

Mr. JOHNSON. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Michael Jay Newman, of Ohio, to be United States District Judge for the Southern District of Ohio.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 551, S. 4653, a bill to protect the healthcare of hundreds of millions of people of the United States and prevent efforts of the Department of Justice to advocate courts to strike down the Patient Protection and Affordable Care Act.

Charles E. Schumer, Richard J. Durbin, Patty Murray, Tim Kaine, Martin Heinrich, Jack Reed, Jeff Merkley, Bernard Sanders, Jon Tester, Benjamin L. Cardin, Brian Schatz, Debbie Stabenow, Richard Blumenthal, Angus S. King, Jr., Michael F. Bennet, Edward J. Markey, Chris Van Hollen, Sheldon Whitehouse, Kirsten E. Gillibrand.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 4653, a bill to protect the healthcare of hundreds of millions of people of the United States and prevent efforts of the Department of Justice to advocate courts to strike down the Patient Protection and Affordable Care Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from South Carolina (Mr. GRAHAM), the Senator from Utah (Mr. LEE), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) and the Senator from Montana (Mr. TESTER) are necessarily absent.

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 200 Ex.]

YEAS—51

Baldwin	Gillibrand	Peters
Bennet	Hassan	Reed
Blumenthal	Heinrich	Rosen
Booker	Hirono	Sanders
Brown	Jones	Schatz
Cantwell	Kaine	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Sinema
Casey	Leahy	Smith
Collins	Manchin	Stabenow
Coons	Markey	Sullivan
Cortez Masto	McSally	Udall
Duckworth	Menendez	Van Hollen
Durbin	Merkley	Warner
Ernst	Murkowski	Warren
Feinstein	Murphy	Whitehouse
Gardner	Murray	Wyden

NAYS—43

Barrasso	Fischer	Risch
Blackburn	Grassley	Roberts
Blunt	Hawley	Romney
Boozman	Hooven	Rounds
Braun	Hyde-Smith	Sasse
Burr	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cassidy	Kennedy	Shelby
Cornyn	Lankford	Thune
Cotton	Loeffler	Tillis
Cramer	McConnell	Toomey
Crapo	Moran	Wicker
Cruz	Paul	Young
Daines	Perdue	
Enzi	Portman	

NOT VOTING—6

Alexander	Harris	Rubio
Graham	Lee	Tester

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 43.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS CONSENT REQUEST—S. 4756

Mr. KENNEDY. Mr. President, I want to talk just for a few moments about the internet and social media, and I want to make it clear, first, that I believe firmly in free will and responsibility. I believe that no matter what kind of day you are having or what is going on in your life, that you are responsible for your actions.

But I think we all know, as a matter of experience and common sense, that there are things in this world that can influence our actions. Social media, which I consider to be an American invention, has many virtues and many advantages, and we know that. I think it has brought the world closer today. I think it has given many people a voice. I think it is an extraordinary source of knowledge.

But like other innovations in this world, it has a downside. And one of those downsides is the fact that, too often, social media becomes an endless electronic brawl, and rather than bringing us together and exposing us to other points of view and causing us to test our assumptions against the arguments of others, it brings us apart. I think social media is, in part, responsible for that.

We all know that many social media platforms are free. Let's take Facebook, for example. Facebook is a free service. You open an account; you go on Facebook; and you can find out what your high school friends had for

dinner Saturday night. Now, we give up a lot from that privilege of watching what our high school friends had for dinner Saturday night. Facebook collects an enormous amount of information about us. And, once again, I am not just picking on Facebook. I am using them as an example because it is such a popular platform that we all know about. Facebook uses that information in a number of ways.

First, Facebook uses it to make money. They know a lot of stuff about us from collecting information about us so they can sell advertisers' ads, and they can tailor those ads to the individuals who are on Facebook according to the information that the social media platform—in this case, Facebook—has about them. You can even sell more ads if you can keep people who are on Facebook coming back and coming back and coming back.

So this is what happens. Some see this as a virtue, and some see it as a vice. A social media platform like Facebook gathers an enormous amount of information about us, and they learn, in intricate detail, what motivates us and what our interests are. Another way of saying that would be they learn what our hot buttons are. And they continually show us—what is the word I am looking for—advertisements, information, and postings of other people on Facebook that reinforce our beliefs, and, in some cases, they show us very radical bits of information that really push our hot buttons.

Now, why do they do that? Well, No. 1, it will keep us coming back to Facebook, and it will keep us on Facebook longer, which means that advertisers like us better because we are seeing their ads, and it means that Facebook can sell more ads at a higher price. I am not criticizing them. That is just the way the business works.

But the downside of it is that we only see one point of view. Our point of view is reaffirmed. We never see other points of view. We are never encouraged to question our assumptions or to test our assumptions against the arguments of others.

Now, how does Facebook do this? And, again, I don't mean to just pick on Facebook, but it is an example we are all aware of. They use algorithms. I am not going to try to explain algorithms, but that is how they show us information that pushes our hot buttons.

The social media platforms contend that they are not involved in content and that they are just publishers. So when somebody pushes your hot button and you get angry and you say something that you probably shouldn't say—that is why Facebook has turned into an endless electronic brawl—Facebook says: Hey, it is not our fault. We are just a publisher. That is why, under the law, Facebook enjoys what we call section 230 liability.

But as long as these algorithms are used to push our hot buttons, to reaffirm our points of view, to not show us

other points of view—one point of view is that Facebook and other social media platforms are not just publishers. They are clearly content providers, and they are having an impact on our behavior.

My bill is very simple. It just says that if you are a social media platform and you use algorithms based on the information you, the social media provider, have collected about us, if you use that information to push our hot buttons by continuously showing us information that just reaffirms our point of view without showing us other points of view, that is fine. That is perfectly legal. That is your business model. But in return, you are no longer going to enjoy section 230 liability.

This would not eliminate section 230 liability in a pervasive manner, but it would say that if you are going to use algorithms to push hot buttons and to keep other points of view away from us and monetize that practice, then you shouldn't enjoy section 230 liability. That is all my bill does.

For that reason, as if in legislative session, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of S. 4756, which is my Don't Push My Buttons Act, to which I just referred, and the Senate proceed to its immediate consideration. I further ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table, all in the vein of, we have talked now for years about section 230 liability, and I think we ought to actually try to do something about it.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, this bill is, on its surface, a privacy bill. It appears to have been introduced 2 days ago, and the sponsor has arrived on the floor of the Senate and says that this bill ought to be passed immediately and without debate.

My guess is that a small circle of beltway insiders have seen the text, but I just want the Senator to know that passing this bill this way would just make a mockery of the proposition that we ought to have open, public debate on significant laws. We are dealing with a rush job here.

I will just tell you that based on what we have picked up, the legislation certainly leaves more questions than answers.

First, who does the Senator from Louisiana intend to target with the bill? On a first reading, it could apply to anybody, from Glassdoor, to Spotify, to Cloudflare, to my neighbor's blog, to local media outlets.

At a higher level, if my colleague wants to protect Americans' data from collection and abuse, this bill certainly doesn't do that. On the contrary, his

legislation would push the platforms to simply force users to consent to their data being collected and used as a condition of using their service. That is already being done now, and this bill wouldn't change a thing for Americans' privacy.

Very significantly, our reading is that the Kennedy bill only requires consent if user data is both collected and used by the same company, and it has a massive loophole for data brokers and other shady middlemen who are already compiling dossiers of Americans' sensitive data and selling it to just about anybody with a credit card.

For the last several years, I have been blowing the whistle on these data brokers and these shady middlemen. We have investigated sector after sector where we are seeing these people who really adhere to some of the sleaziest business practices engaging in these tactics where they can get their hands on Americans' sensitive data and basically just sell it to anybody with a credit card.

I guarantee you, there is not a Senator in this body who is going to go home this weekend and tell their constituents: Gee, I want those data brokers and those middlemen to be able to sell my sensitive data to hither and yon, whatever nefarious purposes somebody might want to buy it for.

The Facebooks, the Googles, and the Twitters of the world have all the resources to pay these guys to outsource their data collection and be A-OK. Yet again, as I have said for some time, it is the startups and the little guys who are going to be left behind.

I have been working on these issues since I came to the Senate, and the only person here, really, who knew how to use the computer was the wonderful Senator from Vermont, Senator LEAHY. So as we began to write these formative laws, I said that my interest is the startup and the little guy because the big guys always do great.

That is why, when we were on the floor talking about the change to 230 before, who sold out the little guys? Facebook. And all that happened was the bad guys went off to the dark web.

So this is another bill where the Facebooks and the Googles all have the resources to pay the guys to outsource data collection, as I have been talking about, and the little guy is going to be left behind.

This bill does not require consent to collect your data. It doesn't require consent to use it and follow you around the internet. It wouldn't stop Chinese companies from harvesting American data and selling it to the Chinese Government.

If the Senator from Louisiana wants to protect Americans' sensitive data, I have a bill for doing that. I have comprehensive privacy legislation. It is called the Mind Your Own Business Act. We have been soliciting input on it literally for years. It is the toughest bill in terms of holding the executives actually accountable, for example, if

they lie about their privacy policy, if an executive of one of the major companies, generating billions in revenue, lies about their privacy policy.

The Mind Your Own Business Act is the bill that is the toughest in terms of protecting the consumer. It sets tough privacy and cyber security standards for companies that collect Americans' private data, gives the Federal Trade Commission more authority to issue serious fines, and it is backed up with the strongest enforcement provisions on offer if a CEO lies to the government.

It is not as if you can't write tough privacy proposals. It certainly can be done, and others have ideas on how to do it. But based on everything I have read, and particularly this provision that is going to be a holiday for data brokers and shady middlemen to be able to get people's sensitive data, for all of those reasons and, frankly, others that are too numerous to mention, I object.

The PRESIDING OFFICER. The objection is heard.

The PRESIDING OFFICER. The Senator from Massachusetts.

UNANIMOUS CONSENT REQUEST—H.R. 451

Mr. MARKEY. Mr. President, I rise today on behalf of the first responders in our country. Every day, brave women and men on the frontlines of the COVID-19 pandemic rely on T-Band, a spectrum that makes it possible for them to communicate with each other.

T-Band is the radio frequency that is set aside for these public safety officials so that they can talk to each other to keep all of us safe, all of us healthy. In 11 metropolitan areas, the T-Band system enables our courageous public safety personnel to work quickly and effectively during life-and-death situations.

T-Band allows emergency medical service teams to relay important information about patients' conditions. T-Band permits 9-1-1 dispatchers to send first responders to emergency scenes. Firefighters use T-Band to quickly coordinate strategy.

After the Boston bombing, after the marathon bombing, first responders used T-Band to communicate with each other during the ensuing manhunt.

This resource is nothing short of a lifesaver. T-Band really stands for "trusted band." It is the resource public safety can rely upon.

Unfortunately, the Middle Class Tax Relief and Job Creation Act of 2012 required the Federal Communications Commission to begin to auction off the T-Band, the trusted band, by February of 2021, but it would cost between \$5 billion and \$6 billion for first responders—police and fire—to relocate from the T-Band. That is much more money than an auction of that spectrum would ever generate.

Plus, for many first responders, there is simply no alternative to the T-Band; this is their only option. That is why this body must pass the Don't Break