

A Law on the Cusp of Change?

The Communications Decency Act, 47 U.S.C. § 230 (CDA), enacted in 1996, establishes that entities known as interactive computer service providers are not liable for (1) communications or content posted by people who use their services, (2) their services' design or structure, or whether and how to allow people to have accounts, and (3) discretionary decisions about removing or restricting access to certain objectionable content. There are exceptions, most notably for violations of federal criminal laws and intellectual property claims, but at bottom, "the law is a simple, common-sense policy: If I go online and post something illegal, I should be the one held responsible, not the message board where I posted it." Further, covered service providers that remove or restrict speech by taking it down, blocking it, or limiting its reach, should not face legal liability for their good faith decisions to take action.

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