

January 22, 2025

House Communications, Technology and Innovation Committee
Attn: Delegate Cliff Hayes
1000 Bank Street
Richmond, VA 23219

Re: HB 1624 – “Consumer Data Protection Act; social media platforms; addictive feed prohibited for minors” (Oppose)

Dear Chair Hayes and Members of the House Communications, Technology and Innovation Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 1624. 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. In recent sessions, there has been a notable surge in state legislation concerning children’s online safety. CCIA and our member companies have a shared interest in ensuring strong protections are in place to protect children and provide parents and adults with simple but effective tools to provide a safe online environment for their families.

CCIA firmly believes that children are entitled to a higher level of security and privacy in their online experiences. Currently, our members are integrating robust protective design features into their websites and platforms.² Such features include settings and parental tools to individually tailor younger users’ online use 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 allow parents to block specific sites entirely.³

This is also why CCIA supports implementing a digital citizenship curriculum in schools, to both educate children on proper social media use and help educate parents on what mechanisms they can use to protect their children as they see fit and based on their family’s lived experiences.⁴ In fact, the Virginia General Assembly passed HB 1575 in 2023, establishing the Internet Safety Advisory Council to promote safe use of media and technology by students and teachers in public elementary and secondary schools in the Commonwealth. Among other duties, the Council must develop instructional content on the risks of transmitting personal information on the internet and the importance of privacy protection.

Importantly, 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

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.

nor subject to other legitimate laws cannot be suppressed solely to protect young online users from ideas or images that a legislative body disfavors.⁵ 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 numerous concerns:

1. HB 1624's provisions regarding liability for age verification and parental consent will not achieve the bill's stated objectives.

HB 1624 holds covered social media companies liable for failing to perform age verification to determine that the user is not a minor. However, the bill's obligation to collect additional information associated with age verification conflicts with data minimization principles inherent in typical federal and international privacy and data protection compliance practices. Forcing companies to collect more user data even as others are requiring less data collection would place businesses in an untenable position of picking which state's law to comply with, and which to unintentionally violate.⁶

A recent Pew Research Center study 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 the key drawback of age verification and consent proposals requiring additional data collection — around 89% of Americans are very or somewhat concerned about social media platforms knowing personal information about kids.⁷

Further, the Commission Nationale de l'Informatique et des Libertés (CNIL) analyzed several existing online age verification solutions 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.⁸ Though the intention to keep kids safe online is commendable, this bill undermines that initiative by requiring more data collection about young people.

Serious concerns also 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 their children's last names due to remarriage, adoption, or other cultural or family-oriented decisions. Without verifying that a "parent or legal guardian" is actually a minor's legal parent or guardian, minors could ask other adults that are not their legal parent or guardian to help them register for an account with a covered platform. It is also unclear who would be able to give consent to a minor in foster care or other nuanced familial situations, creating significant equity concerns.

⁵ See, e.g., *Reno v. ACLU*, 521 U.S. 844, 874-75 (1997).

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 *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>.

Further, scenarios where a legal parent or guardian is located or resides outside Virginia create significant confusion for consumers and businesses. Additionally, it is unclear what impact users' employment of virtual private networks (VPNs)⁹ and other mechanisms to avoid location-specification age verification requirements could have on organizations' liability under this bill.

2. Terms such as “addictive” in this online context lack adequate scientific foundation.

When the U.S. Surgeon General recently released an advisory entitled *Social Media and Youth Mental Health*, many were quick to highlight only the harms and risks detailed in the report. 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.¹⁰ Notably, the report provides evidence that social media-based and other digitally-based mental health interventions may also help some children and adolescents by encouraging them to seek mental health care when needed.

Further, the report itself notes the lack of evidence for 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.”¹¹

Moreover, 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. A measured approach to these complicated and sensitive issues requires understanding that correlation does not equal causation. Without any medical consensus on the topic, private businesses will not be able to make coherent or consistent diagnostic assessments of users and what could be considered an “addictive feed.”

⁹ 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/>.

¹⁰ 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>.

¹¹ 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>.

3. This legislation may halt services for individuals under 18, hindering teenagers' internet access and, consequently, restricting their First Amendment right to information. This includes access to supportive online communities without available physical locations.

These burdensome requirements and definitions without adequate scientific foundation could incentivize companies to simply prohibit minors from using digital services rather than face penalties for non-compliance. As previously mentioned, the First Amendment, including the right to access information, applies to teens.¹² 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 younger users to access. Moreover, 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, children of racial or other minority groups may not live in an area where they can easily connect with others that represent and relate to their own unique experiences. An online central meeting place where kids can share their experiences and find support can have positive impacts.

The connected nature of social media has led some regulators to allege that online services may be negatively impacting teenagers' mental health. However, some researchers argue that this theory is not well supported by existing evidence and repeats a 'moral panic' argument frequently associated with new technologies and new modes of communication. Instead, social media effects are nuanced,¹³ individualized, reciprocal over time, and gender-specific. Additionally, a study conducted by researchers from Columbia University, the University of Rochester, the University of Oxford, and the University of Cambridge found no evidence that associations between adolescents' digital technology engagement and mental health problems have increased.¹⁴ Particularly, the study shows that depression has virtually no causal relation to TV or social media.

CCIA believes that an alternative solution to these complex issues is to work with businesses to continue their ongoing private efforts to implement mechanisms such as daily time limits or child-safe searching so that parents can have control over their own child's social media use.

4. Parental consent requirements for online businesses are currently being litigated in many jurisdictions.

Legislation recently enacted that would implement online parental consent and age verification requirements is currently facing numerous legal challenges due to constitutional concerns, and a number of judges have placed laws on hold until these challenges can be fully reviewed, including in Arkansas, California, Mississippi, Ohio, Tennessee, Texas, and Utah.¹⁵ CCIA

¹² See, e.g., *Reno*, *supra* note 5, at 874-75.

¹³ 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>.

¹⁴ 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>.

¹⁵ *NetChoice v. Bonta*, 2025 WL 28610 (N.D. Cal. Jan. 2, 2025); *NetChoice v. Bonta*, 2024 WL 5264045 (N.D. Cal. Dec. 31, 2024); *NetChoice, LLC v. Reyes*, 2024 WL 4135626 (D. Utah Sept. 10, 2024); *NetChoice, LLC v. Fitch*, 2024 WL 3276409 (S.D. Miss. July 1,

recommends that lawmakers permit this issue to be more fully examined by courts before burdening businesses with legislation that risks being invalidated and passing on expensive litigation costs to taxpayers.

Furthermore, HB 1624 contains vague language that makes the bill effectively impossible to enforce in a non-arbitrary manner, thus violating the Fourteenth Amendment's Due Process Clause. The bill's definitions section begins with the phrase, "As used in this chapter, unless the context requires a different meaning," followed by definitions of the key terms. If the bill's definitions can be altered based on a concept as vague as "context," a social media platform cannot know in advance whether it is complying with the law or not. Such a provision is too vague to meet the Due Process Clause's requirements.

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While we share the concerns of the Patron and the House Communications, Technology and Innovation Committee regarding the safety of young people online, we encourage Committee members to resist advancing legislation that is not adequately tailored to this objective. We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the General Assembly considers proposals related to technology policy.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association

2024); *NetChoice, LLC v. Yost*, 716 F. Supp. 3d 539 (S.D. Ohio 2024); *NetChoice, LLC v. Griffin*, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023); *Comput. & Commc'n Indus. Ass'n et al. v. Paxton*, 2024 WL 4051786 (W.D. Tex. Aug. 30, 2024). See also *Free Speech Coal., Inc. v. Skrmetti*, 2024 WL 5248104 (W.D. Tenn. Dec. 30, 2024); *Comput. & Commc'n Indus. Ass'n et al. v. Moody* (N.D. Fla. 24-cv-00438).