

October 22, 2019

The Honorable Bennie Thompson
Chairman
Committee on Homeland Security
H2-176 Ford House Office Building
Washington, D.C. 20515

The Honorable Mike Rogers
Ranking Member
Committee on Homeland Security
H2-117 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson and Ranking Member Rogers:

The Electronic Frontier Foundation (EFF) is the leading nonprofit organization defending civil liberties in the digital world. Founded in 1990, EFF champions user privacy, free expression, and innovation through impact litigation, policy analysis, grassroots activism, and technology development. With over 31,000 dues-paying members and well over 1 million followers on social networks, we focus on promoting policies that benefit both creators and users of technology.

We write to inform the Committee that the EFF supports the intended goals of the National Commission on Online Platforms and Homeland Security Act, which would establish a Commission to research whether any link exists between online activity on Internet platforms and offline acts of violence and terrorism. Rigorous scientific research is essential to inform policymakers on how to properly respond to the serious concern of whether activity that occurs over platforms has a causal link to offline violent conduct. Conducting a thorough inquiry on this question by utilizing existing social scientific research as well as funding additional work as needed would be a positive step. Even today, some believe that playing violent video games leads to real-world violence although researchers have shown that no such causal link existed.¹

Often the censoring of content by platforms is imprecise and major platforms have exhibited a poor track record. In response, several civil liberty groups including the EFF issued the “Santa Clara Principles” to provide guidance,² and the legislation will assess whether platforms are “transparent, consistent, and equitable” in their enforcement of “terms of services or codes of conduct” and how they provide users an opportunity for redress to see how they line up with the Santa Clara Principles.

From our own research on how platforms handle “extremist content” through automated tools, we have been able to determine that content documented by human rights defenders has been deleted. For example, YouTube’s automated filters have taken down thousands of Syrian channels that depicted human rights violations. Our joint investigation with Syrian Archive and Witness estimates that at least 206,077 videos, including 381 videos documenting airstrikes targeting hospitals and medical facilities, have been removed from the platform between 2011 and 2019.³ Therefore, we believe it is important the legislation is clarified to recognize that

¹ Ollie Barder, *New Study Shows That There Is No Link Between Violent Video Games And Aggression In Teenagers*, Forbes (Feb. 15, 2019), <https://www.forbes.com/sites/olliebarder/2019/02/15/new-study-shows-that-there-is-no-link-between-violent-video-games-and-aggression-in-teenagers/#468f2e26328e>.

² SANTA CLARA PRINCIPLES, available at <https://santaclaraprinciples.org>.

³ Abdul Rahman Al Jaloud, Hadi Al Khatib, Jeff Deutch, Dia Kayyali, and Jillian C. York,

assessments of “automated decision-making systems” and “algorithms” also assess the impact on vital political speech that is swept up in efforts to address “terrorist” content.

While we strongly support the underlying goal of conducting research, we believe the legislation could be improved. We urge the Committee to expand the research to include assessing whether neurophysical, sociological, familial, or other preconditions increase the risk that a person participating in an online platform will engage in violence. While the focus of the Commission is an analysis of platforms, research into whether identifiable risk factors are present with individuals that are at risk of engaging in violent extremism would ensure the Commission’s work is comprehensive.

Furthermore, the legislation’s provisions on the Commission’s obligations to protect proprietary information should not stifle the ability for 3rd party researchers to peer review or audit the findings of such a critical government study. Much of the automation that platforms use to remove content is shrouded in mystery because the technology is hidden behind a veil of trade secrets and other assertions of proprietary information. When platforms like Facebook and YouTube create large databases of what they believe to represent “terrorist” content, the algorithms begin to define what is considered “terrorist” content, but few people in the human rights community, if any, know how they’re programmed.⁴ Fionnuala Ní Aoláin, a law professor and special rapporteur for the United Nations Human Rights Council, has been quoted as saying that Facebook’s definition of terrorism “bears no relationship to the global definition agreed by states,” a development which she sees as “a very dangerous precedent.”⁵

We thank the Committee for its efforts to tackle these critical issues. EFF believes the issues the Commission would study are important and are in dire need of further analysis by researchers to better inform our mutual understanding of the challenge society faces. We look forward to working with the Committee further to improve upon the legislation.

Sincerely,

Cindy Cohn
Executive Director
Electronic Frontier Foundation

Caught in the Net: The Impact of “Extremist” Speech Regulations on Human Rights Content, Electronic Frontier Found. (May 30, 2019), <https://www.eff.org/wp/caught-net-impact-extremist-speech-regulations-human-rights-content>.

⁴ Bernhard Warner, *Tech Companies Are Deleting Evidence of War Crimes*, The Atlantic (May 8, 2019), <https://www.theatlantic.com/ideas/archive/2019/05/facebook-algorithms-are-making-it-harder/588931>.

⁵ *Id.*