



February 23, 2024

The Honorable Ron DeSantis, Governor of Florida
Florida State Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Re: HB 1 - "Social Media Use for Minors" (Veto Request)

Dear Governor DeSantis:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully request a veto on HB 1, following the Florida Legislature's passage on February 22, 2024.

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. 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. Such a privacy law should incorporate safeguards for sensitive data, specifically addressing information commonly linked to younger users. Last year, Florida passed SB 262, the "Digital Bill of Rights" which includes many consumer privacy protections, including those specifically for minors.

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 Florida has already taken important steps to

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.

adopt such an approach – just last year, the legislature passed HB 379, which requires training for online safety and social media. CCIA recommends allowing this law to have an opportunity to work by training students, parents, and teachers on online safety across the state.

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 expressly illegal cannot be suppressed solely to prevent young online users from accessing ideas or images that a 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.

HB 1 is likely to create unintended consequences that affect a wide range of services and features offered to consumers.

While HB 1 is framed as a measure to address online protections for younger users on social media platforms, the definition of “social media platform” is incredibly broad and likely to impact many online services that are not typically considered social media. This is further compounded by including the use “push notifications or alerts sent by the online forum, website, or application to inform a user about specific activities or events related to the user's account” as an “addictive feature”. It is unclear whether these notifications would include items such as notifications to consumers about when payments are due, whether a consumer wants to opt-in to certain services or features, or notifying a consumer that an application or security update is available.

Furthermore, HB 1 defines “addictive features” as “features associated with an account holder having an excessive or compulsive need to use or engage with the social media platform”. Again, because the definition of “social media platform” is so broad and because the definition of “addictive features” is related to any compulsive use by a consumer, this could apply to a wide range of activities – including those that are generally considered positive, like listening to audiobooks or reading electronic books, if those activities are “compulsive”.

HB 1's provisions regarding liability for data collection and age verification will not achieve the bill's stated objectives.

HB 1 would hold covered social media companies liable for failing to verify the age of an account holder at the time an account is created using “an anonymous age verification method” or “a standard age verification method” (defined as “any commercially reasonable method of age verification approved by the social media platform”). No “reasonable age verification method” currently exists. Any “commercially reasonable method” used by the platform carries serious privacy and security concerns for users and should not be mandated. Notably, the Commission Nationale de l'Informatique et des Libertés (CNIL) analyzed several existing online age verification technologies but found that none of these options could satisfactorily meet three key standards: 1) providing sufficiently reliable verification; 2) allowing for complete coverage of the population; and 3) respecting the protection of

individuals' data, privacy, and security.⁵ The availability of a functional "anonymous age verification method" remains uncertain. Though the intention to keep kids safe online is commendable, this bill is counterproductive to that initiative by requiring more data collection about young people.

The bill's obligation to collect additional information associated with age verification is itself likely to conflict with data minimization principles inherent in typical federal and international privacy and data protection compliance practices. 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 unintentionally violate.⁶ A recent study from the Pew Research Center found that many Americans worry about children's online privacy but when asked about who is responsible for protecting children's online privacy, most (85%) say parents hold a great deal of responsibility for protecting kids' online privacy. 59% also say that tech companies bear the responsibility while 46% believe the government does. The study also highlights why it is important to consider the tradeoffs associated with age verification and consent proposals that would require the additional collection data; around 89% of Americans are very or somewhat concerned about social media platforms knowing personal information about kids.⁷

It is also unclear how enforcement may apply 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 virtual private networks (VPNs)⁸ and other mechanisms to avoid location-specification age verification requirements 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.

Restricting access to the internet for younger users restricts their First Amendment right to access information, including access to supportive communities that may not be accessible forums 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 a result of a lengthy negotiation process that accounted for the rights of all users, including 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 would face a similar fate as HB 1 would prohibit a minor who is younger than 16 years of age from creating a new account on the social media platform. HB 1 marks a departure from legislation seen in other states that would implement age verification or parental consent

⁵ *Online age verification: balancing privacy and the protection of minors*, CNIL (Sept. 22, 2022), <https://www.cnil.fr/en/online-age-verification-balancing-privacy-and-protection-minors>.

⁶ 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>.

⁷ Colleen McClain, *How americans view data privacy*, Pew Research Center: Internet, Science & Tech (Oct. 18, 2023), <https://www.pewresearch.org/internet/2023/10/18/how-americans-view-data-privacy/>.

⁸ 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/>.

requirements for younger users in that even if a parent *wants* their child to maintain access to an online account, a social media platform would not be permitted to do so. **A recent poll shows that this proposal is not popular among surveyed voters – 79% of general election voters in Florida indicated that they believe parents should be able to choose if their teenagers can use social media platforms and 80% of polled parents believe that the government should not have the right to make such a decision.**⁹

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 children seeking communities of support or resources to get help.

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.¹⁰ After 25 years, age authentication still remains a vexing technical and social challenge.¹¹ California, Arkansas, and Ohio recently enacted legislation that would implement age verification and estimation requirements — each law is currently facing a legal challenge due to constitutional concerns, and judges recently put both laws on hold until these challenges can be fully reviewed.¹² The fate of a similar law in Utah is also in jeopardy as it is also facing legal challenges.¹³ 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. The Florida House of Representatives Staff analysis¹⁴ acknowledges these legal challenges and the likely constitutional issues that this bill presents, including the First Amendment right to freedom of speech. **While we understand that the legislature has amended the bill under the guise of addressing these constitutional issues, CCIA believes that those modifications fall far short of adequately doing so.**

Algorithms are instrumental in providing better-tailored online experiences.

Like any product, there are risks and benefits inherent to algorithmic feeds. However, CCIA cautions against pursuing measures that inherently presume only negative impacts. For example, algorithmic feeds serve content with increased relevance to individual users, prioritizing content that is more likely to be appropriate and of interest. By analyzing past

⁹ Javier Manjarres, *Florida Parents Overwhelmingly Oppose Social Media ban for Teenagers*, The Floridian (Feb. 15, 2024), <https://floridianpress.com/2024/02/florida-parents-overwhelmingly-oppose-social-media-ban-for-teenagers/>.

¹⁰ *Reno v. ACLU*, 521 U.S. 844 (1997).

¹¹ 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>.

¹² *NetChoice, LLC v. Bonta* (N.D. Cal. 5:22-cv-08861); *NetChoice, LLC v. Griffin* (W.D. Ark. 5:23-cv-05105); *NetChoice, LLC v. Yost* (S.D. Ohio 2:24-cv-00047).

¹³ *NetChoice, LLC v. Reyes* (D. Utah 2:23-cv-00911).

¹⁴ Florida House of Representatives Staff Analysis of FL HB 1, <https://flsenate.gov/Session/Bill/2024/1/Analyses/h0001.RRS.PDF> (Jan. 9, 2024).

interactions, browsing history, and other factors, algorithms contribute to curating a relevant and personalized experience. While algorithms personalize a user’s experience, they can also help to introduce new topics and interests allowing users to discover creators, ideas, and communities they would not have found otherwise. And algorithms are able to do this efficiently — with vast amounts of content available, algorithms help users navigate information overload by prioritizing content and allowing users to find what they’re looking for faster and with less effort.

Algorithms can also be used to encourage more positive experiences online, including through the use of tools to identify and report inappropriate content such as CSAM or guiding users to helpful resources if they search for material related to self-harm, suicide, or depression.

Research about online “addictive features” indicates that there is not enough evidence to point to a causal link with mental health impacts.

HB 1 contains provisions describing “addictive features” used by online services, however, CCIA would like to expand on why this is not an accurate characterization. On a daily basis, humans engage in a variety of compulsive and repetitive behaviors — some of these can have decidedly negative impacts on physical and/or mental health. For example, compulsive behaviors could range from binge eating unhealthy foods to exercising in excess to watching favorite shows for hours on end. It is important to consider whether certain compulsive behaviors amount to an “addiction”. *The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-V) does not include a definition for “algorithmic addiction” or “internet addiction” as it attempts to lay out the distinction between “substance use disorders” and the term “behavioral addictions”. “Behavioral addictions” is used to refer to behaviors such as “shopping addictions”. Such behaviors were excluded from the DSM-V due to the lack of peer-reviewed evidence to establish diagnostic criteria used to classify the behaviors as mental disorders.¹⁵

There is also a lack of conclusive evidence regarding the relationship between social media use and youth mental health. When the U.S. Surgeon General released an Advisory entitled *Social Media and Youth Mental Health*¹⁶, many were quick to highlight only the harms and risks that it charged. However, the report is much more nuanced and also discusses many potential benefits of social media use among children and adolescents. For example, the report concludes that social media provides young people with communities and connections with others who share identities, abilities, and interests. It can also provide access to important information and create a space for self-expression. ***The report further details that the buffering effects against stress that online social support from peers provides can be especially important for youth who are often marginalized, including racial, ethnic, sexual, and gender minorities.***¹⁷ An online central meeting place where kids can share their experiences and find support can have positive impacts. It should also be highlighted that the report provides evidence that social media-based and other digitally-based mental health

¹⁵ See *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, American Psychiatric Association, at 481.

¹⁶ U.S. Surgeon General, *Social Media and youth mental health*, U.S. Department of Health and Human Services (May 23, 2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

¹⁷ Jennifer Marino, Matthew Berger, Megan Lim, Melody Taba, Rachel Skinner, *Social Media use and health and well-being of lesbian, gay, bisexual, transgender, and Queer Youth: Systematic Review*, *Journal of Medical Internet Research* (Sept. 22, 2021), <https://www.jmir.org/2022/9/e38449>.

interventions may also be **helpful** for some children and adolescents by promoting help-seeking behaviors and serving as a gateway to initiating mental health care.

A study published last year by the National Academy of Sciences, *Social Media and Mental Health*, noted that a literature review “**did not support the conclusion that social media causes changes in adolescent health at the population level**”. The report went on to describe additional nuances related to how certain individuals, such as those with “clinically meaningful depression” may engage with social media in different ways than those who do not. The report continued to highlight “...the relationship between social media use and depression might vary among different demographic or identity groups”.¹⁸ Additionally, the report describes approaches, including establishing comprehensive digital media literacy standards in education curriculum to address the potential harms that certain individuals may experience while acknowledging the complex nature.

Further, the U.S. Surgeon General’s report notes the lack of evidence to support a causative relationship between social media and anticipated negative impacts on younger users. For example, the research openly acknowledges that “...social media use may be a risk factor for mental health problems in adolescents. However, few longitudinal studies have investigated this association, and none have quantified the proportion of mental health problems among adolescents attributable to social media use.”¹⁹ It is also reasonable to examine that compared to previous decades, young people face increased financial pressure, greater competition, more complex tertiary education pathways, and increased loneliness specifically due to the COVID-19 pandemic. Factors such as increased mental health resources and the general acceptance of having and reporting mental health conditions also play a role. In order to take a measured approach to these complicated and sensitive issues, it is imperative to remember that correlation does not equal causation.

Still other studies point to the nuances of mental health impacts and use of certain online products. This research shows that social media effects are nuanced,²⁰ individualized, reciprocal over time, and gender-specific. Another study conducted by researchers from Columbia University, the University of Rochester, the University of Oxford, and the University of Cambridge found that there is no evidence that associations between adolescents’ digital technology engagement and mental health problems have increased.²¹ Particularly, the study shows that depression has virtually no causal relation to TV or social media. And, one of the researchers, Professor Andrew Przybylski of the Oxford Internet Institute, stated in a press release, “**We looked very hard for a ‘smoking gun’ linking technology and well-being and we didn’t find it.**”²²

¹⁸ *Social Media and Mental Health*, National Academy of Sciences (2023), <https://nap.nationalacademies.org/catalog/27396/social-media-and-adolescent-health>.

¹⁹ Kayla Tormohlen, Kenneth Feder, Kira Riehm, *Associations Between Time Spent Using Social Media and Internalizing and Externalizing Problems Among US Youth*, JAMA Psychiatry (Sept. 11, 2019), <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2749480>.

²⁰ 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>.

²¹ Amy Orben, Andrew K. Przybylski, Matti Vuorre, *There Is No Evidence That Associations Between Adolescents’ Digital Technology Engagement and Mental Health Problems Have Increased*, Sage Journals (May 3, 2021), <https://journals.sagepub.com/doi/10.1177/2167702621994549>.

²² Regina Park, *The Internet Isn’t Harmful to Your Mental Health, Oxford Study Finds*, Disruptive Competition Project (Jan. 29, 2024), <https://www.project-disco.org/innovation/the-internet-isnt-harmful-to-your-mental-health-oxford-study-finds/>.



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.

Additionally, research suggests that aggressive regulations, bills, and enforcement actions targeting tech would increase operating costs for regulated U.S. companies, reducing their market value and harming their shareholders. State and local government employee pension plans are leading shareholders in companies that would be targeted by such anti-tech policies, jeopardizing the retirement benefits of 27.9 million pension plan members nationwide including teachers, firefighters, nurses, and police.²³

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While we share the concerns regarding the safety of young people online, we encourage you to resist signing legislation that is not adequately tailored to this objective, and we respectfully request a veto on HB 1.

We appreciate your consideration of these comments and stand ready to provide additional information related to technology policy.

Sincerely,

Khara Boender
State Policy Director
Computer & Communications Industry Association

²³ *The cost of tech regulatory bills to state and local pension plans – state by state aggregates*, CCIA Research Center (Nov. 1, 2022), <https://research.ccianet.org/stats/cost-of-tech-regulation-bills-state-map/>.