Policy Framework	Platform Accountability for Particular Forms of Content	Platform Accountability for Algorithmic Design & Decision-Making	Platform Requirements for Algorithmic Transparency, Choice or Due Process	Privacy Regimes	Product Safety Regimes	Dedicated Digital Regulator	Platform Liability for Ad-Based Business Model	Expanding Antitrust & Competition Policy
Theory of Change	Reduce harms by making platforms accountable for specific categories of illegal or harmful content (all of which is distributed by some sort of algorithm), usually through the removal or "carve out" of the Section 230 liability shield for specific type(s) of content.	Reduce harms by making platforms accountable for the harms that stem from the use of complex algorithms to distribute or amplify content, usually through the removal or "carve outs" of the Section 230 liability shield for content that has been algorithmically amplified or recommended.	Reduce harms by requiring platforms to increase transparency regarding algorithms, their underlying data, particular forms of content such as paid advertising, and/or the outcomes of algorithmic decision-making, usually by sharing appropriate information on their activities to regulators, independent auditors, researchers, and/or the public. These proposals often also require platforms to provide due process, algorithmic choice and/or individual appeal rights for users. Some also include safe harbor provisions for researchers to access data from platforms.	Reduce harms by disincentivizing or outright banning certain forms of data collection and data use.	Reduce harms by creating platform accountability for algorithmic product design and safety.	Reduce harms by creating a dedicated agency with broad jurisdiction, strong enforcement, and rulemaking power to interrogate the major platforms' algorithms and set new rules regarding product design, transparency, privacy and content moderation.	Reduce harms by making platforms accountable for the tools and/or content associated with their ad-based business models; taken to an extreme, by banning the practice of targeted advertising.	Reduce harms by providing consumers with more choices and frictionless switching among the platforms most compatible with their values and content moderation preferences.
Examples of the Theory of Change					• Risk assessments • Audits • Certification processes • Product liability lawsuits for product design, including lawsuits against Meta with claims of defective design, failure to warn, fraud and negligence • Enhanced consumer protection authority invested in FTC • Nudges and friction as required safety mechanisms		• Know-your-customer requirements • Requirements for ad libraries, including disclosing targeting information • Bans of targeted ads	• Interoperability • Non-discrimination rules • CPNI • Stricter merger review
Legislative Proposals (some proposals involve more than one framework)	• Health Misinformation Act • SAFE TECH Act • Stop Shielding Culpable Platforms Act • EARN IT Act • Section 230 reform focused on paid content	• Protecting Americans from Dangerous Algorithms Act • Justice Against Malicious Algorithms Act • Civil Rights Modernization Act	• PACT Act • Platform Accountability and Transparency Act (PATA) • Digital Services Oversight & Safety Act (DSOSA) • Social Media Disclosure and Transparency of Advertisements (DATA) Act • Honest Ads Act • Algorithmic Justice and Online Platform Transparency Act • Filter Bubble Transparency Act • Algorithmic Accountability Act • EU Digital Services Act	• The Consumer Online Privacy Rights Act • SAFE DATA Act • Online Privacy Act • Data Accountability and Transparency Act • The 4th Amendment Is Not For Sale Act • Children and Teens Online Privacy Protection Act • Kids Online Safety Act • American Data Privacy Protection Act (ADPPA)	• Digital Services Oversight & Safety Act (DSOSA) • FTC enforcement under Section 5 • PACT Act • Algorithmic Accountability Act • Social Media Nudge Act • EU Digital Services Act • Algorithmic Justice and Online Platform Transparency Act	• Digital Platform Commission Act (Senate press release) • Digital Platform Commission Act (House press release)	• Honest Ads Act • Civil Rights Modernization Act • Social Media Disclosure and Transparency of Advertisements (DATA) Act • Algorithmic Justice and Online Platform Transparency Act • Ban Surveillance Ads Act	• American Innovation and Choice Online Act (AICO) • Open App Markets Act • ACCESS Act (OAMA) • Platform Competition & Opportunity Act • Ending Platform Monopolies Act • Prohibiting Anticompetitive Mergers Act • Competition & Transparency in Digital Advertising Act
Proponents Say	• Introducing liability for certain forms of content will encourage platforms to more aggressively moderate it as a means of protecting users from harms • These proposals generally seek to isolate and address content with the greatest potential for harm • Proposals specifically focused on harms associated with paid advertising content avoid speech regulation • Compatible with voluntary frameworks such as the Global Internet Forum to Counter Terrorism (GIFCT), which fosters technical collaboration across platforms to reduce the spread of terrorist and violent extremist content online, and Facebook's "break glass" provisions designed to restrict election-related content on its platforms if civil unrest and violence may result from it	• Introducing liability for content distributed by complex algorithms will encourage platforms to use chronological or other recognizable methods to distribute content • Increases pool of knowledge for researchers, civil society, and regulators to understand, mitigate and where needed regulate platform practices • Can reduce the potential for harm from certain forms of content by encouraging platforms not to algorithmically recommend or amplify it • Bills that address any and all algorithmically-distributed content can be described as content-neutral and be on stronger constitutional footing • Directly addresses the incentives that motivate platforms to distribute content based primarily on a profit motive rather than the public interest	• Compatible with offline judicial process for speech rights • Increases level of knowledge for researchers, civil society, and regulators to understand, mitigate and where needed regulate platform practices • Due process regimes increase the role of human moderators to support an appeals process • Reduces reliance on episodic whistleblowers to understand platform decision-making • Model advocated by several platforms (e.g., Oversight Board) so it may reduce barriers to enactment	• Some kinds of algorithm-related harms are deterred or even made impossible, since they require data to achieve • Addresses a wide array of harms that impact specific groups, including civil rights violations • Goes to the heart of the platforms' data-based business model • Protections for individual user rights does not address collective or societal harms	• These proposals are based on the idea that algorithms comprise the "product" of most dominant platforms, without regard to content • As in other industries, shifts the burden to companies to demonstrate that their products (i.e., their products) are safe and effective • Proposals that include new or expanded roles for federal agencies (most often the FTC) allow for public oversight and stakeholder input • Decreases the competitive advantage of large, entrenched, and vertically integrated platforms • Avoids risks associated with trying to govern content or speech	• A more nimble, proactive approach relative to new legislation or rulemaking by the FTC; more likely to keep up with the pace of technological change • Can create integrated solutions integrating risk assessment, research, policy, transparency, technical standards and certification, privacy and other relevant topics • Could provide coordinated approach of requiring testing before products go to market with enforcement for products that make false claims • Could coordinate with consumer protection and antitrust authorities to ensure the effective use of federal resources • Allows for public oversight and stakeholder input • Could bring more independence to oversight if it is structured to include commissioners from both parties (e.g., FTC or FCC) • Ample industry regulatory precedents for agencies empowered to promulgate rules, impose civil penalties, hold hearings, conduct investigations, and support research • Model advocated by several tech companies (Microsoft, Facebook) as well as whistleblowers such as Frances Haugen; may reduce barriers to approval	• Creates accountability for platforms' business activities • Reduces or, in the case of a ban, removes incentives for tracking and collection of personal data • Alerts customers when speech (including political speech) is part of an ad campaign • Easy to administer since all platforms have ad policies and review processes already • For political ads: paid ads masquerading as independent opinions distort the marketplace of ideas • For political ads: allows political proposals to be scrutinized and rebutted by opponents	• Can be a more "hands off" approach; allows users to migrate to platforms they prefer and encourages platforms to compete to win their business • Citizens and the market determine the optimal mix of content moderation approaches rather than lawmakers • Built-in constituencies with companies trying to compete against Big Tech already supportive of competition reform • Competition reforms are well in line with the global movement to rein in Big Tech (e.g., DMA/DSA in the EU) • No First Amendment concerns as government is not directly influencing any one platform's algorithm
Opponents Say	• This framework almost invariably runs afoul of the First Amendment since these proposals impact only certain types of lawful speech (most content, even if capable of creating harm, will likely be found to be constitutionally protected speech) • For any case that proceeds, whether there is liability will vary based on the cause of action and the underlying facts • Very difficult to define or isolate types of content most likely to cause harm; this ambiguity results in extensive litigation simply to determine if Section 230 applies • High potential for false positives and excessive moderation to avoid litigation expense; research shows over-moderation is more likely to impact marginalized communities • Compliance may increase exposure of human moderators to abhorrent content; moderators may lack sufficient psychological support • Platforms are already liable for content that violates federal criminal law, such as CSAM (though there are other federal civil and state criminal and civil sources for new liability)	• Any method of distributing content will require an algorithm given the scale of dominant platforms; these proposals do not eliminate the role of algorithms in content distribution • In practice, these proposals may not be distinguishable from those that create accountability for the actual content (at left), and share their problems • Litigation requires plaintiffs, platforms, and/or enforcement agencies to verify how the content in question was served; for example, the same content might be served to some users via complex algorithms, but chronologically to others • Some forms of algorithms may be considered "expressive" by platforms and warrant First Amendment protection • For any case that proceeds, whether there is liability will vary based on the cause of action and the underlying facts • Does not address harms directly; addresses the methods by which they are created	• Due process regimes assumes online content moderation is analogous to offline judicial adjudication of speech rights; they disregard the scale and velocity of content requiring moderation • Some proposed transparency provisions only benefit qualified researchers, journalists, and/or government agencies, not the general public, though their investigations may be in the public interest • Any proposal needs to include strong safeguards for sensitive information • Transfers responsibility to users to offset risk and harm • Protecting individual user rights does not address collective or societal harms • Appeals processes take time and money; a solution only available to the privileged; poor cost/benefit ratio • Current transparency reports usually lack denominators or insight on content moderation • In practice, due process is overly focused on the leave up/take down binary vs other solutions that may mitigate harms • Larger platforms most easily comply with mandates to provide individual users with greater procedural protections • Assumes human moderators will make decisions superior to AI	• While privacy legislation would make it more difficult for companies to create algorithms - since algorithmic development generally requires large amounts of data - once the algorithm is created, most privacy laws would not govern their use in specific instances. • Proposals that do focus on algorithmic delivery of content are narrowly-focused (e.g., kids) • Protections for individual privacy may not solve for collective or societal harms • Researchers are constantly looking for ways to train algorithms that do not require large amounts of data (see one shot learning), so privacy protections would not likely reach those algorithms.	• As is the case in any industry, potential for regulatory capture or politicization • Existing agencies may have processes or cultures that are incompatible with the speed of change in technology; this favors a new regulatory agency in conjunction with this framework	• Requires thoughtful design to avoid lack of clarity or encroachment on FTC, FCC, other agencies • As is the case in any industry, potential for regulatory capture or politicization of agency leadership • Any government effort to affect companies' content moderation practices and algorithms could raise free speech concerns under the First Amendment	• A very narrow solution given the range of causes of harms • Limitations on targeted ads have the greatest negative impact on the small and minority-owned or -targeted businesses that need these tools the most • No concrete evidence that most harms come from paid content	• In isolation, does not immediately address the most pressing issues or harms associated with algorithmic decision-making, such as foreign disinformation, children's safety and the potentially radicalizing effect of platform and product designs • Individual choice of platforms or algorithmic ranking may not solve for collective or societal harms • Competition can create a "race to the bottom" for algorithms that engage and attract users; the most popular may not be the most socially beneficial (indeed some research has shown that high engagement content is some of the most toxic on platforms) • Measures to increase consumer choice, such as interoperability, may not be enough on their own to address "winner take all" dynamics; a handful of providers may still dominate unless other competition policies are in place.
PK Thinks	• Bills designed to create platform liability for certain categories of content are highly unlikely to pass a constitutional challenge, may result in over-moderation, and may not actually create accountability (i.e., liability) for platforms since they only remove the liability shield. • In general, we do not support this framework as a means of regulating algorithms or mitigating their harms. One exception is proposals focused exclusively on paid advertising content. • See our Section 230 scorecard for our view on specific bills in this category.	• In practice these proposals may not be distinguishable from those that create accountability for content (see left), and as a result they share many of the same challenges. • We prefer proposals that address the actual harms rather than the method by which those harms may have been created. • In general, we do not support this framework; however, if very narrowly targeted they may overcome our challenges. • See our Section 230 scorecard for our view on specific bills in this category.	• Transparency is an essential component of better regulation and informed consumer choice. • Bills should also recognize the distinct expertise required, and set up and staff dedicated regulatory regimes (e.g., DSOSA). • We support several bills that utilize this framework but would like to see them accompanied by other forms of regulation, including competition policy, national privacy legislation, and a dedicated digital regulator. • The optimal bill goes beyond pure transparency and creates actual accountability for platforms' enforcement of their own policies (e.g., PACT ACT).	• Public Knowledge has been calling for comprehensive federal privacy legislation to protect our fundamental right to privacy online; the ideal bill includes (among other things) data minimization requirements, prohibitions on discriminatory data use, and offers strong federal, state, and individual enforcement. • While strong federal privacy legislation is going to be a fundamental building block of consumer protection in the digital age, it is not the only regulation necessary for addressing harms created by algorithmic delivery of content. • Our preference would be that a privacy framework provides the necessary base for algorithmic accountability to be built upon, with unique rules and requirements as necessary to prevent harm.	• We generally support proposals of this nature, especially as a complement or precursor to a dedicated digital regulator.	• We strongly support the creation of a specialized, sector-specific regulator to protect consumers from the harms of algorithms by ensuring transparency and accountability. Authorities should include the power to protect consumers from deceptive practices such as 'dark patterns,' examine algorithms for evidence of self-preferencing or unfair practices, and designate significantly important platforms for additional oversight.	• Relative to other Section 230 reform proposals, we prefer a focus on paid content if other principles for reform are met. • However, these tend to be very narrow solutions for the harms of algorithmic decision-making and most of them suffer from vagueness in definitions and causes of action.	• We strongly support competition legislation like the AICO and OAMA for the benefits they will bring to platform competition, though their impact on algorithms is indirect. • Other competition legislation that hasn't been marked up would also be helpful, like the ACCESS Act for interoperability and even CALERA, the broad antitrust reform proposal from Senator Klobuchar. • Competition-focused reforms can have a beneficial effect on algorithms, but additional legislation like a Digital Regulator is also needed.