benjamin Fearnow, Williams and Calvin, *Pro-Trump Facebook Stars Reportedly Worked for Kremlin, Accounts Removed*, Int'l Bus. Times (Oct. 10, 2017, 1:51 PM), (noting the “personal” account for Calvin Johnson last posted in 2015); see also Deen Freelon, et al., *Black Trolls Matter: Racial and Ideological Asymmetries in Social Media Disinformation*, 40 (3) Social Science Computer Rev. 560 (2022) (using a computational analysis of 5.2 million tweets by the Russian government-funded “troll farm” known as the Internet Research Agency to find that presenting as a Black activist to “be the most effective predictor of disinformation engagement by far”).
- ⁵⁰ Office of Intelligence and Analysis, U.S. Dept. of Homeland Sec., *Russia Likely to Continue Seeking to Undermine Faith in U.S. Electoral Process* (Sept. 3, 2020).
- ⁵¹ See, e.g., 10 Ill. Comp. Stat. 5/29-4 (2003) (penalizing “[a]ny person who, by . . . deception . . . knowingly prevents” another from voting or registering to vote); N.M. Stat. Ann. § 1-20-9 (2009) (prohibits “printing, causing to be printed, distributing or displaying false or misleading” information relating to the voting or election process); Va. Code Ann. § 24.2-1005.1 (2007) (considering it a misdemeanor to “[knowingly] communicate . . . false [election] information [to a registered voter] . . . about the time, date and place of [voting] or the voter's precinct, polling place or registration status”). For references to many of these statutes, see Gilda R. Daniels, *Voter Deception*, 43 Ind. L. Rev. 343, 359, 369–71 (2010) (“Although voter intimidation and deception are similar and statutes exist specifically for intimidation and fraud, no federal legislation directly addresses deception.”).
- ⁵² 52 U.S.C. § 10307(b); *Nat'l Coalition on Black Civic Participation v. Wohl*, 661 F. Supp. 3d at 120–21 (S.D.N.Y. 2023) (finding a violation of the Voting Rights Act because robocalls targeted at Black communities were intimidating, threatening, and coercive, and concluding that the conduct was ineligible for First Amendment protection because it constituted a “true threat”).

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