



February 28, 2023

Joint Committee on General Law
Attn: Michael Shannon, Committee Clerk
Legislative Office Building, Room 3500
300 Capitol Avenue
Hartford, CT 06106

Re: S.B. 405 - An Act Concerning Digital and Social Media Platforms (Oppose)

Dear Co-Chair Maroney, Co-Chair D'Agostino, and Members of the Joint Committee on General Law:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully express concerns regarding S.B. 405, An Act Concerning Digital and Social Media Platforms.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms¹. Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members. Recent sessions have seen an increasing volume of state legislation related to the regulation of digital and social media platforms. While understanding that policymakers are appropriately interested in the digital services that make a growing contribution to the U.S. economy, these efforts require additional study and careful consideration in order to avoid conflicts with federal law, the constitution², and the creation of unintended consequences.

As lawmakers consider legislation related to the regulation of digital and social media platforms, CCIA offers the following comments.

1. Businesses operating online depend on clear regulatory certainty across jurisdictions nationwide.

Existing U.S. law provides websites and online businesses with legal and regulatory certainty that they will not be held liable for third-party content and conduct. By limiting the liability of digital services for misconduct by third-party users, U.S. law has created a robust Internet ecosystem where commerce,

¹ For 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Eric Goldman, The Constitutionality of Mandating Editorial Transparency, 73 Hastings L. J. 1203 (2022), https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3985&context=hastings_law_journal



innovation, and free expression thrive — all while enabling providers to take creative and aggressive steps to fight online abuse. Ambiguous and inconsistent regulation at the state level would undermine this business certainty and deter new entrants, harming competition and consumers.

2. Creating overly prescriptive regulation of terms of service could harm vulnerable users.

Responsible digital services providers already take aggressive steps to moderate dangerous and illegal content, consistent with their terms of service. The companies deliver on the commitments made to their user communities with a mix of automated tools and human review. In 2021, a number of online businesses announced that they have been voluntarily participating in the Digital Trust & Safety Partnership (DTSP) to develop and implement best practices to ensure a safer and more trustworthy Internet, and have recently reported on the efforts to implement these commitments.³

As digital services invest significant resources in developing and carrying out trust and safety operations to protect users from harmful or dangerous content, they require flexibility in order to address new challenges as they emerge. Any legislation must avoid overly prescriptive provisions that may be counterproductive to the legislature’s intended goals — rather than protecting consumers from harmful content, they might have the adverse unintended consequence of giving nefarious foreign agents, purveyors of harmful content, and other bad actors a playbook for circumventing digital services’ policies.

3. Any reporting requirements should avoid redundancy in order to limit the impact on smaller companies.

Many online platforms already voluntarily and regularly generate transparency reports and make them publicly available on their websites. Doing so is in fact an evolving industry practice: since its launch, DTSP has quickly developed and executed initial assessments of how its member companies are implementing the DTSP Best Practices Framework, which provides a roadmap to meaningfully increase trust and safety online. This roadmap includes several commitments to transparency and content moderation disclosures, in addition to others, to which DTSP members are expected to

³ Margaret Harding McGill, Tech giants list principles for handling harmful content, Axios (Feb. 18, 2021), <https://www.axios.com/techgiants-list-principles-for-handling-harmful-content-5c9cfba9-05bc-49ad-846a-baf01abf5976.html>.



adhere⁴. However, the development of such reports is extremely labor-intensive, and requiring detailed documentation with this frequency could disproportionately burden smaller companies with limited resources. Any reporting requirements considered should be limited to on an annual basis.

4. Any proposed penalties for violations should not be overly burdensome as to avoid disproportionately impacting smaller companies.

CCIA encourages legislators to include at least a 30-day cure period for any violation, as this allows digital services the opportunity to correct and address any compliance issues before accumulating penalties. Smaller companies, in particular, who may already struggle to meet the labor-intensive transparency reporting requirement may subsequently be additionally strained by the financial burden imposed. Because these statutory penalties are unmoored from any actual injury to users, they are inherently arbitrary. Penalties for non-compliance should instead have some relationship to the injury to users.

5. The Attorney General’s office should have exclusive authority on enforcement.

Any legislation must place the sole enforcement authority with the Attorney General’s office, in order to avoid creating any punitive financial incentives and the potential for a flood of frivolous claims that could clog up Connecticut’s courthouses.

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We appreciate the Joint Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Khara Boender
State Policy Director
Computer & Communications Industry Association

⁴ See, e.g., DTSP, The Safe Assessments: An Inaugural Evaluation of Trust & Safety Best Practices at 37 (July 2022), https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf (Appendix III: Links to Publicly Available Company Resources).