



THE FIRST AMENDMENT LAWYERS ASSOCIATION (FALA) HAS RELEASED THE FOLLOWING STATEMENT UPON ISSUANCE OF THE EXECUTIVE ORDER ON PREVENTING ONLINE CENSORSHIP:

As an organization devoted for more than 50 years to protecting freedom of expression, the First Amendment Lawyers Association (FALA) objects to the plainly anti-free speech Executive Order the President issued in the name of supposedly “preventing censorship.” The Order reflects a fundamental misunderstanding of the history and operation of the First Amendment, the freedoms it is designed to secure, and how it undergirds the protections in Section 230 of the Communications Act that immunize online intermediaries, including social media platforms.

FALA strongly opposes any attempt, by means of Executive Order, rule, regulation or statute, to deprive any social media platform the right to Free Speech guaranteed by the First Amendment, including the protections of Section 230. History, as well as numerous decisions of the Supreme Court, have taught us that the remedy for false, inaccurate or offensive speech is not less, but rather more speech. This includes the right to comment on material believed to be untrue. The First Amendment was explicitly intended to protect speech from government censorship, not to protect the government from private speakers, regardless of whether any official, high or petty, finds the speech worthy of public dissemination, critical of the government, or unduly one-sided.

Courts have spoken clearly and uniformly, for decades, on the proper operation of and relationship between Section 230’s immunity provisions, making clear that the interpretation found in the Executive Order has no foundation in the text, history, or efficacy of the statute—or in the First Amendment freedoms it was promulgated to protect. Members of the FCC who have spoken out in this regard are correct that the First Amendment and Section 230 remain the law of the land, and that their agency has no business serving as the President’s “speech police.” Nor does the FTC, or any other federal or state body, have any legitimate role regulating operations of privately held social networks based on their content, under the guise of unfair or deceptive acts or practices.

FALA urges the President to withdraw the Executive Order. We further call on the FCC and Congress to resist efforts to restrict Section 230 protection to social media platforms, and on all executive agencies and other officials charged with implementing Section 230 to avoid enabling the patently unconstitutional Executive Order to undercut the First Amendment. FALA also encourages any and all advocates of Free Speech to promptly challenge in court any regulation or statute enacted in furtherance of the Executive Order’s unconstitutional objectives, and its members stand ready to assist those efforts.

####

FIRST AMENDMENT



LAWYERS ASSOCIATION

FALA SUPPORTS FREE SPEECH FOR ALL. FALA is a non-profit, nationwide association of hundreds of attorneys devoted to protection of free expression under the First Amendment, who represent businesses and individuals engaged in constitutionally protected activities. Formed in the mid-1960s, FALA's members practice throughout the United States, Canada, and elsewhere in defense of the First Amendment and free speech and, by doing so, advocate against all forms of governmental censorship. FALA is non-partisan, with members of all political persuasions.

TO COMMENT ON THIS STATEMENT, OR FOR FURTHER INFORMATION REGARDING FALA, CONTACT therberghs@firstamendmentlawyers.org.

FIRSTAMENDMENTLAWYERS.ORG