



April 17, 2025

The Honorable Sarah Huckabee Sanders  
500 Woodlane St.  
Little Rock, AR 72201

## Re: SB 611 – “To Amend the Social Media Safety Act.” (Oppose)

Dear Governor Huckabee Sanders:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully request that you veto SB 611. 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> While CCIA shares the goal of increasing online safety, this bill continues to present the following concerns:

### **Federal courts have recently held that laws requiring age verification and parental consent for social media violate the First and Fourteenth Amendments, including in Arkansas.**

Recent state legislation requiring parental controls for social media sites has faced numerous constitutional challenges. Federal courts have held that such laws violate both the First Amendment’s guarantee of free speech and the Fourteenth Amendment’s prohibition on vague laws. An Ohio law was just found unconstitutionally vague in part because it determined which services were regulated based on whether they are “reasonably anticipated to be accessed by children,”<sup>4</sup> much as Section 1(5)(A) of this bill does.

Additionally, federal courts in Arkansas and Ohio have held that such laws violate the First Amendment’s guarantee of free speech. In Arkansas, the court held that such laws were

---

<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/> (last updated Feb. 19, 2025).

<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> *NetChoice v. Yost*, No. 2:24-cv-00047, slip op. at 39 (S.D. Ohio Apr. 16, 2025).

“content-based restriction[s] on speech that [are] not narrowly tailored to serve a compelling government interest.”<sup>5</sup> The Ohio court held that “governments lack the power to prevent children from hearing or saying anything without their parents’ prior consent,”<sup>6</sup> and that making “minors’ ability to contribute or access a wide array of protected First Amendment activity on any number of diverse topics... contingent on securing parental consent” is “an impermissible curtailment of their First Amendment rights.”<sup>7</sup>

Numerous other federal judges have placed similar laws on hold until challenges can be fully reviewed, including in California, Mississippi, Tennessee, Texas, and Utah.<sup>8</sup> In California, for instance, the Ninth Circuit recently issued a temporary stay against a state law with many similar provisions<sup>9</sup> after the District Court found the law to be “content-based on its face”<sup>10</sup> and to “likely fail strict scrutiny.”<sup>11</sup> CCIA therefore recommends that lawmakers avoid burdening businesses with legislation that risks being invalidated and passing on expensive litigation costs to taxpayers.

### **SB 611 lacks narrowly tailored definitions, creating serious compliance questions and safety risks for both businesses and users.**

The bill’s vague language fails to provide legal or business certainty for covered entities. For example, the bill’s definition of “covered social media platform” includes “is used or is likely being used by a minor.” There is no guidance on what “likely being used by a minor” means. Similarly, the bill states that “‘Reasonable age verification’ means to confirm that a person seeking to access a social media platform is at least sixteen (16) years of age,” without any guidance as to how they might do so — especially as a violation is deemed a “strict liability civil offense.” The bill would also require a quarterly audit (“Conduct an audit at least one (1) time per quarter to ensure that the social media platform’s software, application, or other products are not causing minors to engage in compulsory or addiction-driven behavior”), without specifying what framework or criteria, which does not provide businesses with the clarity they need to comply. (It also appears to be using the term “compulsory” and “compulsive” interchangeably, which happens several times in this bill.)

The bill also has several provisions that would undermine user privacy, including mandatory “technological measures to prevent circumvention of age verification protocols, including without limitation: [m]onitoring for suspicious activity, including without limitation the use of false or repeated credentials”), and a prohibition on the use of VPNs (“including without limitation through the use of a virtual privacy network that gives the appearance that the individual is not located in this state when he or she is in this state”). It would also require features that may not be affordable or even feasible, including to “[d]evelop an easily

<sup>5</sup> *NetChoice v. Griffin*, No. 23-cv-05105, 2025 WL 978607 at \*14-15 (W.D. Ark. Mar. 31, 2025); see also *NetChoice v. Yost*, No. 2:24-cv-00047, slip op. at 38-40 (S.D. Ohio Apr. 16, 2025).

<sup>6</sup> *NetChoice v. Yost*, No. 2:24-cv-00047, slip op. at 41 (internal quotation marks omitted).

<sup>7</sup> *Id.* at 30 (internal quotation marks omitted).

<sup>8</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 v. Reyes*, No. 23-cv-00911, 2024 WL 4135626 (D. Utah Sept. 10, 2024); *NetChoice v. Fitch*, No. 24-cv-00170, 2024 WL 3276409 (S.D. Miss. July 1, 2024); *Comput. & Commc’ns Indus. Ass’n et al. v. Paxton*, 747 F. Supp. 3d 1011 (W.D. Tex. 2024).

<sup>9</sup> *NetChoice v. Bonta*, No. 24-cv-07885 (9th Cir. Jan. 28, 2025) (order granting motion for injunctive relief).

<sup>10</sup> *NetChoice v. Bonta*, No. 22-cv-08861, 2025 WL 807961, at \*6 (N.D. Cal. Mar. 13, 2025).

<sup>11</sup> *Id.* at \*14.

accessible online dashboard to allow a parent of a minor user to view and understand his or her child’s use habits on the covered social media platform.” Such a measure would be both cost-prohibitive for small businesses and vague as to compliance requirements: objectively determining what tools allow a parent to “understand” their children’s use habits is not feasible.

### **Terms such as “addiction” or “addictive” in this online context lack adequate scientific foundation.**

Humans engage in various compulsive and repetitive behaviors – some of which may negatively impact physical and/or mental health. These could range from binge eating unhealthy foods to exercising excessively to watching favorite shows for hours on end. However, these behaviors do not necessarily amount to “addictions”. The most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision (DSM-5-TR)* declined to include definitions for “Internet gaming disorder,” “Internet addiction,” “excessive use of the Internet,” or “excessive use of social media,” noting that “[g]ambling disorder is currently the only non-substance-related disorder included in the *DSM-5-TR* chapter ‘Substance-Related and Addictive Disorders.’”<sup>12</sup>

Without any medical consensus on the topic, private businesses cannot be expected to make coherent or consistent diagnostic assessments of what might constitute “addiction” or “addictive feeds.” A simpler and clearer approach would be to specify what types of data businesses may process under what circumstances, rather than attempting to relate such rules to vague concepts like “addiction.”

The bill’s overbroad language would effectively task covered entities with complex psychological and neuroscience diagnoses, among other concerns about vagueness and overbreadth: “Consistent with contemporary understanding of addiction, compulsory behavior, and child cognitive development, ensure that the social media platform does not engage in practices to evoke any addiction or compulsive behaviors in an Arkansas user who is a minor, including without limitation through notifications, recommended content, artificial sense of accomplishment, or engagement with online bots that appear human.” Literally anything, especially in the digital space, could give someone an “artificial sense of accomplishment” – how does one determine when a “sense of accomplishment” is “artificial” vs. genuine?

### **The private right of action would result in the proliferation of frivolous lawsuits and questionable claims, and exorbitant statutory damages.**

SB 611 permits a “parent or guardian whose minor child or legal dependent is authorized access to a social media platform” to bring legal action against covered entities that have been accused of violating these unclear new regulations. The bill would enable a penalty of \$10,000 per violation, with each day considered a new violation, or “damages resulting from a minor accessing a social media platform without his or her parent’s or custodian’s consent,” as well as court costs and “reasonable” attorney’s fees. The bill would provide these automatic “strict liability” statutory awards when “a covered social media platform permits a minor to access

<sup>12</sup> Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision* (2022).



the covered social media platform.” How does a covered entity “permit” this “access”? What if a minor uses someone else’s device or account with or without permission?

By creating a new private right of action, the measure would open the doors of Arkansas’s courthouses to plaintiffs advancing frivolous claims with little evidence of actual injury. As lawsuits prove extremely costly and time-intensive, it is foreseeable that these costs would be passed on to individuals in Arkansas, disproportionately impacting smaller businesses and startups across the state—even if the money goes to a “Crimes Against Children Fund.”<sup>13</sup>

\* \* \* \* \*

While we share concerns regarding the safety of young people online, we encourage you to resist signing legislation that is not adequately tailored to this objective.

Sincerely,

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

---

<sup>13</sup> Trevor Wagener, *State Regulation of Content Moderation Would Create Enormous Legal Costs for Platforms*, Broadband Breakfast (Mar. 23, 2021), <https://broadbandbreakfast.com/trevor-wagener-state-regulation-of-content-moderation-would-create-enormous-legal-costs-for-platforms/>.