To amend section 230(c) of the Communications Act of 1934 to prevent immunity for interactive computer services for certain claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2020

Mr. MALINOWSKI (for himself and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend section 230(c) of the Communications Act of 1934 to prevent immunity for interactive computer services for certain claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Americans from Dangerous Algorithms Act”.

SEC. 2. AMENDMENT.

Section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)) is amended by adding at the end the following new paragraph:
“(3) ALGORITHMIC AMPLIFICATION.—

“(A) IN GENERAL.—For purposes of paragraph (1), an interactive computer service shall be considered to be an information content provider and the protection under such paragraph shall not apply for any claim described in subparagraph (B).

“(B) CONDITIONS FOR CLAIM.—

“(i) IN GENERAL.—A claim in this subparagraph requires the following:

“(I) A claim in a civil action is brought under—


or

“(bb) section 2333 of title 18, United States Code.

“(II) Except as provided in clause (ii), the claim involves a case in which the interactive computer service used an algorithm, model, or other computational process to rank, order, promote, recommend, amplify, or similarly alter the delivery or display
of information (including any text, image, audio, or video post, page, group, account, or affiliation) provided to a user of the service if the information is directly relevant to the claim.

“(ii) EXCEPTION.—Notwithstanding clause (i)(II), the requirement is not met if—

“(I) the information delivery or display is ranked, ordered, promoted, recommended, amplified, or similarly altered in a way that is obvious, understandable, and transparent to a reasonable user based only on the delivery or display of the information (without the need to reference the terms of service or any other agreement), including sorting information—

“(aa) chronologically or reverse chronologically;

“(bb) by average user rating or number of user reviews;

“(cc) alphabetically; and
“(dd) randomly; or

“(II) the algorithm, model, or
other computational process is used
for information a user specifically
searches for.

“(C) SMALL BUSINESS EXCEPTION.—This
paragraph shall not apply to an interactive
computer service that (in combination with each
subsidiary and affiliate of the service) has
50,000,000 or fewer unique monthly visitors or
users for a majority of the preceding 12
months.”.