



**QUICK OVERVIEW OF AMICUS BRIEF
FILED BY THE INTERNET SOCIETY
19 January 2023**

**GONZALEZ v. GOOGLE LLC
U.S. Supreme Court, No. 21-1333**

I. Through Section 230, Congress Expressly Sought to Protect and Enable a Medium for Unique Modes of Interactivity.

- From before Section 230 was enacted in 1996, online communications—in particular, over the Internet—are “interactive,” and stand out from prior forms of mass media because individuals are not mere passive recipients of content produced by corporate speakers. Individuals can be active participants in shaping communication and content. They have new ways to speak to and engage with one another, with unprecedented scope and scale, able to connect, collaborate, and debate with people across town or around the world.
- The critical context in which Congress enacted Section 230 included the transition of the Internet from a government-controlled network to a commercially-controlled network, and the release of the *Cubby* and *Stratton-Oakmont* decisions that both posed significant threats to the ability of service providers to host content posted by individuals.
- As clearly seen in the text of Section 230, Congress expressly crafted the statute to protect the new online ecosystem and its ground-breaking interactivity. In passing 230, Congress was intentionally upending traditional publisher and distributor liability to ensure that online service providers could carry individuals’ content without significant legal risk.

II. Far From Enshrining a “Traditional” Concept of Communications Regulation, Section 230 Created a Framework to Support the Internet’s Innovation.

- Just as the text of Section 230 protects interactivity, it also very intentionally protects the development and use of new modes of and tools for content



management—what in the past might have been called editorial functions. Congress anticipated in the text of Section 230 that many editorial functions in the new online medium would be performed by computer software instead of humans. Even as early as the mid-1990s, Congress understood that the volume and diversity of content from individuals would far exceed the capacity of human moderators.

- Although Congress did not use the term “traditional editorial function” in Section 230, the statutory text makes clear that the liability protections reach far beyond any “traditional” set of activities.

III. Section 230 Immunity Is Crucial to the Flourishing of Many Different Parts of the Internet Ecosystem.

- Section 230 is essential to the success and viability of many different parts of the Internet ecosystem. It is important that the Supreme Court have an understanding of how the Internet works in order to understand how important Section 230 is to the operation of the Internet. Any changes to Section 230 protections could have unintended consequences given the complex and varying roles different intermediaries play in the Internet infrastructure.
- A variety of types of entities—including ISPs, Content Distribution Networks, and security and anti-virus providers—could be impacted by changes to Section 230.
- Similarly, Section 230 protects individuals and entities far beyond the large commercial platforms on the Internet. Individuals and non-profit organizations, for example are covered by critical protections under Section 230. The Internet ecosystem has flourished under the protections of Section 230, and the Court should not disrupt those protections.