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## MEMO OF OPPOSITION S.895A (Hoylman-Sigal)/A.6789A (Lee)

The Computer & Communications Industry Association (CCIA) is writing to express our opposition to S.895A and A.6789A, sponsored by Senator Brad Hoylman-Sigal and Assemblymember Grace Lee, respectively.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup> CCIA is supportive of transparency when it comes to operators' terms of service but is concerned about the potential unintended consequences of S.895A/A.6789A, which requires companies to disclose content moderation practices and procedures, and could create a roadmap for bad actors to circumvent companies' policies. Furthermore, we have concerns with the reporting requirements created under the bill as well as the lack of a cure period.

S.895A/A.6789A attempts to provide social media users with insight into the terms of service for the platforms they are utilizing, but in seeking to protect users the provisions mandated in the legislation would likely be counterproductive to the Legislature's goal. The bills would require covered entities to disclose a detailed description of content moderation practices used, as well as a list of the potential actions an entity may take on an item of content or an individual user. These provisions, rather than protecting consumers from harmful content, 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, by telling them exactly how to avoid getting their content flagged, something that could ultimately end up harming more than helping users.

Additionally, S.895A/A.6789A would require companies to compile and submit a semiannual report to the Attorney General's office. Many online platforms already voluntarily and regularly generate such reports and make them publicly available on their websites. 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. 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 adhere<sup>2</sup>. 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.

Furthermore, S. 895A/A.6789A do not provide entities with the ability to cure any violations made within a timely fashion. Establishing a cure period of at least 30 days is vital, as this allows operators acting in good faith the opportunity to correct and address any unknown or technical violations before accumulating penalties. This would also help to ensure that formal lawsuits and violation penalties are reserved for the bad actors that the bill intends to

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<sup>1</sup> 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>.

<sup>2</sup> 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](https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf) (Appendix III: Links to Publicly Available Company Resources).



address. 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.

For the reasons outlined above, CCIA opposes New York Senate Bill 895A and Assembly Bill 6789A as currently drafted and recommends that the Legislature not pass this legislation. We appreciate your consideration on this matter.