



June 9, 2023

The Honorable Governor John Bel Edwards
PO Box 94004
Baton Rouge, LA 70804

RE: SB 162 - “Secure Online Child Interaction and Age Limitation Act.” Veto Request

Dear Governor Edwards:

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.

While CCIA strongly supports the overall goal of keeping children safe online, there are many concerns we would like to raise about the policies this bill would implement, and we respectfully ask you to please veto SB 162.

1. SB 162's provisions regarding liability for data collection, age verification, and parental consent will not achieve the bill's stated objectives. In fact, the bill may actually put Louisianans at greater risk of harm, including children that the legislation seeks to protect.

This legislation will inevitably result in companies being required to collect additional information about all users, including adults and their children. These bills provide several examples of how to obtain verifiable consent, however, this raises questions about whether such verification mechanisms would conflict with data minimization principles and other consumer data privacy protection measures. CCIA is concerned that businesses may be forced to collect geolocation and 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

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/>.

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>.



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, including collecting and storing their geolocation data to ensure they do not reside outside of the state when confirming that they are of age to be using these services. If the state were to force companies to collect a higher volume of data on users even as others are requiring the collection of less data, it may place businesses in an untenable position of picking which state's law to comply with, and which to violate.

Additionally, SB 162 would hold covered social media companies liable for failing to perform age verification and parental consent but also require a social media company to delete any identifying information about the user and their parent after verifying their age and receiving consent. However, by requiring covered businesses to delete relevant information, the law would leave businesses without a means to document their compliance. This becomes especially problematic in instances where a user decides to use deceptive verification information such as using an identification card that is not their own. Additionally, it is unclear what impact users' employment of VPNs⁵ and other mechanisms to evade age verification could have on organizations' liability under this bill. It does not advance the bill's goal to place covered companies in a catch-22 where they cannot be fully compliant without incurring new liability.

When the federal Communications Decency Act was passed, there was an effort to sort the online population into children and adults for different regulatory treatment. That requirement was struck down by the U.S. Supreme Court as unconstitutional because of the infeasibility.⁶ After 25 years, age authentication still remains a vexing technical and social challenge.⁷ California recently enacted legislation that would implement similar age verification measures which is currently being challenged for similar reasons.⁸ CCIA recommends that lawmakers permit this issue to be more fully examined by the judiciary before burdening businesses with legislation that risks being invalidated.

2. SB 162 may result in shutting down services for all users under 16, including access to supportive communities that may not be available in their physical location.

The Children's Online Privacy Protection Act (COPPA) and associated rules at the federal level currently regulate how to address users under 13, a bright line that was the result of a lengthy negotiation process that accounted for the rights of users and children while also considering the compliance burden on businesses. To avoid collecting data from users under 13, some businesses chose to shut down various services when COPPA went into effect due to regulatory complexity — it became easier to simply not serve this population. Users between 14 and 15 could face a similar fate as SB 162 would implement more complex vetting requirements tied to parental consent for users under 16.

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, in instances where children may be in unsafe households, this could create an impediment for those seeking communities of support or resources to get help.

⁵ Cristiano Lima, *Utah's porn crackdown has a VPN problem*, The Washington Post (May 5, 2023), <https://www.washingtonpost.com/politics/2023/05/05/utahs-porn-crackdown-has-vpn-problem/>.

⁶ *Reno v. ACLU*, 521 U.S. 844 (1997).

⁷ Jackie Snow, *Why age verification is so difficult for websites*, The Wall Street Journal (Feb. 27, 2022), <https://www.wsj.com/articles/why-age-verification-is-difficult-for-websites-11645829728>.

⁸ *NetChoice v. Bonta* (N.D. Cal. 22-cv-08861).



Serious concerns also arise when verifying whether a “parent or guardian” is in fact a minor’s legal parent or guardian. Many parents and legal guardians do not share the same last name as their children due to remarriage, adoption, or other cultural or family-oriented decisions. If there is no authentication that a “parent or guardian” is actually a minor’s legal parent or guardian, this may incentivize minors to ask other adults that are not their legal parent or guardian to verify their age on behalf of the minor to register for an account with a “social media platform.” It is also unclear who would be able to give consent to a minor in foster care or other nuanced familial situations, creating significant equity concerns. Further, scenarios where a legal parent or guardian is not located in Louisiana or is not a resident of the state creates significant confusion for consumers and businesses.

An online central meeting place where younger users can share their experiences and find support can have positive impacts. Teens themselves paint a nuanced picture of the effects of social media. It is one in which majorities credit these platforms⁹ 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.

3. 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, 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.

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While we share the Legislature’s concern regarding the safety of young people online, we encourage lawmakers to resist advancing legislation that is not adequately tailored to this objective. We appreciate your consideration of these comments and respectfully urge you to please veto SB 162.

Sincerely,

Jordan Rodell
State Policy Manager
Computer & Communications Industry Association

⁹ 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/>.