

March 19, 2025

Senate Commerce and Labor Committee
Attn: Patrick Ashton
Nevada State Capitol
101 N Carson Street
Carson City, NV 89701

Re: SB 63 – "Nevada Youth Online Safety Act" (Oppose)

Dear Chair Pazina and Members of the Senate Commerce and Labor Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 63 in advance of the Senate Commerce and Labor Committee hearing on March 19, 2025. 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 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.² 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.³

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.⁴ While CCIA shares the goal of increasing online safety, this bill presents the following concerns:

SB 63's provisions regarding age determination and parental consent will not achieve the bill's stated objectives.

The bill text begins with the phrase “unless the context otherwise requires” followed by definitions of certain key terms. If the bill's definitions can be altered based on a concept as

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 Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/> (last updated Feb. 19, 2025).

³ 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/>.

⁴ *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).

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.

Verifying whether a “parent or legal guardian” is in fact a minor’s legal parent or guardian would raise compliance concerns. 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. Many parents and legal guardians do not share their children’s last names due to remarriage, adoption, or other cultural or family-oriented decisions. 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. Scenarios where a legal parent or guardian is located or resides outside Nevada may also create confusion for consumers and businesses. Additionally, it is unclear what impact users’ employment of virtual private networks (VPNs)⁵ and other mechanisms to avoid location-specification age determination requirements may raise.

Currently available tools to conduct age determination are imperfect in estimating users’ ages.

There is no perfect method of age determination, and the more data a method collects, the greater risk it poses to consumer privacy⁶ and small business sustainability.⁷ A recent Digital Trust & Safety Partnership (DTSP) report, *Age Assurance: Guiding Principles and Best Practices*, contains more information regarding guiding principles for age assurance and how digital services have used such principles to develop best practices.⁸ The report found that “smaller companies may not be able to sustain their business” if forced to implement costly age verification methods, and that “[h]ighly accurate age assurance methods may depend on collection of new personal data such as facial imagery or government-issued ID.”⁹

Additionally, age verification software does not process all populations with equal accuracy. The National Institute of Standards and Technology (NIST) recently published a report evaluating six software-based age estimation and age verification tools that estimate a person’s age based on the physical characteristics evident in a photo of their face.¹⁰ The report notes that facial age estimation accuracy is strongly influenced by algorithm, sex, image quality, region-of-birth, age itself, and interactions between those factors, with false positive rates varying across demographics, generally being higher in women compared to men. CCIA encourages lawmakers to consider the current technological limitations in providing reliably accurate age estimation tools across all demographic groups.

⁵ Cristiano Lima, *Utah’s porn crackdown has a VPN problem*, Wash. Post (May 5, 2023), <https://www.washingtonpost.com/politics/2023/05/05/utahs-porn-crackdown-has-vpn-problem/>.

⁶ Kate Ruane, *CDT Files Brief in NetChoice v. Bonta Highlighting Age Verification Technology Risks* (Feb. 10, 2025), <https://cdt.org/insights/cdt-files-brief-in-netchoice-v-bonta-highlighting-age-verification-technology-risks/>.

⁷ Engine, *More Than Just a Number: How Determining User Age Impacts Startups* (Feb. 2024), <https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/66ad1ff867b7114cc6f16b00/1722621944736/More+Than+Just+A+Number+-+Updated+August+2024.pdf>.

⁸ *Age Assurance: Guiding Principles and Best Practices*, Digital Trust & Safety Partnership (Sept. 2023), https://dtspartnership.org/wp-content/uploads/2023/09/DTSP_Age-Assurance-Best-Practices.pdf.

⁹ *Id.* at 10.

¹⁰ Kayee Hanaoka et al., *Face Analysis Technology Evaluation: Age Estimation and Verification (NIST IR 8525)*, Nat’l Inst. Standards & Tech. (May 30, 2024), <https://doi.org/10.6028/NIST.IR.8525>.

If enacted, SB 63 may result in denying services to all users under 18, curtailing their First Amendment rights and ability to access information and support.

The extensive mandates 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.¹¹ 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.¹²

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.

Restricting access to the internet for younger users curtails their First Amendment right to information, denying them entry to supportive online communities that might be unavailable in their local physical location.

The Children's Online Privacy Protection Act (COPPA) and associated rules at the federal level currently regulate how to address users under 13, a bright line that was a result of a lengthy negotiation process that accounted for the rights of all users, including children, while also considering the compliance burden on businesses. To avoid collecting data from users under 13, some businesses chose to shut down various services when COPPA went into effect due to regulatory complexity — it became easier to simply not serve this population. Users between 14 and 17 could face a similar fate as SB 63 would implement more complex vetting requirements tied to parental consent for users under 18.

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, in instances where children may be in unsafe households, this could create an impediment for children seeking communities of support or resources to get help.

The hyperconnected nature of social media has led many 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,

¹¹ See, e.g., *Reno v. ACLU*, 521 U.S. 844, 874-75 (1997).

¹² *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/>.

social media effects are nuanced,¹³ small at best, 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 that there is no evidence that associations between adolescents' digital technology engagement and mental health problems have increased.¹⁴ Particularly, the study shows that depression's relation to both TV and social media use was practically zero. The researchers also acknowledged that it is possible, for example, that as a given technology becomes adopted by most individuals in a group, even individuals who do not use that technology could become indirectly affected by it, either through its impacts on peers or by them being deprived of a novel communication platform in which social life now takes place.

Age determination and parental consent 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.¹⁵ After 25 years, age authentication still remains a vexing technical and social challenge.¹⁶

Recent state legislation that would implement online age verification or determination and parental consent 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.¹⁷ In California, for instance, a federal judge just issued a preliminary injunction against a state age-appropriate design code law with many similar or equivalent provisions, finding the law to be "content-based on its face"¹⁸ and to "likely fail strict scrutiny."¹⁹ 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 Nevada taxpayers.

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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 *Reno v. ACLU*, 521 U.S. 844, 855-57, 862 (1997).

¹⁶ 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>.

¹⁷ 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'n Indus. Ass'n v. Paxton*, No. 24-cv-00849, 2024 WL 4051786 (W.D. Tex. Aug. 30, 2024).

¹⁸ Order Granting Plaintiff's Second Motion for Preliminary Injunction at 13, *NetChoice v. Bonta*, No. 22-cv-08861-BLF (N.D. Cal. Mar. 13, 2025).

¹⁹ *Id.* at 23.



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