



Testimony in Opposition to Part O and Part P of A.8805/S.8305 Before the 2024 State Joint Legislative Budget Hearing on Public Protection

The Computer & Communications Industry Association (CCIA) is writing to express our opposition to Part O and Part P of A.8805/S.8305.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ CCIA strongly supports efforts to protect younger users online and ensure that consumer data is properly safeguarded. However, we are deeply concerned with the language included in Part O and Part P of the Public Protection and General Government Budget Bill (A.8805/S.8305), which includes legally dubious age verification requirements that would actually increase the amount of sensitive information that companies would need to collect on all internet users in the state, and disproportionately harm vulnerable communities in New York who rely upon the many resources that the internet and social media platforms help provide.

Part O of A.8805/S.8305 would enact the SAFE for Kids Act, which attempts to protect minor users (defined as anyone under the age of 18) of social media platforms by prohibiting platforms from serving those users content via an algorithm, while also establishing the ability for parents to set strict limits on social media usage for the minor. The bill does not describe how a platform shall determine which users are minors, but as a result of this requirement, social media companies would be forced to collect and retain additional data, including sensitive information like geolocation data, on every user in order to determine which users would be covered under the proposed law. Furthermore, there is no described mechanism for platforms to verify that a parent or guardian is indeed who they say they are without collecting additional information on those individuals as well. Age verification would likely result in every New York resident having to provide social media companies with additional information about themselves, and family members, in order to utilize the platforms, something that would disproportionately impact vulnerable populations in the state, like the estimated 800,000 undocumented individuals who call New York home². These communities may be unwilling or unable to provide that information and therefore be cut-off from their communities who utilize social media to stay connected.

Furthermore, nearly all of the age verification laws that have been passed thus far in other states have faced significant legal challenges, especially concerning the First Amendment. A case challenging California's Age-Appropriate Design Code was successful in obtaining a preliminary injunction on preventing the law from taking effect³, while Arkansas' age verification law faced a similar outcome when challenged in court⁴. There are also

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.cciagnet.org/members>.

² *Profile of the Unauthorized Population: New York*, Migration Policy Institute. <https://www.migrationpolicy.org/data/Unauthorized-immigrant-population/state/NY>

³ *NetChoice v. Bonta*, United States District Court, Northern District of California.

<https://storage.courtlistener.com/recap/gov.uscourts.cand.406140/gov.uscourts.cand.406140.74.0.pdf>

⁴ *Judge Blocks Arkansas Law that Would Have Placed Unconstitutional Age-Verification and Parental Consent Requirements on Social Media Users*, ACLU of Arkansas.

<https://www.aclu.org/press-releases/judge-blocks-arkansas-law-that-would-have-placed-unconstitutional-age-verification-and-parental-consent-requirements-on-social-media-users>



pending cases in Utah and Ohio questioning the legality of age verification and parental consent requirements for social media platforms. If passed in New York, Part O of A.8805/S.8305 would likely face a similar legal challenge and therefore, the legislature should allow current cases to play out in an effort to avoid passing legislation that would then be quickly nullified.

Additionally, the algorithms that Part O aims to remove, actually serve as a tool for platforms to protect users by ensuring that the content showing up is relevant to their interests and appropriate for them. Without them, users would be served a random assortment of content, much of which would likely not be aligned with their interests and could be inappropriate for their age group. Labeling these algorithms as an “addictive feed” would likely do more harm than good by impairing these efforts and blurring lines.

Finally, installing a parental consent component to social media would negatively impact many young people who may not come from a supportive family or household. For example, many LGBTQ+ youth may not have supportive parents or live in a community that affirms their identity. For those young people, social media platforms serve as a vital resource, with studies showing that over 68% of LGBTQ+ saying that they are able to access affirming spaces online⁵. Under this proposed law, a LGBTQ+ young person could have their access to such helpful communities shut off by an unsupportive parent or guardian via the parental control mechanisms included in the law.

Regarding Part P of A.8805/S.8305, CCIA appreciates the well-intentioned efforts to protect the data of minors online, a policy that CCIA strongly supports. That said, the proposal included in Part P would actually require additional sensitive data on all internet users, including minors, to be collected in order to adequately comply with the law. In the effort of ensuring that additional protections for minors are installed, we suggest the Legislature consider utilizing the model taken by Connecticut⁶, which was passed last year. Connecticut’s model would restrict the ability of operators to process a minor’s data to what the data was collected for, prohibits targeted advertising, and requires data protection assessments to be conducted to evaluate the risks associated with the collection and use of the minor’s data. Substituting Part P’s existing language for the Connecticut model would accomplish the shared goal of protecting the data of minors in a way that is achievable.

We appreciate the Legislature’s consideration of our comments and welcome the opportunity to continue the conversation and collaborate on this important policy area.

Sincerely,

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⁵ 2023 U.S. National Survey on the Mental Health of LGBTQ Young People, The Trevor Project. <https://www.thetrevorproject.org/survey-2023/#intro>

⁶ S.B. 3, An Act Concerning Online Privacy, Data, and Safety Protections, Connecticut Legislature https://www.cga.ct.gov/asp/CGABillStatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB3