

tl;dr - The Law & Economics of Online Intermediary Liability

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Background... The Communications Decency Act of 1996's Section 230 holds that the law will not treat online service providers as speakers or publishers of third-party content, and that actions the providers take to moderate content hosted by their services will not trigger liability. A quarter-century later, a [growing number of lawmakers](#) seek reforms to Section 230. In the 116th Congress alone, [26 bills](#) were introduced to modify the law's scope or to repeal it altogether.

But... While the current debate popularly centers on whether platforms should be forced to host certain content or when they should be forced to remove other content, such reforms are [virtually certain to harm](#), not improve, social welfare: As frustrating as imperfect content moderation may be, state-directed speech codes are much worse.

However... The real gains to social welfare will materialize from reforms that better align the incentives of online platforms with the social goal of deterring or mitigating illegal or tortious conduct. To the extent that the current legal regime permits social harms online that exceed concomitant benefits, it should be reformed to deter those harms if such reform can be accomplished at sufficiently low cost.

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