



March 7, 2025

The Honorable Glenn Youngkin
Governor of Virginia
Patrick Henry Building
1111 East Broad Street, 3rd Floor
Richmond, VA 23219

Re: SB 854 – “Consumer Data Protection Act; social media platforms, responsibilities and prohibitions to minors.” (Veto Request)

Dear Governor Youngkin:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully request a veto of SB 854. 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 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. The Council’s duties include developing instructional content on the risks of transmitting personal information on the internet and the importance of privacy protection.

Responsible businesses already provide these types of tools for parents, who are empowered to make choices for their children – choices that can be customized to meet family needs. Parenting decisions should be made by parents, not politicians or private businesses. While CCIA shares the goal of increasing online safety, this bill continues to present the following concerns, even as amended.

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/>.



SB 854’s provisions regarding age determination and parental consent will not achieve the bill’s stated objectives.

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.

SB 854 requires that covered entities (covered “controllers” or “processors” that operate covered “social media platforms”) use “commercially reasonable methods, such as a neutral age screen mechanism, to determine whether a user is a minor” and “allow a parent to give verifiable parental consent” in order to increase or decrease the bill’s one-hour time limit. It does not explain what “verifiable” means or entails. The bill permits the use of a “neutral age screen,” which many sites already employ as part of Children’s Online Privacy Protection Act (COPPA) compliance, by enabling users to input their birthdate. This bill would require it for “minors,” defined in this bill as persons under 16, while COPPA applies to children under 13.

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 Virginia may also create confusion for consumers and businesses. Additionally, it is unclear what impact users’ employment of virtual private networks (VPNs)⁴ and other mechanisms to avoid location-specification age determination requirements may raise.

Limiting access to the internet for minors 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 requires covered entities to limit minors’ use of a covered “social media platform” to “one hour per day, per service or application,” which can be increased—or decreased—by “verifiable parental consent.” This raises constitutional concerns, as the First Amendment, including the right to access information, is applicable to teens.⁵ Moreover, requiring businesses to curtail 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

⁴ 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/>.

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



experiences. An online central meeting place where kids can share their experiences and find support can have positive impacts.

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 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.⁶ After 25 years, age authentication still remains a vexing technical and social challenge.⁷

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.⁸ 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 Virginia taxpayers.

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While we share the Virginia General Assembly’s concerns regarding the safety of young people online, we encourage you to resist signing legislation that is not adequately tailored to this objective and respectfully request a veto of SB 854.

Sincerely,

Tom Mann
State Policy Manager, South
Computer & Communications Industry Association

⁶ *Reno v. ACLU*, 521 U.S. 844, 855-57, 862 (1997).

⁷ 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>.

⁸ 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).