



April 8, 2025

Arkansas State Legislature
Attn: House Insurance and Commerce Committee
1 Capitol Mall, Fifth Floor
Little Rock, AR 72201

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

Dear Chair Maddox and Members of the House Insurance and Commerce Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 611. 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 continues to present the following concerns:

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

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).

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 may be using the term “compulsory” when it means “compulsive.” Both are problematic.)

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 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.’”⁵

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

⁵ Am. Psychiatric Ass’n, *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision* (2022).



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? (It also again may be using the term “compulsory” when it means “compulsive.”)

Age determination and parental consent requirements for online businesses are currently being litigated in several jurisdictions, and were just permanently enjoined in Arkansas.

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 estimation measures is currently facing numerous constitutional challenges. In fact, just days ago an Arkansas federal judge invalidated a similar law in part because its age verification measures violated Americans’ right to anonymous speech. The court held that such age verification requirements “are not only an additional hassle,” but “they also require that website visitors forgo the anonymity otherwise available on the internet.”⁸

Numerous other federal judges have placed similar laws on hold until challenges can be fully reviewed, including in California, Mississippi, Ohio, Tennessee, Texas, and Utah.⁹ In California, for instance, the Ninth Circuit recently issued a temporary stay against a state law with many similar provisions¹⁰ after the District Court found the law to be “content-based on its face”¹¹ and to “likely fail strict scrutiny.”¹² 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 even more expensive litigation costs to Arkansas taxpayers.

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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 *NetChoice v. Griffin*, No. 23-cv-05105, 2025 WL 978607, at *8 (W.D. Ark. Mar. 31, 2025) (quoting *Am. Booksellers Found. v. Dean*, 342 F.3d 96, 99 (2d Cir. 2003)).

⁹ 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); *NetChoice v. Yost*, 716 F. Supp. 3d 539 (S.D. Ohio 2024); *Comput. & Commc’ns Indus. Ass’n et al. v. Paxton*, No. 24-cv-00849, 2024 WL 4051786 (W.D. Tex. Aug. 30, 2024).

¹⁰ *NetChoice v. Bonta*, No. 24-cv-07885 (9th Cir. Jan. 28, 2025) (order granting motion for injunctive relief).

¹¹ *NetChoice v. Bonta*, No. 22-cv-08861, 2025 WL 807961, at *6 (N.D. Cal. Mar. 13, 2025).

¹² *Id.* at *14.



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

Sincerely,

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