

No. 21-1333

In the
Supreme Court of the United States

REYNALDO GONZALEZ, et al.,
Petitioners,

v.

GOOGLE LLC,
Respondent.

On Writ of Certiorari to the United States Court of
Appeals for the Ninth Circuit

**BRIEF OF CRAIGSLIST, INC. AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENT**

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INTEREST OF *AMICUS CURIAE*¹

craigslist, Inc. (“craigslist”) submits this brief as *amicus curiae* in support of Respondent Google LLC. craigslist is the owner and operator of craigslist.org, an online forum for classified ads that tens of millions of people rely upon to find employment, housing, home furnishings, automobiles, goods and services, and community information.

As discussed below, Section 230 of the Communications Decency Act, 47 U.S.C. § 230 (“Section 230”), is crucial to craigslist’s survival and the viability of its extremely popular service. Because it has served hundreds of millions of users who have collectively submitted many billions of postings, craigslist has been—and likely will continue to be—named as a defendant in lawsuits objecting to its users’ postings. The continuing operation of craigslist, like many other online services, depends upon its being protected by Section 230 from the threat of liability for hosting or facilitating online exchanges of third-party information.²

¹ Pursuant to Supreme Court Rule 37.6, *amicus curiae* states that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus* or their counsel made a monetary contribution to its preparation or submission.

² As explained below, craigslist differs from “online marketplaces” that sell goods or broker sales. craigslist merely hosts ads and plays no part in any transaction between users. *See infra* at § II.C.

Accordingly, craigslist has an interest in ensuring that Section 230 is properly construed and that the Court avoids endorsing certain broad statements by petitioners and the government in this case—statements that overlook the practical realities of how websites actually work and gloss over important distinctions among various online platforms.

SUMMARY OF ARGUMENT

Since 1995, craigslist has operated its popular website—an online classified ads platform that tens of millions of daily users around the world rely upon to find basic necessities such as employment, housing, home furnishings, automobiles, goods and services, and community information. As the modern-day online equivalent of the centuries-old newspaper classified ads section, craigslist performs a classic “publisher” function.

craigslist would not exist without Section 230. Organized geographically, craigslist provides traditional classified subject categories (such as “jobs” and “housing”) in which users can post their ads. craigslist also provides a keyword search function, along with filtering and sorting methods (driven by algorithms, with the inputs generally supplied by users themselves) to help users quickly and easily find what they are looking for. All of these content-arrangement functions fall squarely under Section 230’s protections as “tools” to “pick, choose,” “filter,” “display,” or otherwise “organize” content, 47 U.S.C. §§ 230(c)(1), (f)(2), (f)(4), and they are traditional editorial functions of an online “publisher.”

craigslist relies on this status to protect it from the massive costs, burdens, and uncertainty associated with having to defend against a torrent of lawsuits asserting harms from its publication of third-party content. The crabbed reading of Section 230 that petitioners and the government propose is unmoored from the practical realities of how online publishing and the Internet work and would expose craigslist to risks that would render its popular service untenable.

Petitioners and the government propose a highly artificial and unworkable interpretation of Section 230. *First*, they posit a bright-line distinction between “searches” performed by search engines and “recommendations” generated by social media sites (often using algorithms). *E.g.*, Pet. Br. 15-16, 44; U.S. Br. 29-30. But no meaningful line can be drawn between “search” and “recommendation” functions under Section 230, because both “recommendations” and “searches” are simply ways to organize and prioritize the vast quantities of information published online. Furthermore, both “searches” and “recommendations” frequently involve the same inputs and processes: a user’s selection of keywords or categories, automated organization and arrangement (via computer algorithms), categorization by subject matter, as well as various sorting and filtering methods. Search results often could be characterized as “recommendations” (the website is, in some sense, recommending results shown on the first page over those shown on the second, and those on the second page over those on the third, etc.). And this equally

applies if the website relies almost exclusively on user inputs (as is the case for craigslist) or if user inputs are supplemented by other data (as is common for other websites).

Second, petitioners seek to carve up Section 230 immunity based on whether a URL (a human-readable web address, often displayed as a hyperlink) is either (i) created and hosted by a *third-party* website (for example, if Google links to a URL hosted on the *Wall Street Journal's* website) or (ii) created and hosted by the *website itself* (for example, a link to a URL on Google's own site). According to petitioners, Section 230 potentially applies in the first scenario, but not the second because the URL in the second situation is purportedly the primary website's own content or information. Pet. Br. 15-16, 39. This rule, if adopted, would be profoundly destabilizing. Like millions of other websites (indeed, most websites other than general-purpose search engines like Google or Bing), craigslist provides a search feature for finding content at URLs hosted on its own site. In craigslist's case, this enables its users to search for third-party classified ads posted on the craigslist website by other users—and these classified ads reside on craigslist's servers with craigslist URLs. Petitioners' hyper-technical distinction based on where a URL is hosted is arbitrary and nonsensical and would undermine crucial Section 230 protection for all but a small number of websites that provide Internet-wide search functions (directing users to other websites).

Third, and lastly, the Court should reject the government’s invitation to endorse a sweeping rule that could expose “online marketplaces” (a vague and undefined term) to the potentially crippling burdens of products-liability suits. *See* U.S. Br. 16. In a single, conclusory paragraph of its brief, the government asserts that Section 230 “should not bar a products-liability claim against an online marketplace, even if a third-party retailer creates the product’s online listing.” *Id.* Even apart from the dubious reasoning of the authority the government cites for this proposition, nothing that craigslist does should strip it of Section 230 protection from products-liability lawsuits based on goods or services advertised on craigslist by third-parties. In no sense is craigslist a “seller” of those goods or services; rather, as an online forum for classified ads, craigslist is the quintessential publisher of third-party listings that Section 230 was designed to protect.

ARGUMENT

I. Section 230 is a Crucial Protection for Craigslist and Numerous Other Websites.

craigslist has relied on Section 230 for decades to avoid the crippling burden of lawsuits targeting content posted by users on its website. This is central to Congress’s purpose in enacting Section 230, as a catalyst for the “explosive growth of websites that facilitate user-generated content,” S. Rep. No. 115-199, at 2 (2018), and “to protect [those] websites not merely from ultimate liability, but from having to fight costly and protracted legal battles.” *Fair Hous. Council of San Fernando Valley v. Roommates.com*,

LLC, 521 F.3d 1157, 1175 (9th Cir. 2008) (en banc). In debate on the passage of Section 230, members of Congress specifically discussed that “[t]here is no way that any of those entities” realistically could “edit out information that is going to be coming in to them from all manner of sources” because—in the online arena— “[w]e are talking about something that is far larger than our daily newspaper,” consisting of “thousands of pages of information every day.” 141 Cong. Rec. 22,046 (1995) (Rep. Goodlatte). Since 1995, the volume of online content has exploded exponentially.

1995 is also the year in which craigslist was founded. In the intervening period, craigslist has grown from an email distribution list for friends and coworkers of its founder (Craig Newmark) to one of the world’s most popular websites. Though craigslist charges a small fee—mostly to businesses—for posting certain ads, the general public can use the site free of charge. Today, millions of daily users have come to rely on craigslist’s local classifieds platform.

craigslist’s growth is largely thanks to its dedication to the user experience, including the simple and intuitive format of its website (www.craigslist.org) and craigslist’s decades-long track record of prioritizing its users over short-term profit (for example, craigslist does not sell, and has never sold, its users’ personal information to third-parties). The website’s intuitive format includes categories users can select when navigating the website, including “housing,” “jobs,” “for sale,” and “services.” And those general categories also have sub-categories (for example, “apartments,”

“roommates,” “sublets / temporary,” and “real estate for sale” within the housing category).

craigslist also empowers users to easily find what they are looking for by applying keyword searches and search filters. For example, a user looking to rent a furnished two-bedroom apartment with two bathrooms could filter rental ads by selecting the desired number of bedrooms and bathrooms. They could also filter results by location (*e.g.*, Northern Virginia or Washington, D.C.). And the user could further filter relevant listings by entering one or more keywords for particular features (*e.g.*, “close to public transportation”). Search results are ranked or organized by relevance based on the user’s search terms, including, for example, the number of times the user’s keywords appear in the search results.³ Users also have the option of selecting a different ranking method—for example, from “newest” to “oldest” posting date (or vice versa) or by price (lowest to highest or vice versa).⁴

³ Because craigslist does not derive revenue from third-party advertisements, it has no vested interest in ranking search results in any way other than what is most helpful to the user.

⁴ craigslist also makes things easy for users who post ads, including by providing fillable forms with drop-down options. For example, if a craigslist user is seeking to sell an item, such as a necklace, they would (i) navigate to “create a posting,” (ii) choose a more specific location or neighborhood, (iii) select “for sale by owner,” and then (iv) choose “jewelry” from a list of items. Finally, the poster would create a “posting title” and “description” as well as enter the price, city or neighborhood, postal code, the condition of the item, the language of the posting, and the poster’s contact information. They may also

craigslist’s detailed Terms of Use and a “Prohibited” content policy establish the type of online community craigslist fosters and lists types of postings that will not be tolerated, such as “any good, service, or content that violates the law,” “spam” including “keyword spam,” “misleading” ads, and “bait and switch” schemes, among others.⁵

craigslist is also dedicated to its users’ privacy. Under its industry-leading privacy policy, craigslist promises that it will not sell user data to third-parties, and it details the specific types of data that are collected, where craigslist obtained the data, why it was collected, and to whom it was disclosed.⁶ Unlike many websites, craigslist does not monetize its users’ personal data.

The features described above make craigslist a trusted forum that is accessible, convenient, intuitive, and easy to use—in short, one that users want to return to. These features are also integral to craigslist’s mission of providing a mostly free platform

choose to upload images of the item for sale. In this way, the user—not craigslist—creates every substantive aspect of the post, including the posting description and narrative. The URL is also largely constructed from the user’s inputs (for example, it typically includes the user-generated title of the listing).

⁵ *terms of use*, craigslist, <https://www.craigslist.org/about/terms.of.use/en> (last visited Jan. 18, 2023); *Prohibited*, craigslist, <https://www.craigslist.org/about/prohibited> (last visited Jan. 18, 2023).

⁶ *craigslist Privacy Policy (updated September 15, 2020)*, craigslist, <https://www.craigslist.org/about/privacy.policy>.

for users to locate and exchange goods, services, and information without their personal information being exploited.⁷ As a protected publisher under Section 230, craigslist can continue to help the general public find the basic necessities of life. Absent this crucial protection, craigslist—and other platforms like it—would face untenable risks. *See infra* § II.

II. Petitioners’ and the Government’s Crabbed Reading of Section 230 Overlooks the Practical Realities of the Internet and Important Technological Distinctions between Different Online Services.

The interpretation of Section 230 proposed by petitioners and the government clashes with the practical realities of the modern Internet and glosses over important distinctions between different online services. This Court should not adopt these errors.

A. The Bright-line Distinction between “Search” and “Recommendation” Posited by Petitioners and the Government Collapses under Scrutiny.

Petitioners and the government posit a theoretical bright-line distinction between (i) “recommendation” functions (especially when used by “social media site[s]”) and (ii) “search” functions. *E.g.*, Pet. Br. 15-16, 44; U.S. Br. 29-30. But a simplistic

⁷ The only user information exposed publicly is the information each user chooses to list publicly in their posting.

dichotomy between “recommendation” of third-party content and “search” makes no sense because all online content must be organized and prioritized to be usable—and thus, in some sense, all search results are “recommended.”

Any usable search function requires the platform hosting third-party content to make decisions—protected editorial judgments—about how to arrange, organize, and prioritize that content. For example, when a user visits craigslist and types in “classic cars,” should the responsive results be sorted by posted date, by relevance based on the model and year of the car, by the price advertised, by some combination of these factors, or based on some other factors? And should duplicate ads be excluded or de-emphasized? craigslist necessarily must exercise judgment in determining an initial order of priority for search results—a ranking mechanism that, as described above, the user can choose to alter (for example, switching from “newest to oldest” posting to “lowest to highest price”). When applying Section 230, these functions for organizing third-party information cannot be considered relevant “information” or “content” that the website itself created—otherwise, that provision’s vital protections would be nullified for millions of websites, including craigslist.

An editorial decision to rank any given search result above another can be equally viewed as a decision to prioritize Result #1 or to de-prioritize Result #2—and, either way, the same immunity applies whether the functionality involved is characterized as “search” or a type of

“recommendation” (*i.e.*, a recommendation that Result #1 is more responsive or more helpful than Result #2). Indeed, all third-party content on a website is arguably “recommended” in that it reflects editorial judgments about what content to display (or not display) and how to present it (in what arrangement, order, or prominence). When put to the test, petitioners’ artificial distinction between “search” and “recommendation” dissolves, and Section 230’s protections remain.

The same applies to the undisputed Section 230 immunity for the flip-side of the same coin: good-faith editorial decisions to remove, screen, or de-emphasize content that is “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.” 47 U.S.C. § 230(c)(2)(A); *see also* Pet. Br. 7-8, 21-22 (conceding protection for screening decisions); U.S. Br. 4 (same). When some content is removed or screened out, the remaining content (*i.e.*, content that has not been removed or de-emphasized) is, by definition, more prominent, and therefore its non-removal could be described as a type of “recommendation” in and of itself.

Petitioners’ “search” vs. “recommendation” dichotomy also presents perplexing questions about protections for ubiquitous tools that users find especially useful: filtering and predictive searching. Like numerous other websites, craigslist allows users to filter (*i.e.*, organize for responsiveness) results that appear after an initial search. For example, a dog-lover looking for an apartment can screen as irrelevant listings that would not allow dogs (by checking the “dogs ok” box). But because craigslist

supplied this useful filter, would the responsive results be viewed as “recommendations” rather than the outcomes of a “search” function and therefore, under petitioners’ logic, potentially deprived of Section 230 protection? Similarly, many websites, including craigslist, use predictive searching, which allows users to simply start entering the first few letters of a keyword (like “com . . .”) and then select the desired word from a menu of autocompleted options (e.g., “computer,” “comics” or “commercial”). Would this, too, fall under the potentially unprotected category of “recommendations”? It would be quite perverse if more sophisticated and helpful search tools (those that more effectively deliver what the user is interested in) somehow are entitled to less protection by Section 230 than more rudimentary (and thus less useful) tools.

Given these unavoidable aspects of any useful search functions, it is unclear what the logical stopping point is of petitioners’ suggestion (echoed by the government) that at least some “recommendations” should be wholly exempt from Section 230’s protections. This has dangerous implications. Since even the government concedes, U.S. Br. 23, that editorial judgment concerning the presentation and arrangement of content is properly viewed as within the heartland of Section 230 protection, there is no logical reason why “recommendations” should be any different. Courts have rightly recognized that Section 230 extends to *all* such forms of editorial judgment. *E.g.*, *Force v. Facebook, Inc.*, 934 F.3d 53, 66-67 (2d Cir. 2019).

Petitioners' passing suggestion that craigslist's use of user-friendly (and traditional) categories and subcategories for classified ads (*e.g.*, "bikes," "boats," and "books" under a more general "sale" category) may deprive the company of Section 230's protections is equally dangerous and nonsensical as a practical matter.⁸ Again, this form of user-friendly organization and classification is a classic editorial function that Section 230 protects. *See* U.S. Br. 9 (conceding that "a website does not become a co-developer (and thus an 'information content provider') of third-party content merely by taking actions to display it or make it more accessible or usable"); *id.* 23 ("deeming a website an 'information content provider' whenever it enhances user access to third-party content would produce a 'self-defeating' result").

If the Court addresses the "search" versus "recommendation" dichotomy proposed by petitioners

⁸ *See* Pet. Br. 41 n.28 (disagreeing with *M.L. v. Craigslist, Inc.*, No. 3:19-cv-06153-BHS-TLF, 2021 WL 5217115, at *5 (W.D. Wash. Sept. 16, 2011) (M.J. R. & R.) (recognizing that craigslist's use of categories did not strip the company of Section 230 immunity based on the theory that craigslist, rather than third-parties, created those categories), *adopted in part and rejected in part*, No. C19-6153 BHS-TLF, 2022 WL 1210830 (W.D. Wash. Apr. 25, 2022)); *see also* *Dart v. Craigslist, Inc.*, 665 F. Supp. 2d 961, 961-62, 968-69 (N.D. Ill. 2009) (rejecting theory that providing a subcategory constituted content creation and observing that "[c]raigslist created the categories, but its users create the content of the ads and select which categories their ads will appear in"); *Gibson v. Craigslist, Inc.*, No. 08 Civ. 7735 (RMB), 2009 WL 1704355, at *4 (S.D.N.Y. Jun. 15, 2009) (emphasizing that a user, not craigslist, "placed the advertisement under a coded category on the craigslist website").

and the government, its ruling should make clear that services offered by websites such as craigslist are protected by Section 230. As discussed above, craigslist provides users with convenient tools to help them find what they are looking for, and those tools do not deprive craigslist and other online services of statutory immunity from burdensome and costly lawsuits.

The rule advocated by petitioners (whereby an online forum is deprived of Section 230 protection simply because it organizes its content into user-friendly categories) would create perverse incentives, encouraging websites to deliver *less* helpful and relevant content to users. Rather than enabling consumers to browse by geographic region or categories (*e.g.*, “bikes”), under petitioners’ logic, a website seeking to preserve its Section 230 protection would need to serve up an undifferentiated morass of information. *Cf. Chi. Lawyers’ Comm. for Civ. Rights Under Law, Inc. v. Craigslist, Inc.*, 519 F.3d 666, 668 (7th Cir. 2008) (Easterbrook, J.) (“[P]rospective buyers and renters would be worse off if craigslist blocked descriptive statements.”). Nothing in the text of Section 230 or the policies that animated it suggests such a counter-productive result.

B. Petitioners’ Claim That Section 230 Protection is Inapplicable to Search Engines That Create Their Own URLs—But Not Those That Use External URLs—Is Arbitrary and Would Gut Fundamental Internet Technology.

Petitioners also seek to carve out from Section 230 immunity websites that create and host their own URLs (as opposed to third-party URLs). But the vast majority of websites create and host their own URLs (usually displayed as hyperlinks or hypermedia), and users generally access these URLs via a website’s internal search engine or other tools for organizing the large amounts of information on a site.⁹ Petitioners propose a rule that extends Section 230 protection to websites that direct users to URLs “created by” another website where the material is located, but not where the URL is “created by” the website itself. Pet. Br. 15-16, 39. In the first situation, petitioners say, Section 230 may apply, but in the second situation it does not—because the URL

⁹ A “hyperlink” is “an electronic document that links to another place in the same document or to an entirely different document.” Vangie Beal, *Hyperlink*, Webopedia (Feb. 25, 1997, Updated May 24, 2021), <https://www.webopedia.com/definitions/hyperlink>. “Hypermedia” is “[a]n extension to hypertext that supports linking graphics, sound, and video elements in addition to text elements.” Vangie Beal, *Hypermedia*, Webopedia (Jul. 15, 1997, Updated May 24, 2021), <https://www.webopedia.com/definitions/hypermedia/>.

is purportedly content or information that the website itself created.

This proposed rule is nonsensical and, if accepted, would have disastrous impacts for consumers. Millions of websites, including craigslist, allow users to search their own sites and thus navigate to material on those sites (often including third-party created content) via the sites' own URLs.¹⁰ It makes no sense that the crucial protections afforded by Section 230 would be denied when search results link to third-party content that is technically hosted on the website itself (via its own URL), thus protecting only the small number of search engines (such as Google) whose search results link to content residing on other websites.¹¹

¹⁰ See, e.g., Brad M. Scheller, *Hey, Keep Your Link to Yourself--Legal Challenges to Thumbnails and Inline Linking on the Web and the Potential Implications of a First Impression Decision* in Kelly v. Arriba Soft Corp., 10 Jeffrey S. Moorad Sports L.J. 415, 424 (2003) ("The most prevalent link type is a hypertext reference (HREF) link, which activates only upon selection by the user, thereby instructing the browser to go to a different point on the same page, to a different page within the same Web site, or to another Web site."); see also *Ayyadurai v. Floor64, Inc.*, 270 F. Supp. 3d 343, 367-68 (D. Ma. 2017) (website's reposting user-submitted comment via internal hyperlink was protected under Section 230).

¹¹ URLs are generated and hosted by web "servers." Web servers are "computers that deliver, or serve, web pages to internet end users Every Web server has an IP address and likely also a domain name. For example, if you enter [a web page's] URL . . . in your browser, this sends a request to the Web server The server then fetches this web page and sends it to your browser." Vangie Beal, *Web Server*, Webopedia (Oct. 15,

Further, as petitioners themselves acknowledge, the creation of a URL is an automated process performed by a website's *server* ("by means of some algorithm"). Pet. Br. 34; *see id.* at 36 ("A URL is created *by the server* within which the file at issue is located." (emphasis added)). Whether the server creating the URL is internal to the website or that of an external website should not drive whether the website is a content creator and therefore deprived of Section 230's protection.

This Court should be cautious of deriving real legal significance from such a technical and arbitrary distinction. Accepting petitioners' rule would disrupt the vast majority of websites that rely on internal URLs to help users navigate their sites.

C. The Court Should Not Endorse the Government's Sweeping Statement about Exposure to Products-Liability Suits for Online Marketplaces.

In passing, the government makes an alarmingly sweeping statement that "Section 230(c)(1) should not bar a products-liability claim against an online marketplace, even if a third-party retailer creates the product's online listing, if the plaintiff's claim is based on the product's defect." U.S. Br. 16 (citing *Erie Ins. Co. v. Amazon.com, Inc.*, 925 F.3d 135, 139-40 (4th Cir. 2019)). The government

1996, Updated Aug. 11, 2022), <https://www.webopedia.com/definitions/web-server/>. Petitioners themselves acknowledge that the location of the "server" should not be the dispositive factor. *See* Pet. Br. 15.

asserts that Section 230’s “protection is not triggered merely because ‘there is a “but-for” causal relationship between the act of publication and liability.’” U.S. Br. 16.¹² The problem with this argument is that such claims would impose liability on an online marketplace for hosting third-party-created information (an ad) for a product that turned out to be defective. Section 230, however, prohibits liability based on publication of third-party content.

In any event, setting aside the dubious reasoning of the *Erie* case cited by the government,¹³ craigslist should not fall under the vague and undefined umbrella of “online marketplaces” subject

¹² As the government itself acknowledges, the purpose of Section 230 was to ensure “that an Internet provider does not become the publisher of a piece of third-party content—and thus subjected to *strict liability*—simply by hosting or distributing that content.” U.S. Br. 17 (emphasis added) (quoting *Malwarebytes, Inc. v. Enigma Software Grp. USA, LLC*, 141 S. Ct. 13, 14-15 (2020)).

¹³ The government cites *Erie*, in which the Fourth Circuit held that products-liability claims asserted against Amazon were “not based on the publication of another’s speech” and so Amazon was not eligible for Section 230 immunity. *Erie Ins. Co.*, 925 F.3d at 139. Other courts have correctly recognized that, even in this scenario, the tort claim seeks to hold the online service liable for its display (*i.e.*, publication) of a product advertisement. *See, e.g., Gentry v. eBay, Inc.*, 99 Cal. App. 4th 816, 831 (2002) (“The substance of appellants’ allegations reveal they ultimately seek to hold eBay responsible for conduct falling within the reach of section 230, namely, eBay’s dissemination of representations made by the individual defendants, or the posting of compilations of information generated by those defendants and other third parties.”).

to potential exposure to crippling products-liability claims. craigslist bears none of the characteristics of a “seller” or “vendor” of a product: It does not create or manufacture items featured in the third-party postings on its site; it does not create or develop the ad or offer for sale; it does not fulfill sales orders; it does not ship products or participate in any way in their delivery; and it does not handle the payment process, participate in the transaction, or earn any commission from sales that may follow when a buyer contacts a seller¹⁴—indeed, craigslist does not even know when or whether any sale takes place. Instead, craigslist provides a forum that enables users to create and post their own ads (with their own text, posting titles, and uploaded images). *See supra* note 4. Nobody would think of a newspaper as the “seller” of a car listed in its classified ads or subject the newspaper to liability for the car’s purported defects. The same reasoning applies to craigslist.¹⁵

In sum, nothing craigslist does should deprive it of Section 230 immunity from products-liability suits, and the Court should refrain from any broad or imprecise statements endorsing a contrary view.

¹⁴ As discussed above, users may access the craigslist website and view and respond to any listing, free of charge.

¹⁵ Certain topside *amici* overlook these features of craigslist’s website when they take issue with cases that correctly apply Section 230 protection to craigslist. *See, e.g.*, Cruz Br. 15 (disagreeing with *Chi. Lawyers’ Comm. for Civ. Rights Under Law, Inc.*, 519 F.3d at 672 (holding that plaintiff “cannot sue the messenger”)).

Conclusion

For the foregoing reasons, this Court should affirm the judgment of the United States Court of Appeals for the Ninth Circuit.

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