

SESTA/FOSTA: The Real Internet Censorship Threat

In a particularly Orwellian example of the arguments for “Net Neutrality,” the editorial board of the Los Angeles *Times* preemptively complained that the Federal Communications Commission’s December 14 repeal of the two-year-old rule “sacrifices the free and open Internet on the altar of deregulation.”

In fact, the “free and open Internet” did just fine — more than fine, even — for decades before being brought under a “Title II” regulatory scheme intended for 1930s-era telephones. And, unfortunately, there’s no deregulation involved. Instead of just getting its grubby mitts off the Internet as it should, FCC is handing regulation off to another intrusive bureaucracy, the Federal Trade Commission.

If the *Times* is truly interested in a “free and open Internet,” perhaps its editorial board should quit worrying about the FCC making it too free and too open and re-focus its attention on real problems. “Net Neutrality” has always been a distraction and a bugbear.

A Google News search returns 5,520 results from the *Times* on the term “Net Neutrality,” but only four on the US Senate’s proposed “Stop Enabling Sex Traffickers Act” (SESTA).

SESTA, along with its companion bill in the House of Representatives, the “Allow States and Victims to Fight Online Sex Trafficking Act” (FOSTA, because we must have cute acronyms at any cost), is straight-up Internet censorship, an open and undeniable threat to the “free and open Internet.”

Under Section 230 of the Communications Decency Act, “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” The sound theory underlying that rule is that many, even most, web sites are open to user-created content and can’t be expected to pre-edit that content.

SESTA/FOSTA attempts to carve out an exception to that perfectly sensible guideline for “participating in a venture” by “knowingly assisting, facilitating, or supporting sex trafficking.”

Conscripting blog platform operators, newspaper comment moderators, and ad brokers as unpaid government censors is both evil in itself and bound to produce the opposite of the result SESTA/FOSTA’s sponsors claim they want.

Existing laws against abduction, sexual assault, forced labor and criminal conspiracy are more than sufficient to enable the prosecution of those who collude with others in such activities. Even setting aside legitimate debate concerning what constitutes “sex

trafficking” and whether or not specific commercial activities (e.g. consensual adult sex work) should be illegal, SESTA serves no legitimate purpose in protecting the vulnerable. Their abusers will just move them off of public web sites and into the shadows.

On the other hand, the high susceptibility to interpretation of the words “knowingly,” “assisting,” “facilitating” and “supporting” leave holes in Internet speech/press protections that are big enough for the federal government to drive an armored car carrying a SWAT team through. And given past its past abuses, who doubts that it will do exactly that under this turkey of a bill?

We can have a “free and open Internet” or we can allow SESTA/FOSTA to become law. We can’t do both.