



May 11, 2025

The Honorable Chuck Grassley  
Chair  
Senate Committee on the Judiciary  
Washington, DC 20510

The Honorable Dick Durbin  
Ranking Member  
Senate Committee on the Judiciary  
Washington, DC 20510

The Honorable Marsha Blackburn  
Chair  
Senate Subcommittee on the Judiciary  
Privacy, Technology, and the Law  
Washington, DC 20510

The Honorable Amy Klobuchar  
Ranking Member  
Senate Subcommittee on the Judiciary  
Privacy, Technology, and the Law  
Washington, DC 20510

**Re: Hearing on *From the Courtroom to Congress: Why Landmark Social Media Verdicts Demand Federal Action to Protect Kids Online***

Dear Chair Grassley, Ranking Member Durbin, Chair Blackburn, Ranking Member Klobuchar, and Members of the Committee:

The Electronic Frontier Foundation (EFF) is a member-supported, non-profit civil liberties organization that works to protect free speech and privacy in the digital world. Founded in 1990, EFF has 32,000 members. EFF represents the interests of technology users in both court cases and broader policy debates surrounding the application of law to technology.

We understand that the Committee intends to hold a hearing on recent court cases finding Meta and YouTube liable for harming users, and to examine what actions the federal government should take.

It is clear that many Americans, including the Committee, are frustrated by big tech companies. EFF has also been highly critical of these companies and has pushed for years to end their harmful corporate surveillance.<sup>1</sup> It is not surprising that a jury felt Mark Zuckerberg and his company, along with YouTube, needed to be held accountable.

These cases do not set any significant legal precedent, and that is a good thing for the internet and its users. We urge the Committee to proceed with caution when taking any action based on these cases.

We also urge the Committee to focus on a comprehensive, consumer data privacy law that includes a private right of action, rather than mandating privacy-invasive age restrictions or unconstitutional content restrictions.

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<sup>1</sup> Corynne McSherry, Mario Trujillo, Cindy Cohn, and Thorin Klosowski, "Privacy First: A Better Way to Address Online Harms," Electronic Frontier Foundation (November 14, 2023), available at <https://www.eff.org/wp/privacy-first-better-way-address-online-harms>.

As we have argued many times before,<sup>2</sup> the First Amendment and Section 230 protect both user speech *and* the choices platforms make on how to deliver that speech (in the same way newspapers can curate their editorial pages as they see fit). Features on social media sites that are designed to connect users and help users find the content they want cannot be separated from the users' speech, which is why courts have repeatedly held that these features are indeed protected.

So while it may be tempting to celebrate these juries' decisions as a "win" against big tech, in fact, the ramifications of lowering First Amendment and immunity standards on other speakers—ones that members of the public actually like, and do not want to punish—are bad. Congress should not create less protective speech rules for everyone just because we want Meta and Google held accountable for something else.

Section 230 protects freedom of expression online by protecting U.S. intermediaries that make the internet work. Keeping Section 230 intact means internet intermediaries that host third-party content are protected against a range of laws that might otherwise be used to hold them legally responsible for what their users say and do. Specifically, Section 230 provides immunity to platforms against liability under state law, whether criminal or civil, and against liability under federal civil law. But Section 230 has important exceptions: it does not provide immunity against prosecutions under federal criminal law, or liability based on intellectual property law, communications privacy law, or certain sex trafficking laws. In fact, if the Committee is concerned that legacy social media companies (like Google and Meta) control too much of what young people see online, the Committee should instead be examining ways to extend these limited protections to new startups—not limit or erode them. This will also help enhance competition.

Much of the anger against these companies arises from people rightfully feeling that these companies harvest and exploit their data and monetize their lives for crass economic reasons. A consumer-focused, comprehensive federal privacy law would protect young people without infringing on the First Amendment rights of everyone who uses on the internet. Stronger competition laws would open the field and force platforms to innovate, offering more user choice for parents and teens. We therefore continue to urge Congress to pass a comprehensive national privacy law with a private right of action to address these core concerns.

Sincerely,

India McKinney  
Director of Federal Affairs  
Electronic Frontier Foundation

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<sup>2</sup> David Greene, "In These Five Social Media Speech Cases, Supreme Court Set Foundational Rules for the Future," Electronic Frontier Foundation (August 14, 2024), available at <https://www.eff.org/deeplinks/2024/08/through-line-supreme-courts-social-media-cases-same-first-amendment-rules-apply>.