



September 19, 2024

Assembly Science, Innovation and Technology Committee  
Attn: Mikaela Chianese, Andrew Edmonson  
State House Annex  
Trenton, NJ 08625

**RE: A. 4664 - An Act prohibiting social media platforms from promoting certain eating behaviors to child users and supplementing Title 56 of the Revised Statutes.**

Dear Chair Tully and Members of the Assembly Science, Innovation and Technology Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose A. 4664. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup>

CCIA strongly believes children deserve an enhanced level of security and privacy online. Currently, there are a number of efforts among our members to incorporate protective design features into their websites and platforms.<sup>2</sup> CCIA's members have been leading the effort to raise the standard for teen safety and privacy across our industry by creating new features, settings, parental tools, and protections that are age-appropriate and tailored to the differing developmental needs of young people.

However, it is important to note 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 legislative body thinks are unsuitable for them. While CCIA strongly supports the overall goal of keeping children safe online, there are many concerns we would like to raise about the policies this bill would implement.

**The bill does not provide for how a user's age is to be determined.**

A. 4664 would require social media platforms to treat users under the age of 18 differently from all other users on their platform, and failure to comply would result in significant monetary penalties. As written, the bill lacks any explanation as to how each social media platform would determine which of their users are under age 18 in order to comply with age-specific prohibitions for a “design, algorithm, practice, affordance, or feature that the platform knows, or which by the exercise of reasonable care should have known, could cause child users to develop an eating disorder. . . .”

Age verification requirements conflict with data minimization principles and other consumer data privacy protection measures. CCIA is concerned that businesses may be forced to collect age verification data, which

<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> 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/>.



would paradoxically force companies to collect a higher volume of data about all users, especially children.<sup>3</sup> Businesses may be forced to collect personal information they don't want to collect and consumers don't want to give, and that data collection creates extra privacy and security risks for everyone. When the Communications Decency Act was passed, there was an effort to sort the online population into kids and adults for different regulatory treatment. That requirement was struck down as unconstitutional because of the infeasibility.<sup>4</sup> Yet, decades later, age authentication still remains a vexing technical and social challenge.<sup>5</sup>

### The bill lacks clear definitions.

As currently drafted, the scope of A. 4664 would likely include information and content that reaches far beyond the likely intended focus. For example, there is a prohibition on promoting "diet products," a term that is undefined in the bill and could reasonably be interpreted to include items like vitamins, nutritional supplements, as well as even exercise or workout videos, all of which young adults could reasonably want to access to promote healthy habits and lifestyle. The combination of overly broad definitions and the lack of definitions for key terms would likely result in an over-moderation of content in order to avoid any risk of running afoul of the law. Further, because definitions are so broad or entirely lacking, the bill is likely to encompass various categories of unambiguously protected speech preventing users from accessing important resources and communities of support.

### Restricting access to the internet for children restricts their First Amendment rights.

The First Amendment, including the right to access information, is applicable to teens.<sup>6</sup> Speech cannot be suppressed in the name of "protecting" minor users online nor is a state legislative body the arbiter of what information is suitable for these young users to access. There are some types of speech that generally do not receive First Amendment protection, for example, CSAM. But the large majority of content, such as speech promoting eating disorders, although highly distasteful, is covered speech, according to the U.S. courts.<sup>7</sup> In response to concerns, many social media platforms have taken steps<sup>8</sup> to direct users in a more positive direction, such as providing links to positive resources or banning certain hashtags or search terms related to eating disorders.<sup>9</sup>

Additionally, there are other reasons why young adults may want to access information about eating disorders. For example, a student may want to conduct educational research on eating disorders for a school science project, or more broadly learn about the detrimental effects of eating disorders, or join community groups that discuss therapeutic measures and recovery strategies. However, under A. 4664, young adults may be unable to access such information to educate themselves and their peers on an important subject.

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<sup>3</sup> 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>.

<sup>4</sup> *Reno v. ACLU*, 521 U.S. 844, 856 (1997) (holding that "even if it were technologically feasible to block minors' access to newsgroups and chat rooms containing discussions of art, politics, or other subjects that potentially elicit 'indecent' or 'patently offensive' contributions, it would not be possible to block their access to that material and 'still allow them access to the remaining content, even if the overwhelming majority of that content was not indecent'").

<sup>5</sup> 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>.

<sup>6</sup> *Reno*, 521 U.S. at 855-56.

<sup>7</sup> *New York v. Ferber*, 458 U.S. 747, 765 (1982); *Brown, et al. v. Ent.t Merchs. Ass'n et al.*, 564 U.S. 786 (2011).

<sup>8</sup> *Pinterest partners with National Eating Disorders Association to support body positivity*, Pinterest (Feb. 21, 2021) <https://newsroom-archive.pinterest.com/pinterest-partners-with-national-eating-disorders-association-to-support-body-positivity/>.

<sup>9</sup> Kate Conger, Kellen Browning, & Erin Wooh, *Eating Disorders and Social Media Prove Difficult to Untangle*, New York Times (Oct. 22, 2021), <https://www.nytimes.com/2021/10/22/technology/social-media-eating-disorders.html>.



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

Sincerely,

Alex Spyropoulos  
Regional Policy Manager, Northeast  
Computer & Communications Industry Association