



Senator John Thune
Chairman, U.S. Senate Committee on
Commerce, Science, & Transportation
512 Dirksen Senate Office Building
Washington, DC 20510

September 18, 2017

Re: Maintaining measured protections for internet platforms and free speech

Dear Chairman Thune,

The non-profit Wikimedia Foundation writes to express concern with S.1693 (“Stop Enabling Sex Traffickers Act”, or SESTA). We support the laudable intention to ensure that prosecutors are appropriately equipped to keep people safe from unlawful behavior online. We would welcome a well-tailored effort to protect the most vulnerable among us. However, it is essential that this bill and similar proposed changes aimed at online protection also maintain consistent and deliberate exceptions for liability for hosting third-party content online. Indeed, without the protections afforded by the Communications Decency Act (CDA) Section 230, there would be significant legal barriers to building and sustaining collaborative projects like Wikipedia.

SESTA is much too broad and imperils the important protections for internet platforms and free speech upon which Wikipedia depends. We are deeply concerned about the negative effects that this bill and similar proposed changes to the law would have on the internet and—ultimately—on access to knowledge online.

The Wikimedia Foundation is a Section 501(c)(3) charitable organization that hosts Wikipedia, the free online encyclopedia that is the internet's largest reference work, as well as its sister projects that include a free dictionary, educational resources, free and public domain media repository, and more. Wikimedia's vision is to ensure that every human being can freely access and contribute to the sum of human knowledge. Wikipedia is visited more than 15 billion times per month, and represents a massive decentralized collaborative effort by volunteers who comprise the Wikimedia community.

Wikipedia is just one example of the innovative and invaluable projects made possible through open collaboration over the internet. Anyone can contribute to Wikipedia, and new edits take effect immediately. Wikipedia articles are created, curated, and updated by hundreds of thousands of people from the United States and all around the world. Users can evaluate each other's contributions under a rigorous set of collaboratively developed policies, covering topics like editorial tone, reliable sources, copyright rules, and acceptable user conduct. The Wikimedia projects receive hundreds of edits per minute, and so the collection of more than 45 million encyclopedia articles is continuously and rapidly improving in hundreds of languages. At this scale, moderation and oversight remains both efficient and effective with only minimal guidance from the Wikimedia Foundation.

Wikipedia and other online projects benefit from the strong legal protections of the First Amendment, and laws that allow platforms to host content that is created and moderated by users. In fact, Wikipedia would not exist without the significant intermediary liability protections embodied in legislation like CDA Section 230. Notice and takedown systems, with clear protections where service providers lack notice or knowledge of illegal content, have proven to be scalable and effective solutions to similar issues. These protections allow website hosts to rely on effective user moderation, instead of requiring intermediaries to act as gatekeepers for editorial decisions of hundreds of thousands of people.

The internet has been critical in advancing education, free expression, and access to information across economic and other divides, but the same technology can also be abused for criminal purposes. Addressing these challenges requires careful and responsible balancing, both by regulators and by service providers themselves. To the Wikipedia editor community and to the Wikimedia Foundation, it is very clear: such unlawful content has no place on Wikipedia. Thanks to a rigorous and effective system of oversight by Wikipedia users, any information that violates Wikipedia content policies can be swiftly identified and removed.

The well-balanced provisions that exist today in CDA Section 230 already require compliance with federal criminal law, which is a measured, effective, and internally consistent approach, particularly when matched with forceful and capable law enforcement and self-policing of the type to which the Wikipedia community has committed itself. This limited approach to regulation of online platforms has promoted significant innovation, and created immeasurable value by allowing service providers to create spaces where people can connect, learn, and share online. It has made

Wikipedia and its sister projects—some of the most extraordinarily successful innovations on the internet—possible.

However, SESTA poses a number of major problems for the current system. By allowing states, in addition to the federal government, to pass new laws targeting the hosts of certain content online, this bill exposes service providers to a burdensome and possibly inconsistent set of new obligations. The internet is most valuable as a shared resource that unites people across long distances and borders. State-specific obligations add barriers that undermine this value. Moreover, if the past is any guide, these rules are likely to lead to a great deal of expensive litigation that poses a particular threat (both in terms of legal fees, monitoring costs, and self-censorship) to small companies and nonprofit organizations. While SESTA aims to provide a solution to a very serious issue, the current legislation does not reflect the careful balance that currently protects the public from expansive and wide-ranging attacks on speech.

We believe that increasing the risk of liability for hosting third-party speech is not the right solution to illicit content on a community-maintained website. The liability protections of CDA Section 230 allow small organizations like the Wikimedia Foundation to operate websites to which everyone can contribute and help collectively maintain. The protections in CDA Section 230 enable website hosts to be neutral platforms and abstain from interfering in productive and meaningful conversations that happen between users. Essentially, the protections facilitate democratic discourse and access to knowledge through individual responsibility for speech.

The internet, Wikipedia, and free speech have all flourished because of the forward-thinking American lawmakers who, in the late 1990s, created a strong framework of protections for online intermediaries that is essential to the open internet. Today, we thank you for holding this hearing to carefully examine this bill's impact. We urge you to consider how amendments to CDA Section 230 would affect the broader internet, not just this bill's stated goal. Projects like Wikipedia would not be possible in an environment where website hosts are required to constantly monitor for possible violations of overbroad rules and defend against lawsuits brought under a multiplicity of laws and definitions. The open internet has significantly expanded free access to the world's knowledge, and new rules should not come at its expense.

Sincerely,

Wikimedia Foundation