



March 25, 2024

Senate Committee on Education
Room 357, Colorado State Capitol
200 East Colfax Avenue
Denver, CO 80203

RE: HB 1136 - “Healthier Social Media Use By Youth” (Oppose)

Dear Chair Buckner and Members of the Senate Committee on Education:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 1136 in advance of the Senate Committee on Education hearing on March 25, 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. CCIA and our member companies are jointly committed to implementing robust safeguards that prioritize the protection of children and equip parents with simple but effective tools to provide a safe online environment for their families.

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 individually set and manage time limits appropriate to their child and specific to applications, 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 how they can utilize existing mechanisms and tools to protect their children the way they see fit.⁴

It should also be recognized that protecting children from specific risks of 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 legislative body disfavors.

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.

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.

There is evidence to demonstrate the benefits created from access to social media. However, these studies have been unable to find a causal link between social media use and negative mental health effects.

When the U.S. Surgeon General released an Advisory entitled *Social Media and Youth Mental Health* last year,⁵ many were quick to highlight only the harms and risks that it charged. However, the report is much more nuanced and discusses many potential benefits of social media use among 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.⁶ 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 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**”.⁷ 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 also highlighted that “...the relationship between social media use and depression might vary among different demographic or identity groups. Among LGBTQ+ teens, for example, social media use is associated with fewer depressive symptoms but an increased risk of bullying.”⁸ The report goes on to describe approaches, including establishing comprehensive digital media literacy standards in education curricula, 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

⁵ 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>.

⁶ 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>.

⁷ *Social Media and Mental Health*, National Academy of Sciences (2023), <https://nap.nationalacademies.org/catalog/27396/social-media-and-adolescent-health> (emphasis added).

⁸ *Id.*

adolescents attributable to social media use.”⁹ It should also be examined 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 the use of certain online products. This research shows that social media effects are nuanced,¹⁰ 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.¹¹ 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.**”¹²

Notification requirements required under HB 1136 could result in several negative user impacts.

HB 1136 would require a covered social media platform to, by default, display a full-page or pop-up notification to a user under 18 years of age if the user has spent one hour of cumulative time on the platform within a 24-hour period, or during certain hours of the day. The bill would require such notifications to include “data on the public health impacts of social media use on the mental and physical health of youth users” as included in the resource bank the Department of Education would be required to create under HB 1136. As shared earlier in our comments, there is inconclusive evidence regarding the causal impacts of social media and youth mental health.

Further, the Family Online Safety Institute (FOSI) recently highlighted that “fear based messaging, inflexible restrictions and full bans on online content, platforms and experiences are not only ineffective, but they also deprive kids from the chance to establish healthy, realistic, and safe boundaries with their devices and in their online lives”.¹³ There is also no evidence that such notifications are a helpful and meaningful way to address potentially

⁹ 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>.

¹⁰ 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>.

¹¹ 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>.

¹² 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/>.

¹³ See Stephen Balkam, *Opinion: Does Utah’s social media law respect teens’ rights?*, Deseret News (Sept. 9, 2023), <https://www.deseret.com/opinion/2023/9/9/23852301/utah-social-media-law-teen-rights-safety/>



unhealthy social media usage, and therefore may not help users adopt healthier habits in the long term.

CCIA also has concerns that the frequency with which a social media platform would be required to show a notification would render products unusable. Under HB 1136’s provisions, a social media platform would be required to display notifications as frequently as every five minutes. The bill also does not allow for the user to have an option to turn off this setting. Many internet users might recall a time when they were bombarded with frequent and pervasive pop-up ads leading to frustration and a degraded online experience – that is what users would experience under HB 1136. Younger users thus might be incentivized to pursue other means to bypass such disruptions such as using VPNs or pretending to be an adult user.

Further, given the disruptive nature of the notification requirement, particularly during certain hours, this could render it impossible for teen users to communicate with people across different time zones or access otherwise beneficial resources, such as online learning communities hosted on a social media platform. Because HB 1136’s approach is to simply limit the amount of time a user spends on a specific platform, it ignores that a user may be using a social media platform for practical and beneficial purposes such as keeping in contact with friends and loved ones who do not live nearby. Any approach to addressing online safety concerns needs to be narrowly tailored so as to avoid imposing counterproductive and arbitrary constraints that would only worsen the online environment for the people of Colorado.

The bill raises constitutional concerns under the First Amendment.

HB 1136 is likely unconstitutional under the First Amendment, as it appears to compel the speech of a covered social media platform. The bill requires the prescribed notifications to include “data on the public health impacts of social media use on the mental and physical health of youth users” as included in the resource bank created by the Department of Education. In effect, this would force certain social media platforms to convey a value-laden message based upon a state-directed viewpoint that they may not necessarily agree with.

If enacted, and because of its constitutional implications, HB 1136 would likely be subject to the highest level of review — strict scrutiny. Under this level of review, the State would need to prove that HB 1136 serves a compelling state interest and that it is a narrowly tailored approach to achieving that interest. As part of strict scrutiny, the Court will review whether this approach is the least speech-restrictive. It is important to note that policies, such as the implementation of digital curricula, help avoid costly litigation and laws being struck down.

Earlier in our comments, CCIA has described how the time-based approach to addressing potential online harms is likely to infringe upon otherwise useful and beneficial time spent online. And because there is inconsistent and inconclusive evidence regarding the causal relationship between negative health impacts and social media use, there is significant reason to believe that this bill would not succeed in passing such judicial scrutiny.

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We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the Colorado General Assembly considers proposals related to technology policy.

Sincerely,

Jordan Rodell
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Computer & Communications Industry Association