

March 5, 2025

House Health and Human Services Committee
Colorado State Capitol
200 E Colfax Ave
Denver, CO 80203-1784

Re: HB 25-1287 – "Concerning tools to protect minor users of social media." – (Oppose)

Dear Chair Brown and Members of the Health and Human Services Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB25-1287 in advance of the Health and Human Services Committee hearing on March 12, 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.

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/>.

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).

If enacted, HB25-1287 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 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 whether it is complying with the law or not. Such a provision is too vague to meet the Due Process Clause's requirements.

The lack of narrowly tailored definitions 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.⁵ 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.⁶

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,⁷ 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.⁸ Particularly, the study shows that depression has virtually no causal relation to TV or social media.

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.

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

⁶ *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/>.

⁷ 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>.

⁸ 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>.

Currently available tools to conduct age assurance 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 privacy⁹ and small business sustainability.¹⁰ 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.¹¹ 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.”¹²

Additionally, age verification software does not process all populations with equal accuracy, as explained recently by the National Institute of Standards and Technology (NIST).¹³ 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.¹⁴ Though the intention to keep kids safe online is commendable, this bill undermines that initiative by requiring more data collection about young people.

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 estimation 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

⁹ 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/>.

¹⁰ 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>.

¹¹ *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.

¹² *Id.* at 10.

¹³ 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>.

¹⁴ *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>.

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.

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.

*

*

*

*

*

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

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 et al. v. Paxton*, No. 24-cv-00849, 2024 WL 4051786 (W.D. Tex. Aug. 30, 2024).