

31ST AMENDMENT (RC.4)

Personal Sovereignty & Media Manipulation; Information Privacy & Public Spaces

SECTION 1

Personal Sovereignty & Public Spaces; Public Sanctity & Commercial Promotion

CLAUSE 1. To promote freedom of thought and freedom from influence, private organizations and commercial entities shall not infringe on personal sovereignty of mind⁶⁰ within the sanctity of public spaces⁶¹ and shall be prohibited from paid-for use of any public space for a primary purpose of promotion, publicity, or profit, unless such activity has cultural value or is in the public interest,⁶² as determined by the executive of the relevant jurisdiction.

CLAUSE 2. Public spaces shall be defined to include any public property reserved for the enjoyment of the People, including but not limited to, parks, beaches, streets, highways, other areas of public access or recreation, and public analog or digital broadcast spaces reserved for a free and true press, as defined in Section 3 of this Amendment.

SECTION 2

Personal Sovereignty & Private Information; Individual Privacy & Data Collection

CLAUSE 1. To preserve natural expectations of privacy,⁶³ personal sovereignty within private physical spaces⁶⁴ shall be protected from search, seizure, and monitoring for all private, commercial or governmental purposes.⁶⁵

⁶⁰ "Personal sovereignty of mind" refers to the right of every individual to think and believe as they see fit, free from undue influence or coercion from external forces. This includes the right to seek and receive information from diverse sources, and to form one's own opinions and beliefs without interference or manipulation.

⁶¹ The sanctity of public spaces means that these spaces are to be used for the benefit of all individuals, and not just for the profit or promotion of private organizations or commercial entities. This includes ensuring that these spaces are safe and welcoming for all, and that they are not used to unduly influence or manipulate the thoughts and beliefs of those who use them.

⁶² These activities serve a valuable purpose for society as a whole, and should not be restricted simply because they are being carried out by private organizations or commercial entities. Examples of this kind of activity include educational programming, news media, and art displays.

⁶³ "Natural expectations of privacy" refers to the reasonable expectation that one's personal information will not be collected or monitored without their consent. This includes, but is not limited to, biometric data, communication data, and behavioral data.

⁶⁴ The application of Section 2 is limited to private physical spaces in order to protect the personal sovereignty of individuals within those spaces. This is because private physical spaces are generally seen as places where one can expect a higher level of privacy than in public spaces.

⁶⁵ Some examples of commercial or government behaviors that would be prohibited include searching private physical spaces without a warrant, collecting communications data from private physical spaces without consent, and monitoring behavior in private physical spaces without consent.

CLAUSE 2. The personal sovereignty of biometric or psychometric data shall not be collected from any space, private or public, without the express consent of the individual,⁶⁶ unless such collection serves a law enforcement purpose aligned to principles of due process.⁶⁷

CLAUSE 3. When accessed from within the sanctity of private physical spaces,⁶⁸ the tracking or collection of communications and behavior must be expressly consented to by the individual subjected to such monitoring.⁶⁹

CLAUSE 4. For public spaces, and for digital spaces that acquire the status of public utility,⁷⁰ access to such spaces shall not be conditioned on the express consent required by Clauses 2 and 3,⁷¹ and such express consent shall not be coerced by other undue methods.⁷²

SECTION 3

True Press & Public Information; Truthful Intent & Civic Impact

CLAUSE 1. To protect not only a free press, but also to ensure a true press,⁷³ platforms for, and members of, the press may be afforded protections beyond the freedom of ordinary speech insofar as they act in the public interest, guided by truthful intent and toward civic impact, and in which service to the People supersedes profit motives or other pecuniary interests.⁷⁴

⁶⁶ Biometric and psychometric data are types of data that can be collected about an individual that can be used to uniquely identify that individual. As such, this type of data is considered to be highly sensitive and should only be collected with the express consent of the individual in question, regardless of where it is collected.

⁶⁷ One way to ensure that law enforcement does not abuse the potential exemption would be to require that they obtain a warrant before collecting any data from public places. This would ensure that law enforcement is only collecting data that is relevant to an ongoing investigation and would help to prevent them from engaging in fishing expeditions.

⁶⁸ The "sanctity of private physical spaces" refers to the general belief that private physical spaces are places where one can expect a higher level of privacy than in public spaces. This includes, but is not limited to, homes, hotel rooms, offices, and vehicles.

⁶⁹ Some examples of how an individual might provide express consent to monitoring include: agreeing to have their communications data collected as part of a terms of service agreement, agreeing to have their behavior monitored as part of a workplace security protocol, or voluntarily sharing biometric data with a government entity.

⁷⁰ Some examples of digital spaces that could acquire the status of public utility include social media websites, search engines, and news websites.

⁷¹ This clause compels public utilities to allow access to their spaces without requiring the express consent of individuals. This is important because it ensures that everyone has equal access to these spaces, regardless of whether or not they are willing or able to provide their consent.

⁷² Some examples of possible undue methods include threatening to withhold access to the space unless consent is given, offering financial incentives in exchange for consent, and making it difficult or impossible to access the space without first giving consent.

⁷³ The First Amendment to the United States Constitution protects the right to freedom of expression from government interference. It prohibits any laws that would restrict the press or other forms of expression. However, in recent years there has been an increased concern over "fake news" and other forms of misinformation being spread through traditional media outlets and social media platforms.

⁷⁴ The current environment of misinformation and "fake news" has led to a deterioration of trust in traditional media outlets and social media platforms. This has in turn led to increased polarization and divisiveness within American society. By enshrining the value of a "true press" into law, we would hope to increase communication and understanding between people, while also holding journalists and news organizations accountable for the accuracy of their reporting.

CLAUSE 2. Platforms that provide individuals with extended reach⁷⁵ may be afforded special immunities to defamatory claims,⁷⁶ so long as such platforms are moderated by an independent nonprofit nongovernmental entity⁷⁷ without any reasonable suspicion of self-dealing or conflicts of interest.

CLAUSE 3. The moderating entity specified in Clause 2 shall conform to methodical standards of a mass decentralized peer review system that ensures timely and transparent self-correction of misinformation.⁷⁸

SECTION 4

Public Platforms & Social Media; Authentic Communication & Social Trust

CLAUSE 1. To provide reliable methods of authenticated communication, and accountability for the full protections of free speech, Congress shall have the power to establish digital platforms for public discourse where digital identities must be authenticated by official proof associated with an individual's singular physical identity.⁷⁹

⁷⁵ By affording social media platforms special immunities to defamatory claims, Congress aims to ensure that these platforms can continue to serve as valuable public spaces for open dialogue and exchange of ideas. However, this does not exclude the possibility of cable news networks or print journalism from being covered as such a platform. While these platforms may have different business models than social media platforms, they still provide individuals with extended reach and therefore may be afforded special immunities to defamatory claims.

⁷⁶ Section 230 of the Communications Decency Act protects online platforms from being liable for user-generated content. However, it has also been criticized for giving these platforms too much power and not holding them accountable for their actions (or lack thereof). By extending the reach of this protection to all platform providers moderated by an independent nonprofit entity, it incentivizes engagement with such entities which both protects those entities while also holding them accountable to providing users with a more reliable method of communication.

⁷⁷ Given the current public distrust of big government, big media, and big tech, it is important to ensure that any moderating entity specified is independent of both.

⁷⁸ For example, in order for Wikipedia to remain a reliable source of information, it has implemented several mechanisms to self-correct misinformation. In order for this process to be effective, it is essential that all members of the platform have access to clear and comprehensible rules regarding neutrality, attribution, and original research. Additionally, it is important that there are well-defined roles and hierarchies for posting, editing, moderating, and administering in order to ensure that everyone knows their place within the system. Furthermore, complete transparency into all aspects of the platform and its processes is crucial in order for users to trust that the system is working as intended. Finally, enforcement mechanisms must be in place in order to ensure compliance with the rules and regulations governing the platform.

⁷⁹ It is possible to provide higher degrees of free speech in digital spaces where there is also greater identity transparency in order to ensure that people are accountable for their speech. The emergence of deepfakes and the metaverse make this even more important because it will be even easier for people to create fake identities and to impersonate others online, which could lead to serious harassment and other problems if people are not held accountable for their speech.

CLAUSE 2. Congress and the States shall have the power to regulate operators of digital public discourse algorithms in order to cultivate mutual respect, improve social trust,⁸⁰ and fulfill the ideals elaborated in the Interamble.⁸¹

⁸⁰ This should generally not require banning individual users or censoring individual content, which would implicate free speech concerns. Instead, it requires platforms to give preferential treatment to content that promotes social trust and respect for others. This strikes a reasonable balance between the competing concerns of free speech and the need to regulate public discourse in order to promote a healthy democracy. Possible forms of oversight and enforcement to ensure the success in achieving the mentioned aims while balancing against any free speech concerns include: (i) establishing or repurposing an existing government agency or independent commission with the mandate to oversee compliance with the regulation; (ii) requiring platforms to regularly report on their compliance with the regulation; (iii) authorizing private individuals or groups to bring lawsuits against platforms that violate the regulation; and/or (iv) imposing financial penalties or other sanctions on platforms that violate the regulation.

⁸¹ There is a tension between the ideals of liberty and equality, on the one hand, and order and hierarchy, on the other. In order to realize the former, it is sometimes necessary to temporarily embrace the latter. For example, in order to prevent violence or protect vulnerable members of society, it may be necessary to restrict certain kinds of speech or limit access to certain kinds of information. Similarly, in order to ensure that platforms for public discourse are used responsibly and in ways that promote social trust and respect for others, it may be necessary to regulate their content and operation. However, such regulation must be carefully tailored so as not to excessively burden free speech or unduly restrict access to information.