

116TH CONGRESS
2D SESSION

H. R. 8922

To amend the Communications Act of 1934 to limit interactive computer service immunity.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2020

Ms. GABBARD (for herself and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to limit interactive computer service immunity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Break Up Big Tech
5 Act of 2020”.

6 **SEC. 2. LIMITATION ON INTERACTIVE COMPUTER SERVICE**
7 **IMMUNITY.**

8 Section 230(c) of the Communications Act of 1934
9 (47 U.S.C. 230(c)) is amended by adding at the end the
10 following:

1 “(3) LIMITATION.—After the date of the enact-
2 ment of this paragraph, paragraphs (1) and (2)
3 shall not apply to a provider of an interactive com-
4 puter service with respect to a service if the provider
5 after such date—

6 “(A)(i) sells advertising in which an adver-
7 tisement is displayed to a user of such service
8 based on—

9 “(I) personal traits of the user;

10 “(II) previous location information
11 with respect to the user;

12 “(III) personal information from a
13 profile about the user that is created for
14 the purpose of selling advertisements;

15 “(IV) the previous online or offline be-
16 havior of the user;

17 “(V) the content of the website, online
18 service, online application, or mobile appli-
19 cation to which the user is connected;

20 “(VI) the location of the user, as of
21 the time at which the advertising is di-
22 rected to the user; or

23 “(VII) the search terms that the user
24 applied to arrive at the website, service, or

1 application to which the user is connected;
2 and

3 “(ii) displays an advertisement in a man-
4 ner described under clause (i) to a user who did
5 not opt-in to having an advertisement displayed
6 to such user in such a manner;

7 “(B) through such service, places items, or
8 facilitates the placement of items, into the
9 stream of commerce;

10 “(C) through such service, collects data for
11 commercial purposes other than receiving from
12 users of such service direct payment for the use
13 of such service; or

14 “(D) uses a design or product that addicts,
15 or whose purpose is to addict, users to such
16 service.

17 “(4) EXCEPTION.—

18 “(A) IN GENERAL.—Notwithstanding para-
19 graph (1), an owner or operator of a social
20 media service that displays user-generated con-
21 tent in an order other than chronological order,
22 delays the display of such content relative to
23 other content, or otherwise hinders the display
24 of such content relative to other content, if for
25 a reason other than to restrict access to or

1 availability of material described in paragraph
2 (2)(A) or to carry out the direction of the user
3 that generated or requested such content or
4 generated or requested restricted access to such
5 content, shall be treated as a publisher or
6 speaker of such content.

7 “(B) DEFINITIONS.—In this paragraph—

8 “(i) SOCIAL MEDIA SERVICE.—The
9 term ‘social media service’ means any
10 interactive computer service provided over
11 the Internet that connects users for the
12 purpose of such users engaging in dia-
13 logue, sharing information, collaborating,
14 or otherwise interacting.

15 “(ii) USER-GENERATED CONTENT.—
16 The term ‘user-generated content’ means
17 content that is supplied on a social media
18 service by an information content provider
19 who is a user of such service.”.

○