



December 11, 2023

Assembly Health Committee
Attn: Richard Diaconu and Emely D. Ramirez
State House Annex
Trenton, NJ 08625

RE: A.5750 - An act requiring age verification and parent or guardian consent for a minor's use of a social media platform and supplementing Title 52 of the Revised Statutes.

Dear Chair Conaway and Members of the Assembly Health Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose A.5750, An act requiring age verification and parent or guardian consent for a minor's use of a social media platform and supplementing Title 52 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. In recent sessions, there has been a notable surge in state legislation concerning children's online safety. Acknowledging policymakers' valid concerns about the online privacy of young individuals, it is imperative to prioritize the establishment of a comprehensive data privacy law applicable to all consumers. This law should incorporate safeguards for sensitive data, specifically addressing information commonly linked to younger users.

CCIA holds a firm conviction that children are entitled to a higher level of security and privacy in their online experiences. Presently, our members are actively engaged in various initiatives to integrate robust protective design features into their websites and platforms.² CCIA's members have been leading the effort to implement settings and parental tools to individually tailor younger users' online use to the content and services that are suited to their unique lived experience and developmental needs. For example, various services allow parents to set time limits, provide enhanced privacy protections by default for known child users, and other tools to allow parents to block specific sites entirely.³ This is also why CCIA supports the implementation of digital citizenship curriculum in schools, to not only educate children on proper social media use but also help educate parents on what mechanisms presently exist that they can use now to protect their children the way they see fit and based on their family's lived experiences.⁴

It should also be recognized that protecting children from harm online does not include a generalized power to restrict ideas to which one may be exposed. Speech that is neither obscene to young people nor subject to other legitimate laws cannot be suppressed solely to protect young online users from ideas or images that a

¹ For more than 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 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/>.

³ Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/>.

⁴ See *supra* note 2.

legislative body disfavors. Proposals to keep children safe online should be established through a risk-based approach to developing protections for different ages of users and by focusing on tangible harm. While CCIA shares the goal of increasing online safety, this bill presents the following concerns.

1. This bill would have a significant negative impact on marginalized and vulnerable communities.

A.5750 would require that social media companies verify the age of all existing and new account holders located in New Jersey, a task that would undoubtedly lead to a dramatic increase in the amount of data that these companies collect and retain on users within the state, including a government-issued identification card as well as geolocation data to verify that a user is indeed located within the state. This would have a clear and disproportionate negative impact on vulnerable populations which call New Jersey home, including undocumented immigrants as well as those who do not possess a valid form of government-issued identification. Additionally, there would likely be tens of thousands more New Jersey residents who would not want to share that sensitive information with a company and therefore potentially be shut out of social media platforms entirely.

Furthermore, A.5750 would require parental consent for minors under the age of 18 to use a social media platform. As a part of that consent process, the parent of the minor would not only have to provide a form of government-issued identification, but also have to provide credit card information and consent to a fee of not more than 35 cents to be charged to the credit card. This would essentially cut off any minor whose parents are one of 3.5% of New Jersey adults who are unbanked, or approximately over 200,000 residents in the state, to accessing any, previously-free, social media platform simply based on their economic circumstances⁵. This is in addition to the minors who would be unable to use social media because their parents do not have any government-issued identification to complete the consent process.

Finally, by requiring minors to obtain parental consent to sign-up or use a social media platform, this would also restrict minors's ability to access and connect with like-minded individuals and communities. For example, children of racial or other minority groups, or those who identify as LGBTQ+ 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, particularly when minors don't feel that support from their immediate family members or guardians. Requiring parental or guardian consent could potentially shut these vulnerable minors out of a crucial resource.

2. Age estimation and verification requirements for online businesses are currently being litigated in several jurisdictions.

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 and Arkansas recently enacted legislation that would implement age verification and estimation requirements — each law is currently facing a legal

⁵ FDIC, 2021 FDIC National Survey of Unbanked and Underbanked Households <https://www.fdic.gov/analysis/household-survey/2021appendix.pdf>

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>.



challenge due to constitutional concerns, and judges recently enjoined both laws, preventing them from going into effect, until these challenges can be fully reviewed.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 and passing on expensive litigation costs to taxpayers.

3. The private right of action would result in the proliferation of frivolous lawsuits.

A. 5750 permits users to bring civil action against companies that have been accused of violating new regulations. By creating a new private right of action, the measure would open the doors of New Jersey’s courthouses to plaintiffs advancing frivolous claims with little evidence of actual injury. As lawsuits prove extremely costly and time-intensive, it is foreseeable that these costs would be passed on to individual users and advertisers in New Jersey, disproportionately impacting smaller businesses and startups across the state.⁹

* * * * *

While we share the concerns of the sponsor and the Committee regarding the safety of young people online, we encourage Committee members to resist advancing legislation that is not adequately tailored to this objective. We appreciate the Committee’s consideration of these comments and stand 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

⁸ *NetChoice, LLC v. Bonta* (N.D. Cal. 5:22-cv-08861); *NetChoice, LLC v. Griffin* (W.D. Ark. 5:23-cv-05105).

⁹ Trevor Wagener, *State Regulation of Content Moderation Would Create Enormous Legal Costs for Platforms*, Broadband Breakfast (Mar. 23, 2021), <https://broadbandbreakfast.com/2021/03/trevor-wagener-state-regulation-of-content-moderation-would-create-enormous-legal-costs-for-platforms>