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WHAT THE INDUSTRY READS FIRST

26 Words: SCOTUS Takes on Section 230 Cases With Major Implications

Section 230 is the talk of Capitol Hill again this week as the Supreme Court takes on two cases that have the potential to lead to a reinterpretation of the long-standing statute. Section 230 is just 26 words long, but legal eagles could write volumes on its significance.

At their core, this week's cases are centered on the argument of whether or not platforms created by companies like **Google** or **Meta** could be sued based on the content recommended by their algorithms or if those recommendations are also protected by Section 230. The petitioners claim that while Section 230 does protect providers of an interactive computer service where third-party users post content, algorithms today are pushing content in a way that stretches far outside of the statute's shields.

The oral arguments for *Gonzalez v. Google* Tuesday went on for nearly three hours as the justices engaged in several rounds of questioning each. It's the first time that the nation's highest court has taken on Section 230 and comes nearly one year after Justice *Clarence Thomas* [stated](#) that if Congress wouldn't act, he hoped SCOTUS would have a chance to clarify the statute. But this is far from an easy nut to crack, and Justice *Elena Kagan* didn't shy away from saying so. "We really don't know about these things," Kagan said, earning laughter from those in the courtroom. "These are not, like, the nine greatest experts on the internet."

But understanding exactly how these platforms and their respective algorithms work is key to both cases and will inform how SCOTUS will rule on the decision. The justices seemed skeptical of arguments from both parties, poking holes in hypotheticals and showing concern that any reinterpretation of the statute would open the door to any number of lawsuits.

"The idea of recommendations is not in the statute, and the statute does refer to organization and the definition of interactive computer service means one that filters, screens, picks, chooses, organizes content," Justice *Brett Kavanaugh* said to *Eric Schnapper*, a lawyer for the petitioners. "And your position, I think, would mean that the very thing that makes the website an interactive computer service also means that it loses the protection of 230. And just as a textual and structural matter, we don't usually read a statute to, in essence, defeat itself."

Justice Kavanaugh also questioned counsel on the potential impacts of an opinion that would significantly limit Section 230. Those that would seek to protect Section 230 in its current form have expressed fears that changes could significantly limit the free flow of information on the web, discourage further investment in artificial intelligence and that hurting Big Tech platforms will have massive economic implications.

"A decision undermining Section 230 should make websites either remove potentially controversial material or shut their eyes to objectionable content to avoid knowledge of it," Google General Counsel Halimah DeLaine Prado said in a [blog post](#) last month. "You would be left with a forced choice between

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overly curated mainstream sites or fringe sites flooded with objectionable content.”

Industry associations are keeping an eye on the debate as well. **CTA** CEO *Gary Shapiro* [tweeted](#) a thread Tuesday urging SCOTUS to protect Section 230 in its present form to ensure the U.S. continues to lead in technology sectors. “#Section230 is a key reason why the U.S. is home to so many leading on-line companies, as well as the world’s most dynamic startup ecosystem. As Professor @JeffKosseff put it, #Section230 introduced ‘The 26 Words that Created the Internet,’” he said. “The U.S. exists in a highly competitive global economy. The last thing we need is more lawsuits leading to less innovation.”

Even if SCOTUS rules that Section 230 does not provide the wide-ranging protections it has long been interpreted to offer, Congress will still likely need to step in to clarify the exact limits Big Tech companies and startups will face in the years to come. “The Court is unlikely to clearly define what remains protected and what does not. Therefore, any decision limiting 230 could open the floodgates for litigation. If so, it will be a long time before investors have clarity on the potential practices and liabilities of the platforms,” **New Street Research** said in a note.

We’re still early in the legislative season, but conversations around Section 230 and Big Tech reform have wracked Congressional committees for the last several years, so expect more proposals to arrive in the coming months. The White House has also been calling for action with *President Biden* publishing an [op-ed](#) in the *Wall Street Journal* asking Republicans and Democrats to act in a bipartisan way to fundamentally reform Section 230.

“We also need far more transparency about the algorithms Big Tech is using to stop them from discriminating, keeping opportunities away from equally qualified women and minorities, or pushing content to children that threatens their mental health and safety,” *Biden* said in the op-ed.

STARRY MOVES FORWARD WITH BANKRUPTCY FILING

Starry has officially filed for Chapter 11 bankruptcy after a lengthy attempt to raise much-needed capital. It has also entered into a Restructuring Support Agreement with lenders holding the company’s debt that includes a plan that is expected to significantly reduce the company’s debt and improve its capital structure and liquidity. **Starry** anticipates that it will close on a debt-for-equity restructuring with its lenders, but a marketing and auction process will be conducted first to identify any potential buyers for the business. **Starry** has filed motions seeking court approval of bidding and auction

procedures. The company’s customer and network operations will continue as normal during the restructuring process in its five core markets: Boston, New York City, Los Angeles, Denver and Washington, D.C. **Starry** has been exploring all options that would give it the financial backing to move forward and grow its operations. In October, it withdrew from the **FCC**’s RDOF program after originally winning \$268.9 million to cover more than 108,000 locations across nine states with high-speed broadband and cut approximately 50% of its workforce. Last month, it decided to leave the Columbus, Ohio, market and decommission the network.

NTCA STRIKES NEW DEALS TO SUPPORT MEMBER NEEDS

NTCA—The Rural Broadband Association struck two new strategic partnerships with **Corning Optical Solutions** and **Northwood Technical College** in an effort to alleviate supply chain and workforce challenges. The **NTCA**-**Corning Rural Broadband Supply Program** will allocate 46.3 million feet in fiber cable purchases to members that participate in a pre-enrollment survey in February and March and place final purchase orders through selected distributors. Estimated delivery for those orders is in 2024. **Northwood Technical College**, which is based in Rice Lake, Wisconsin, will provide online training with courses that can be paired with apprentice-like training at **NTCA** member companies. The **Northwood-NTCA** collaboration was created in response to the Talent Pipeline Challenge from *President Biden*, which was a call for employers to support equitable workforce development in critical infrastructure areas such as broadband.

PIVOTAL RAISES LIBERTY TARGET PRICE

After upgrading its target price for **Charter** to \$550, **Pivotal** raised its target price for **Liberty Broadband** from \$127 to \$150. The firm believes an “RMT-like” merger is on the cards between **Charter** and **Liberty**, though the latter’s management would be more interested in signing an agreement to not participate in **Charter**’s share repurchase program. An RMT allows a company to spinoff and sell assets without paying taxes on any gains from the divestiture, and **Liberty** is well known for its penchant for complicated tax-free spinoffs. “Even conservatively assuming a deal is completed at NAV (and at the price **Liberty** paid for **GCI**) investors can earn an extra ~25+% from owning **LBRDK** over owning **CHTR** directly,” the firm said in a note Tuesday. “We continue to recommend investors own both names, although clearly fundamentally the look through **CHTR**

price in LBRDK is relatively attractive especially in the context of LBRDK share repurchase activity and our view of the inevitability of a transaction between the two players.” The firm expects competitive concerns surrounding the cable industry to alleviate in 2023. That’s in part due to its belief that speed/bandwidth usage will continue to rise and play into cable’s strength, with Pivotal noting Charter’s investment in upgrading its network

COX TEAMS UP WITH INTEL, FUTURE FOR PRIVATE NETWORKS

Cox, Intel and **Future Technologies** are collaborating to design and deploy end-to-end managed private network solutions for both public and private sector commercial customers. Intel’s cloud-to-edge solutions, Future’s system integration technology and Cox Edge’s infrastructure and fiber assets will combine to manage private wireless connectivity for multiple business industries and sizes. Initial deployment will come in Las Vegas, where Cox built a smart park and installed a managed network that uses millimeter wave spectrum to transfer data for insights on usage, vehicle volumes and facility health. The company now is adding a private network that spans eight blocks in Las Vegas’ Fremont District. The network will give businesses real-time insights on security, parking, noise levels, air quality and pedestrian counting.

MSG TO BROADCAST HOFSTRA SPORTS

MSG Networks and Hofstra University signed a multi-year deal to bring Hofstra’s athletic events to the New York tri-state area. MSGN will air a variety of sports, beginning with the Pride’s women’s basketball game against Drexel on Friday at 7pm and the men’s basketball contest vs Northeastern on Saturday at 2pm. All broadcast games will also be available on **MSG GO**.

ADEIA RENEWS LICENSE WITH ALTICE USA

Adeia, an IP licensing company [spun off](#) from **Xperi**, penned an early renewal agreement with **Altice USA**. The deal extends the provider’s license to Adeia’s media IP portfolio, which supports Optimum’s cable TV and OTT services.

FIBER FRENZY

Comcast is pledging over \$100 million to grow its fiber network in Texas, with plans to install at least 1,000 miles of fiber highways that’ll reach up to 80,000 homes and businesses by the end of this year. The expansion will begin in Kingwood, Pinehurst, Prairie View, Waller, New Caney and Conroe and will continue in other areas in Houston that have ongoing infrastructure builds. Once construction is complete, customers can get Xfinity Internet and Mobile services, and businesses can get speeds of up to 100 Gbps with Comcast Business.

CARRIAGE

Nexstar’s NewsNation launched a new, free “NewsNation”-branded CTV app on major platforms including **Roku, Apple TV, Amazon Fire, Android TV** and **Samsung**. It comes with clips and highlights from shows such as “Cuomo,” “Banfield” and “On Balance with Leland Vittert. It’ll also allow users to personalize their lineup of news from NewsNation and Nexstar. – **The Roku Channel** added eight linear channels to its lineup: **ALL-BLK Gems, AMC en Español, Anger Management, Dateline 24/7, Life with Derek, Sky News, Sonic** and **TODAY All Day**.

AWARDS

Ovation TV and **Charter** unveiled the winners of the 2022-23 Stand for the Arts Awards on Tuesday, honoring local arts, cultural and educational organizations and programs. Organizations are selected based on their support of creatives and artists via community-driven programming, advocacy for equity and access to the arts and providing of accessible spaces for creative expression. The 10 winners include the Central Music Academy from Lexington, Kentucky, the Latino Theater Company in L.A. and the Ifetayo Cultural Arts Academy in Brooklyn. Each of the selected companies received \$10,000.

DOING GOOD

To commemorate the announcement of **Ritter Communications’** \$2.3 million expansion project in Jackson, Missouri, the company is donating \$2,500 to the Southeast Missouri Food Bank’s local pantry. The Food Bank serves more than 70,000 people each month across 16 counties in Missouri. – **Hallmark Media** chose *Yan-Kay Crystal Lowe* as the inaugural participant in the company’s Make Her Mark Women’s Directing Program. The program lets aspiring female filmmakers to shadow directors throughout the entire production process of a Hallmark movie. Lowe will follow Jessica Harmon on the set of “Dream Moms,” which is set to premiere Mother’s Day weekend.

PROGRAMMING

“Inside with *Jen Psaki*” will premiere on **MSNBC** on March 19 at noon, available to stream the next day on **Peacock**. The former White House Press Secretary will host the public policy show with one-on-one interviews and special features on lawmakers. – **NBC, Peacock** and **Golf Channel** will have 500 hours of live coverage of PGA Tour events over the next six weeks. That includes eight tournaments: The Honda Classic (Thursday-Sunday), The Arnold Palmer Invitational (March 2-5), The Players Championship (March 9-12), the Valpar Championship (March 16-19), the WGC-Dell Technologies Match Play (March 22-26) and the Valero Texas Open (March 30-April 2). Peacock will stream all coverage that airs on NBC and Golf Channel, as well as pre- and post-round coverage.