



February 26, 2018

Key Vote NO on the Walters Amendment to the Allow States and Victims to Fight Online Sex Trafficking Act, H.R. 1865

On behalf of our activist community, I urge you to contact your representative and ask him or her to vote NO on the amendment offered by Rep. Mimi Walters (R-Calif.) to the Allow States and Victims to Fight Online Sex Trafficking Act, H.R. 1865. The amendment would attempt to fight online sex trafficking by holding internet service providers and other online services that publish third-party content directly liable for such third-party speech on their sites that “knowingly...facilitat[es]” sex trafficking.

Although well-intentioned, this means of doing so would not only be ineffective and counterproductive to actually fighting sex trafficking but would also gut the protections of Section 230 of the Communications Decency Act (CDA) for all internet service providers, especially those actively working to fight online sex trafficking already. FreedomWorks will key vote the amendment on the House floor. Should the amendment be adopted, FreedomWorks will also key vote the final passage of the underlying bill, for the purposes of our 2018 Congressional Scorecard.

Section 230 of the CDA offers protection for “provider[s] of...interactive computer service[s]” from being held legally liable as the “publisher or speaker” of any third-party speech. The language of the Walters amendment, taken largely from the language of the Stop Enabling Sex Traffickers Act, S. 1693, would undo these protections, and in doing so, fundamentally alter the rules of the internet in ways that will shut down free speech and hamper the ability of providers to continue technological innovation.

The Walters amendment would establish that Section 230 of the CDA does not impair or limit actions taken against internet service providers for sex trafficking cases in which an internet service provider “knowingly assist[s], support[s], or facilitat[es]” a violation of sex trafficking laws. For something that sounds reasonable, it is quite the opposite. The inclusion of an overbroad “knowledge” standard has been abused again and again in other areas, such as

copyright law, and will undoubtedly be abused in this case.

Even if passed, there is strong reason to believe that the law would be ineffective, and even counterproductive. The abusable “knowledge” standard actually will actually have the opposite of its intended effect -- disincentivizing those already working proactively to monitor content online to stop sex trafficking, by opening up their practices to legal liabilities.

Additionally, it will drastically hurt competition in the internet service provider space by ensuring that only giant social media platforms and tech companies will be able to hire lawyers and teams to comply with this new, broadly-worded law, driving small competitors that improve quality and drive down prices out of the market entirely for fear of the new legal risk posed by publishing third-party content.

Furthermore, the very premise of asking internet service providers to accurately identify sex trafficking law violations is absurd. This is a national problem that even trained law enforcement has a difficult time identifying. There is no way that an administrative employee of an internet service provider can reasonably be expected to identify true sex trafficking even remotely accurately. To expose internet service providers to legal liability for misidentifying something that our law enforcement often misses is beyond nonsensical, and is a massive overreach of federal regulation into the private sector.

The passage of the Walters amendment would ruin the careful balance struck by Congress in Section 230, that ensures a fear of liability does not discourage websites who want to work to fight sex trafficking on their own and preserves the core pillar of internet freedom that drives competition in the marketplace. Our society depends on Section 230 to innovate online, and any erosion of these protections sets a dangerous precedent. There are ways to fight sex trafficking without blowing a hole through Section 230 of the CDA.

FreedomWorks will count the vote on the Walters amendment to H.R. 1865 on our 2018 Congressional Scorecard. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', written in a cursive style.

Adam Brandon
President, FreedomWorks