

Technology Regulation: CRS Legal Products for the 119th Congress

February 12, 2025

In recent years, some Members of Congress have considered policy options related to social media platforms and other information and telecommunications technologies. These deliberations may continue to be of interest to the 119th Congress. Discussions have sometimes focused on the largest internet technology companies, or “[Big Tech](#).” Members have introduced a wide variety of proposals intended to achieve a number of distinct goals. Some proposals have focused on competition concerns and sought to amend antitrust and consumer protection laws. Some have targeted data protection and privacy. Some have focused on social media companies’ content moderation practices, addressing sometimes conflicting concerns about the circulation of harmful content and the removal of lawful content. Finally, some have weighed in on the debate over net neutrality.

This Legal Sidebar compiles CRS products discussing legal issues related to regulating information and telecommunications technologies. Some of the products discuss bills from past Congresses. The legal considerations in those products may be relevant to Members considering new proposals that raise the same or similar issues. The text of this Sidebar focuses on regulatory proposals, but as the linked products discuss, some Members have also argued against increased regulation. Congressional staff may contact the author of this Sidebar or the authors of the following products with questions about these issues.

Antitrust

Antitrust laws are designed to protect economic competition. In recent years, some Members of Congress have expressed concern about the competitive practices of Big Tech firms and have introduced bills specifically addressing competition issues in the digital economy.

CRS In Focus IF11234, *Antitrust Law: An Introduction*, by Jay B. Sykes

CRS Report R46875, *Antitrust Reform and Big Tech Firms*, by Jay B. Sykes

CRS Report R47228, *The American Innovation and Choice Online Act*, by Jay B. Sykes

CRS Legal Sidebar LSB11216, *District Court Holds That Google Unlawfully Monopolizes Online Search: Overview and Potential Remedies*, by Jay B. Sykes

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LSB11266

Content Moderation

Some Members of Congress have raised concerns about social media platforms' [content promotion and moderation practices](#), meaning platforms' decisions about what user speech to host and how to present it. Members have argued variously that online platforms do not do enough to combat harmful content and that platforms take down too much lawful content. A number of bills in prior Congresses have proposed to amend a federal law known as [Section 230](#), which courts have historically interpreted to grant platforms significant immunity for their decisions to host or restrict third-party content. Other proposals have more directly targeted specific types of harmful content or content moderation practices. These proposals may implicate constitutional free speech issues, as discussed in the products below. For a general overview of the [Free Speech Clause](#), see CRS Report R47986, *Freedom of Speech: An Overview*, by Victoria L. Killion. TikTok-related laws are covered in a subsequent section of this Legal Sidebar, under "Cross-Border Investment and Commercial Transactions."

Section 230

CRS In Focus IF12584, *Section 230: A Brief Overview*, by Peter J. Benson and Valerie C. Brannon

CRS Report R46751, *Section 230: An Overview*, by Valerie C. Brannon and Eric N. Holmes

CRS Report R47753, *Liability for Algorithmic Recommendations*, by Eric N. Holmes

CRS Legal Sidebar LSB11097, *Section 230 Immunity and Generative Artificial Intelligence*, by Peter J. Benson and Valerie C. Brannon

First Amendment

CRS Legal Sidebar LSB11224, *Moody v. NetChoice, LLC: The Supreme Court Addresses Facial Challenges to State Social Media Laws*, by Peter J. Benson

CRS Legal Sidebar LSB10393, *Appeals Court Says First Amendment Limits Regulation of Online Political Advertising: Implications for Congress*, by Valerie C. Brannon and L. Paige Whitaker

CRS Legal Sidebar LSB10742, *Online Content Moderation and Government Coercion*, by Valerie C. Brannon and Whitney K. Novak

CRS Legal Sidebar LSB11186, *Government Coercion of Private Speech: National Rifle Association (NRA) v. Vullo*, by Whitney K. Novak

CRS Report R47049, *Children and the Internet: Legal Considerations in Restricting Access to Content*, by Eric N. Holmes

CRS Legal Sidebar LSB11020, *Online Age Verification (Part I): Current Context*, by Eric N. Holmes

CRS Legal Sidebar LSB11021, *Online Age Verification (Part II): Constitutional Background*, by Eric N. Holmes

CRS Legal Sidebar LSB11022, *Online Age Verification (Part III): Select Constitutional Issues*, by Eric N. Holmes

CRS Legal Sidebar LSB11071, *NetChoice v. Bonta and First Amendment Limits on Protecting Children Online*, by Peter J. Benson

CRS In Focus IF12180, *False Speech and the First Amendment: Constitutional Limits on Regulating Misinformation*, by Valerie C. Brannon

CRS Legal Sidebar LSB10723, *Federal Civil Action for Disclosure of Intimate Images: Free Speech Considerations*, by Victoria L. Killion

Intellectual Property

Technology companies' activities intersect with many aspects of intellectual property (IP) law. IP seeks to encourage innovation and competition by giving owners limited rights to control uses of certain kinds of inventions (through patents), confidential information (through trade secrets), creative works (through copyright), and identifiers of goods and services (through trademarks). In the field of patent law, some Members in prior Congresses have considered potential reforms to the Patent Trial and Appeal Board, an agency that may invalidate previously granted U.S. patents in adversarial proceedings that often involve Big Tech companies. In addition, some Members of Congress have raised questions about how IP rights may be affected by artificial intelligence (AI). These questions include whether companies may use copyrighted works to train AI programs without permission from authors and other copyright owners, whether AI creations can be copyrighted or patented, and whether to enact legislation to protect the right of publicity—i.e., the right to control uses of one's name, image, likeness, or voice—from AI imitations. Other IP issues affecting Big Tech include the Digital Millennium Copyright Act, which governs how copyright protections work online; legal protections for trade secrets; and debates over which types of inventions should be eligible for patent protection, including patents on computer software and AI technologies that may be held by or asserted against Big Tech companies.

CRS Legal Sidebar LSB11251, *Artificial Intelligence and Patent Law*, by Kevin J. Hickey and Christopher T. Zirpoli

CRS In Focus IF11478, *Digital Millennium Copyright Act (DMCA) Safe Harbor Provisions for Online Service Providers: A Legal Overview*, by Kevin J. Hickey

CRS Legal Sidebar LSB10922, *Generative Artificial Intelligence and Copyright Law*, by Christopher T. Zirpoli

CRS Legal Sidebar LSB11052, *Artificial Intelligence Prompts Renewed Consideration of a Federal Right of Publicity*, by Christopher T. Zirpoli

CRS In Focus IF12563, *Patent-Eligible Subject Matter Reform: An Overview*, by Emily G. Blevins and Kevin J. Hickey

CRS Report R48016, *The Patent Trial and Appeal Board and Inter Partes Review*, by Christopher T. Zirpoli and Kevin J. Hickey

Data Protection and International Data Flows

Some Members of Congress have expressed concern about how Big Tech companies protect the data companies gather from users and have introduced a number of data protection bills focused on privacy and security. In 2024, Congress enacted the [Protecting Americans' Data from Foreign Adversaries Act](#), focusing on the transfer of personally identifiable sensitive data to designated foreign adversaries. In recent years, the federal government has also focused on interactions with other countries—notably, working to meet standards prescribed by the European Union.

CRS In Focus IF11207, *Data Protection and Privacy Law: An Introduction*, by Stephen P. Mulligan and Chris D. Linebaugh

CRS Report R45631, *Data Protection Law: An Overview*, by Stephen P. Mulligan and Chris D. Linebaugh

CRS Legal Sidebar LSB11161, *The American Privacy Rights Act*, by Chris D. Linebaugh et al.

CRS In Focus IF12244, *Unfair or Deceptive Acts or Practices (UDAP) Enforcement Authority Under the Federal Trade Commission Act*, by Eric N. Holmes

CRS Legal Sidebar LSB10839, *FTC Considers Adopting Commercial Surveillance and Data Security Rules*, by Chris D. Linebaugh

CRS Legal Sidebar LSB10846, *The EU-U.S. Data Privacy Framework: Background, Implementation, and Next Steps*, by Eric N. Holmes

CRS Report R46724, *EU Data Transfer Requirements and U.S. Intelligence Laws: Understanding Schrems II and Its Impact on the EU-U.S. Privacy Shield*, by Chris D. Linebaugh and Edward C. Liu

Cross-Border Investment and Commercial Transactions

Several legal frameworks allow the United States to evaluate national security and foreign policy risks posed by private commercial transactions involving technology companies. Through export controls, economic sanctions, the Committee on Foreign Investment in the United States, and sector-specific review bodies, the executive branch has authority to review a wide range of commercial dealings, which often include tech-related transactions. Some Members of Congress and state governments previously proposed expanding these frameworks to address concerns over foreign-owned technology, such as [TikTok](#), and transactions not captured under existing structures. In 2024, Congress enacted the [Protecting Americans from Foreign Adversary Controlled Applications Act](#), effectively requiring TikTok or other qualified applications that may be designated in the future to divest from ownership by foreign adversaries. Litigation over this law, and subsequent developments, are discussed in products referenced below. More broadly, proposals related to international transactions can raise legal issues about the programs' structure and operations.

CRS Legal Sidebar LSB11034, *National Security Review Bodies (Part I): Legal Context and Comparison*, by Steve P. Mulligan and Chris D. Linebaugh

CRS Legal Sidebar LSB11035, *National Security Review Bodies (Part II): Creating New Review Systems*, by Steve P. Mulligan

CRS In Focus IF11760, *The Information and Communications Technology and Services (ICTS) Rule and Review Process*, by Stephen P. Mulligan

CRS Report R46693, *Huawei and U.S. Law*, by Stephen P. Mulligan and Chris D. Linebaugh

CRS Legal Sidebar LSB10895, *New FCC Rules Ban Authorizations for Equipment Posing National Security Risks*, by Chris D. Linebaugh

CRS In Focus IF12415, *CFIUS Executive Order on Evolving National Security Risks and CFIUS Enforcement Guidelines*, by Cathleen D. Cimino-Isaacs, Steve P. Mulligan, and Karen M. Sutter

CRS Legal Sidebar LSB11261, *TikTok Inc. v. Garland: Supreme Court Rejects Challenge to TikTok Divestiture Law*, by Peter J. Benson and Valerie C. Brannon

CRS Legal Sidebar LSB11127, *Regulation of TikTok Under the Protecting Americans from Foreign Adversary Controlled Applications Act: Analysis of Selected Legal Issues*, by Peter J. Benson, Valerie C. Brannon, and Joanna R. Lampe

CRS Legal Sidebar LSB10940, *Restricting TikTok (Part I): Legal History and Background*, by Steve P. Mulligan

CRS Legal Sidebar LSB10942, *Restricting TikTok (Part II): Legislative Proposals and Considerations for Congress*, by Steve P. Mulligan and Valerie C. Brannon

CRS Legal Sidebar LSB11166, *Montana's TikTok Ban Goes Before the Ninth Circuit*, by Sanchitha Jayaram

Net Neutrality and Common Carrier Classification

Net neutrality generally refers to the idea that internet service providers should neither control how consumers use their networks nor discriminate among the content providers that use their networks. The Federal Communications Commission (FCC) has gone back and forth on whether broadband internet access service (BIAS) should be classified as a common carrier service and subject to net neutrality requirements. Courts previously applied the *Chevron* doctrine and deferred to the FCC's oscillating decisions on how best to classify BIAS. This deference ended with the Supreme Court's June 28, 2024, decision in *Loper Bright Enterprises v. Raimondo*, which [overruled the *Chevron* doctrine](#). On January 2, 2025, the U.S. Court of Appeals for the Sixth Circuit relied on *Loper Bright* to [strike down](#) the FCC's most recent attempt at net neutrality rules. Members of Congress have sometimes sought to weigh in on this debate with legislative classifications of BIAS providers. Further, in recent years, some Members have suggested extending a common-carrier-like nondiscrimination obligation to social media companies.

CRS Legal Sidebar LSB11264, *No More Deference: Sixth Circuit Relies on Loper Bright to Strike Down Net Neutrality Rules*, by Chris D. Linebaugh

CRS Report R46973, *Net Neutrality Law: An Overview*, by Chris D. Linebaugh

CRS In Focus IF12513, *FCC Adopts Proposed Net Neutrality Rule*, by Chris D. Linebaugh and Patricia Moloney Figliola

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