



June 15, 2023

Assembly Science, Innovation, and Technology Committee
Attn: Mikaela Chianese and Suzanne Miller
State House Annex
Trenton, NJ 08625

RE: A.4919 - An Act concerning social media privacy and data management standards for children, establishing the New Jersey Children’s Data Protection Commission, and supplementing Title 56 of the Revised Statutes.

Dear Chair Tully and Members of the Assembly Science, Innovation, and Technology Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose A.4919, An Act concerning social media privacy and data management standards for children, establishing the New Jersey Children’s Data Protection Commission, and supplementing Title 56 of the Revised Statutes.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ 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 regulating what digital services host and how they host it. While recognizing that policymakers are appropriately interested in the digital services that make a growing contribution to the U.S. economy, these bills require study, as they may raise constitutional concerns,² conflict with federal law, and risk impeding digital services companies in their efforts to restrict inappropriate or harmful content on their platforms.

CCIA strongly believes children deserve an enhanced level of security and privacy online. Currently, there are a number of efforts among our members to incorporate protective design features into their websites and platforms.³ CCIA’s members have been leading the effort to raise the standard for teen safety and privacy across our industry by creating new features, settings, parental tools, and protections that are age-appropriate and tailored to the differing developmental needs of young people.

CCIA recognizes the importance of this issue to New Jersey residents and acknowledges the efforts already taken by the Legislature to further study this issue (via [S. 715](#)). Given the effort to establish a Commission to study this area, CCIA suggests that the Commission be allowed to fully complete its study, prior to the consideration of A.4919 to ensure that the Legislature’s efforts to fully understand the topic are able to run its

¹ For over 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.

³ Jordan Rodell, *Why Implementing Education is a Logical Starting Point for Children’s Safety Online*, Disruptive Competition Project (Feb. 7, 2023), <https://www.project-disco.org/privacy/020723-why-implementing-education-is-a-logical-starting-point-for-childrens-safety-online/>.

course. To that end, CCIA would like to offer to serve as a resource, providing industry perspective, as lawmakers continue to consider this complex and important topic.

Additionally, we have several areas of concern with A. 4919 and have outlined them below for the Legislature's consideration.

1. The bill lacks narrowly tailored definitions.

As currently written, the bill defines a child as anyone under 18. Due to the nuanced ways in which children under the age of 18 use the internet, it is imperative to appropriately tailor such treatments to respective age groups. For example, if a 16-year-old is conducting research for a school project, it is expected that they would come across, learn from, and discern from a wider array of materials than a 7-year-old on the internet. We suggest changing the definition of "child" to a user under the age of 13 to align with the federal Children's Online Privacy Protection Act (COPPA) standard. This would also allow for those over 13, who use the internet and social media much differently than their younger peers, to continue to benefit from its resources. The definition of "likely to be accessed by children" is also ambiguous. CCIA recommends narrowly tailoring this definition to content intentionally targeted at or branded for children when they are using the internet.

The bill would also require businesses to provide any privacy information, terms of service, policies, and community standards concisely, prominently, and using "clear language suited to the age of children likely to access that online service, product, or feature". The definition of "clear language suited to the age of children likely to access online services" is not defined and leaves room for significant subjective interpretation. If a child is defined as anyone under 18, one could expect a wide variation of reading comprehension skills across such a wide age group — a 17-year-old would presumably have better reading comprehension skills than that of a 5-year-old. Without "clear language" being defined, the law is difficult to comply with.

2. This bill may actually put New Jersey residents at greater risk of harm, including children that the bills seek to protect.

This legislation will inevitably result in companies being required to collect additional information about all users, including adults. As currently drafted, A. 4919 does not provide any examples of how businesses are to go about determining which of their users are under the age of 18. CCIA cautions against conflating concepts regarding estimating the age of users. For example, when a website asks a user to make a self-attestation of their age, such as on a website for alcohol products, the owner of that website is not held liable if that user chooses to mischaracterize their identity. Similar self-attestation measures are currently in place for social media platforms and other digital services, and the burden is on the consumer to be forthcoming and honest about the age and birth dates they enter. This, however, would change under the bill — if online services were to rely on self-attestation for estimates but then in-turn be held liable for mischaracterizations, this would present severe culpability concerns and treat the business as the bad actor. Further, it is unclear what impact the use of VPNs and similar mechanisms to evade age verification by users could have on organizations' liability under this bill.

To achieve compliance and avoid the proposed penalties for violations, it is likely that age estimation would amount to age verification. CCIA is concerned that businesses may be forced to collect age verification data, which would paradoxically force companies to collect a higher volume of data on users.⁴ Businesses may be forced to accumulate personal information they do not want to collect and consumers do not want to give and that data collection creates extra privacy and security risks for everyone. This mandated data collection would include collecting highly sensitive personal information about children and members of other vulnerable communities, including collecting and storing their geolocation to ensure they do not reside outside of the state when confirming that they are of age to be using these services.

California also recently enacted legislation that would implement similar age verification measures which is currently facing a legal challenge for similar reasons.⁵ CCIA recommends that lawmakers permit this issue to be more fully examined by the judiciary before burdening businesses with legislation that risks being invalidated.

3. Restricting access to social media platforms for children also restricts their access to supportive communities that may not be accessible forums in their physical location.

When businesses are required to deny access to social networking sites or other online resources, this may also unintentionally restrict children’s ability to access and connect with like-minded individuals and communities. For example, children of racial or other minority groups may not live in an area where they can easily connect with others that represent and relate to their own unique experiences. An online central meeting place where kids can share their experiences and find support can have positive impacts.

The hyperconnected nature of social media has led many to allege that online services may be negatively impacting teenagers’ mental health. However, some researchers argue that this theory is not well supported by existing evidence and repeats a “moral panic” argument frequently associated with new technologies and new modes of communication. Instead, social media effects are nuanced,⁶ small at best, reciprocal over time, and gender-specific. Teens themselves also paint a nuanced picture of the effects of social media. It is one in which majorities credit these platforms⁷ with deepening connections and providing a support network when they need it. In a recent survey, 80% of teens say that what they see on social media makes them feel more connected to what’s going on in their friends’ lives, while 71% say it makes them feel like they have a place where they can show their creative side. Additionally, 67% also say these platforms make them feel as if they have people who can support them through tough times.

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⁴ Caitlin Dewey, *California’s New Child Privacy Law Could Become National Standard*, The Pew Charitable Trusts (Nov. 7, 2022), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/11/07/californias-new-child-privacy-law-could-become-national-standard>.

⁵ *NetChoice v. Bonta* (N.D. Cal. 22-cv-08861).

⁶ Amy Orben et al., *Social Media’s enduring effect on adolescent life satisfaction*, PNAS (May 6, 2019), <https://www.pnas.org/doi/10.1073/pnas.1902058116>.

⁷ Monica Anderson et al., *Connection, creativity and drama: Teen life on social media in 2022*, Pew Research Center: Internet, Science & Tech (Nov. 17, 2022), <https://www.pewresearch.org/internet/2022/11/16/connection-creativity-and-drama-teen-life-on-social-media-in-2022/>.



We share lawmakers' concerns regarding the potential impact the internet may have on children and appreciate your consideration of these comments. CCIA stands ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Alexander Spyropoulos
Regional State Policy Manager - Northeast
Computer & Communications Industry Association