



**February 13, 2024**

House Committee on Economic Matters  
House Office Building, Room 230  
Annapolis, MD

**RE: HB 645 - "Social Media Platforms - Vloggers and Video Content Featuring Minors" (Unfavorable)**

Dear Chair Wilson and Members of the House Committee on Economic Matters:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 645 unless amended in advance of the House Committee on Economic Matters hearing on February 13, 2024.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup> 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 the regulation of 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,<sup>2</sup> conflict with federal law, and risk impeding digital services companies in their efforts to restrict inappropriate or harmful content on their platforms.

Technology has allowed digital service providers to offer a wide array of economic opportunities for creators of all different ages, backgrounds, subject areas, and demographics. It should be recognized that while Americans have been able to take advantage of these opportunities, existing state and federal labor and compensation laws intended to address more traditional work streams could have broad applicability for online creators as well. CCIA recommends examining the applicability of existing laws and identifying specific areas for additional regulation before advancing potentially conflicting or unclear requirements.

CCIA appreciates the opportunity to highlight several areas of concern with HB 645.

**1. While HB 645 seeks to ensure the privacy of young people, there is a potential risk that it could have the unintended consequence of compromising that very privacy.**

Creating an implicit requirement for platforms to collect sensitive, personally identifiable information to authenticate identity, age, and parental relationship is itself likely to conflict with

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<sup>1</sup> 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>.

<sup>2</sup> 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](https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3985&context=hastings_law_journal).

data minimization principles inherent in typical federal and international privacy and data protection compliance practices.

For example, serious concerns arise when verifying whether a “parent or legal 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 who are not their legal parent or guardian to authenticate their age. It is also unclear who would be responsible to create and pay into a trust for 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 Maryland or is not a resident of the state creates significant confusion for consumers and businesses.

## **2. There is a very delicate balance between allowing users to request content takedowns and preserving users’ account security. One is usually sacrificed at the expense of the other.**

Creating a third-party right to delete a user’s content opens the door for bad actors to exploit digital services. Similarly, for example, existing features like account memorialization, designed to enable friends and family to request the preservation of an account for deceased loved ones, often face significant challenges due to an influx of scammers and malicious actors attempting to antagonize or extort others. Additionally, in some locations, these features are routinely abused to silence, harm, or intimidate political opponents. Legislation should contemplate these risks and provide for a high degree of fidelity and security.

As currently written, the bill requires a social media platform that receives a deletion request to take all “reasonable steps to permanently delete all content for which the request was made.” However, there is no definition of what “reasonable steps” or “permanently delete” mean. The definition of these key terms is necessary for businesses to be able to achieve compliance. There are also significant questions surrounding how a digital service would be expected to handle conflicting requests. The bill does not make it clear what the outcome should be if one individual depicted in the media requests that it be removed when another has a right to request that the content remain.

## **3. Businesses operating online depend on clear regulatory certainty across jurisdictions nationwide. Research suggests that removing such regulatory certainty could have significant economic impacts.**

As drafted, this bill presents ambiguity around how these requirements could be operationalized, including which content may be in scope and thresholds that diverge from other data regulation laws that provide strict time limits for complying with requests.

The Bureau of Economic Analysis of the U.S. Commerce Department estimated that the digital economy built on regulatory certainty “accounted for \$3.70 trillion of gross output, \$2.41 trillion of value added (translating to 10.3 percent of U.S. gross domestic product (GDP)), \$1.24



trillion of compensation, and 8.0 million jobs.”<sup>3</sup> Introducing a state patchwork of differing and potentially conflicting regulatory requirements would result in legal uncertainty, create unprecedented economic distortions, and jeopardize the tools used by the vast majority of Americans to speak and express themselves online.

Moreover, requiring a dedicated trust could create barriers to opportunity for users who do not have the resources to establish and maintain a trust. If the barrier to entry is too high for some creators, they may choose to opt out of participating in the creator economy. A study commissioned by Meta, the parent company of Facebook and Instagram, found that the overall economic size of the creator economy was estimated to be more than \$100 billion as of 2020.<sup>4</sup> CCIA is concerned that a trust requirement could minimize the positive impacts of the creator economy including its fueling of economic growth and providing unprecedented opportunities for marginalized groups. As such, legislators may wish to avoid creating conditions that create disincentives to create and share content—or worse, might lock some creators out of these opportunities altogether.

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We appreciate your consideration of these comments and stand ready to provide additional information as the legislature considers proposals related to technology policy.

Sincerely,

Jordan Rodell  
State Policy Manager  
Computer & Communications Industry Association

<sup>3</sup> Tina Highfill & Christopher Surfied, *New and Revised Statistics of the U.S. Digital Economy, 2005–2021*, Bureau of Economic Analysis of the U.S. Department of Commerce,  
<https://www.bea.gov/system/files/2022-11/new-and-revised-statistics-of-the-us-digital-economy-2005-2021.pdf>.

<sup>4</sup> Richard Florida, *The Rise of the Creator Economy* (2022),  
[https://creativeclass.com/reports/The\\_Rise\\_of\\_the\\_Creator\\_Economy.pdf](https://creativeclass.com/reports/The_Rise_of_the_Creator_Economy.pdf).