



February 18, 2025

Senate Judiciary Committee

Attn: Juliann Jenson

Colorado State Capitol

200 East Colfax Ave

Denver, CO 80203

## Re: SB 25-086 – "Protections for Users of Social Media" (Oppose)

Dear Chair Gonzales and Members of the Senate Judiciary Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 25-086 in advance of the Senate Judiciary Committee hearing on February 19, 2025. 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.

CCIA firmly believes that children are entitled to greater security and privacy online. Our members have designed and developed settings and parental tools to individually tailor younger users' online use to their 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 allow parents to block specific sites entirely.<sup>2</sup> This is also why CCIA supports implementing digital citizenship curricula in schools, to not only educate children on proper social media use but also help teach parents how they can use existing mechanisms and tools to protect their children as they see fit.<sup>3</sup>

However, 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 disfavors.<sup>4</sup> While CCIA shares the goal of increasing online safety, this bill presents the following concerns.

### Requirements under SB 25-086 are not administrable or well defined, creating serious compliance questions for both businesses and users.

The bill's definitions section begins with the phrase, "unless the context otherwise requires," followed by definitions of the key terms. If the bill's definitions can be altered based on a concept as vague as "context," a covered social media platform cannot know in advance

<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> Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/>.

<sup>3</sup> Jordan Rodell, *Why Implementing Education is a Logical Starting Point for Children's Safety Online*, Disruptive Competition Project (Feb. 7, 2023), <https://project-disco.org/privacy/020723-why-implementing-education-is-a-logical-starting-point-for-childrens-safety-online/>.

<sup>4</sup> *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 212–14 (1975). See also *FCC v. Pacifica Found.*, 438 U.S. 726, 749–50 (1978); *Pinkus v. United States*, 436 U.S. 293, 296–98 (1978).

whether it is complying with the law or not. Such a provision is too vague to meet the Due Process Clause's requirements.

The bill's extensive mandates include requirements that users reconfirm their age every 30 minutes, extremely burdensome annual reports that go far beyond conventional transparency reports,<sup>5</sup> a requirement to not just take down but keep down accounts that effectively mandates filtering, and a staffed hotline on search warrants for continuous availability, including 24-hour turn-around time. The bill also retains many problematic unconstitutional provisions from a similar version last year.<sup>6</sup>

**If enacted, SB 25-086 may result in denying services to all users under 18. Limiting access to the internet for children curtails their First Amendment right to information accessibility, including access to supportive communities that may not be open-discussion forums in their physical location.**

The lack of narrowly tailored definitions, as discussed above, could incentivize businesses to simply prohibit minors from using digital services rather than face potential legal action and hefty fines for non-compliance. The First Amendment, including the right to access information, is applicable to teens.<sup>7</sup> Moreover, requiring businesses to deny access to social networking sites or other online resources may also unintentionally restrict children's ability to access and connect with like-minded individuals and communities. For example, children of certain minority groups may not live in an area where they can easily connect with others that represent and relate to their own unique experiences, so an online central meeting place where kids can share their experiences and find support can have positive impacts.<sup>8</sup>

The connected nature of social media has led some to allege that online services may be negatively impacting teenagers' mental health. However, researchers explain that this theory is not well supported by existing evidence and repeats a 'moral panic' argument frequently associated with new technologies and modes of communication. Instead, social media effects are nuanced,<sup>9</sup> individualized, reciprocal over time, and gender-specific. A study conducted by researchers from several leading universities found that there is no evidence that associations between adolescents' digital technology engagement and mental health problems have increased.<sup>10</sup> Particularly, the study shows that depression has virtually no causal relation to TV or social media.

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<sup>5</sup> Compare §§ 2.6-1-1604, 2.6-1-1605 with Virginia Consumer Data Protection Act, Va. Code Ann. § 59.1-580 (2025) and Connecticut Data Privacy Act, Conn. Gen. Stat. § 42-529b (2024) (preserving compliance accountability through far less invasive measures).

<sup>6</sup> Shoshana Weissmann, *Colorado bill would ban users from talking about marijuana and medication, compromise law enforcement investigations, and stop people from knowing when they're being investigated*, R St. Inst. (Mar. 12, 2024), <https://www.rstreet.org/commentary/colorado-bill-would-ban-users-from-talking-about-marijuana-and-medication-compromise-law-enforcement-investigations-and-stop-people-from-knowing-when-theyre-being-investigated/>.

<sup>7</sup> See, e.g., *Reno v. ACLU*, 521 U.S. 844, 874-75 (1997).

<sup>8</sup> *The Importance of Belonging: Developmental Context of Adolescence*, Boston Children's Hospital Digital Wellness Lab (Oct. 2024), <https://digitalwellnesslab.org/research-briefs/young-peoples-sense-of-belonging-online/>.

<sup>9</sup> 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>.

<sup>10</sup> Amy Orben, et al., *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>.



As explained above, CCIA believes that an alternative to solving 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.

## **Age 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.<sup>11</sup> After 25 years, age authentication still remains a vexing technical and social challenge.<sup>12</sup>

Recent state legislation that would implement online age verification or estimation measures is currently facing numerous constitutional challenges, and numerous federal judges have placed laws on hold until these challenges can be fully reviewed, including in Arkansas, California, Mississippi, Ohio, Tennessee, Texas, and Utah.<sup>13</sup> CCIA anticipates that these forthcoming rulings may clarify which age determination requirements are Constitutionally permissible. CCIA therefore 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 proposed regulations would impose duplicative responsibilities on businesses without tangible consumer benefits.**

SB 25-086 would require companies to compile and submit annual reports about their designs and features, including content moderation practices. Many digital services already voluntarily and regularly publish detailed transparency reports on their websites.<sup>14</sup> The Digital Trust and Safety Partnership (DTSP) has developed a set of best practices for enhancing trust and safety online, and assesses its partners' adherence to these practices. DTSP partners are expected to commit to transparency, content moderation disclosures, and other detailed safety recommendations.<sup>15</sup>

Further, it is not clear who would have access to these required reports. Although they are supposed to be submitted to the Attorney General, they can then decide to make it public. The designs, algorithms, and features that would be required to be disclosed under this bill are

<sup>11</sup> *Reno v. ACLU*, 521 U.S. 844, 855-57, 862 (1997).

<sup>12</sup> Jackie Snow, *Why age verification is so difficult for websites*, Wall St. J. (Feb. 27, 2022), <https://www.wsj.com/articles/why-age-verification-is-difficult-for-websites-11645829728>.

<sup>13</sup> See, e.g., *NetChoice v. Bonta*, No. 24-cv-07885, 2025 WL 28610 (N.D. Cal. Jan. 2, 2025); *NetChoice v. Bonta*, No. 22-cv-08861, 2024 WL 5264045 (N.D. Cal. Dec. 31, 2024); *NetChoice, LLC v. Reyes*, No. 23-cv-00911, 2024 WL 4135626 (D. Utah Sept. 10, 2024); *NetChoice, LLC v. Fitch*, No. 24-cv-00170, 2024 WL 3276409 (S.D. Miss. July 1, 2024); *NetChoice, LLC v. Yost*, 716 F. Supp. 3d 539 (S.D. Ohio 2024); *NetChoice, LLC v. Griffin*, No. 23-cv-05105, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023); *Comput. & Commc'ns Indus. Ass'n et al. v. Paxton*, No. 24-cv-00849, 2024 WL 4051786 (W.D. Tex. Aug. 30, 2024).

<sup>14</sup> See, e.g., DTSP, *The Safe Assessments: An Inaugural Evaluation of Trust & Safety Best Practices* 37 (July 2022), [https://dtspartnership.org/wp-content/uploads/2022/07/DTSP\\_Report\\_Safe\\_Assessments.pdf](https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf) (Appendix III: Links to Publicly Available Company Resources).

<sup>15</sup> DTSP, *The Safe Framework Specification* 7-23 (July 2024), [https://dtspartnership.org/wp-content/uploads/2024/07/DTSP\\_Safe-Framework-Specification-7.15.pdf](https://dtspartnership.org/wp-content/uploads/2024/07/DTSP_Safe-Framework-Specification-7.15.pdf).



considered proprietary information, containing trade secrets and other kinds of intellectual property. Without a further definition of who would be receiving these reports and how they would be maintained, provisions may be both overly prescriptive and counterproductive to the legislation's intended goals — rather than protecting children from harmful content, they might have the unintended adverse consequence of giving nefarious foreign agents, purveyors of harmful content, and other bad actors a playbook for circumventing digital services' safety mechanisms. CCIA recommends narrowing the type of information requested in the reports and to whom this information is shared to allow businesses to be more candid, avoid overburdening regulators and businesses, and protect potentially sensitive information.

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

Sincerely,

Aodhan Downey  
State Policy Manager, West  
Computer & Communications Industry Association