May 20, 2025

Louisiana State Capitol
Attn: Senate Judiciary Committee
900 North Third Street
Baton Rouge, LA 70804

Re: HB 37 – "Kids Online Protection and Anti-Grooming Act" (Oppose)

Dear Chair Miller and Members of the Senate Judiciary Committee :

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 37. 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:

Federal courts have recently held that similar efforts to regulate websites violate the First and Fourteenth Amendments.

HB 37 defines an "online platform" as one that "predominantly provides a community forum for user generated content," and its definition of "covered platform" exempts "news or sports coverage website or application[s]." Federal courts have held that such provisions violate both

[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).

the First Amendment's guarantee of free speech and the Fourteenth Amendment's prohibition on vague laws.

On March 31, 2025, an Arkansas federal court held that a law regulating "social media companies" based on their "predominant or exclusive function" violated the Fourteenth Amendment's Due Process Clause.[5] Such a law, the court held, is "unconstitutionally vague because it fails to adequately define which entities are subject to its requirements, risking chilling effects and inviting arbitrary enforcement."[6]

The court also held that creating exemptions for "news, sports, entertainment or other content that is preselected by the provider and not user generated… privileges institutional content creators—movie and TV studios, mainstream media outlets, and traditional journalists—over the SoundCloud artist, the TikTok chef, and the citizen journalist" and is therefore "a content-based restriction on both adults' and minors' access to constitutionally protected speech" in violation of the First Amendment.[7] HB 37's language is substantively identical to the provisions found unconstitutional.

Likewise, on April 16, 2025, an Ohio law was found unconstitutionally vague in part because it determined which companies were regulated based on whether they are "reasonably anticipated to be accessed by children."[8] The court referred to this language as "troublingly vague," noting that "On its face, this expansive language would leave many operators unsure as to whether it applies to their website." The same is true of HB 37 defining a "covered platform" as being "reasonably likely to be used[] by a minor": businesses cannot readily determine whether such a law applies to them.

Numerous other federal judges have placed similar laws on hold until challenges can be fully reviewed, including in California, Mississippi, Tennessee, Texas, and Utah.[9] In California, for instance, the Ninth Circuit recently issued a temporary stay against a bill with similar regulations[10] after the District Court found the law to be "content-based on its face"[11] and to "likely fail strict scrutiny."[12] CCIA therefore recommends that lawmakers avoid burdening businesses with legislation that risks being invalidated and passing on expensive litigation costs to taxpayers.

Requirements under HB 37 are not administrable or well defined, creating serious compliance questions for both businesses and users.

HB 37 would create many vague or undefined obligations for covered online services, leaving them unable to know whether they are violating the law. For example, the bill prohibits

[5] *NetChoice v. Griffin*, No. 23-cv-05105, 2025 WL 978607, at *37 (W.D. Ark. Mar. 31, 2025).
[6] *Id.* at *36.
[7] *Id.* at *23-24.
[8] *NetChoice v. Yost*, No. 2:24-cv-00047, 2025 WL 1137485, at *19 (S.D. Ohio Apr. 16, 2025).
[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); *Comput. & Commc'ns Indus. Ass'n et al. v. Paxton*, 747 F. Supp. 3d 1011 (W.D. Tex. 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.

"connecting", defined as "the linking, associating, or interacting of user accounts between an adult and a minor on a covered platform, including but not limited to subscribing or friending," with most of those words undefined—including the term "minor." What about siblings that are 17 and 19? Similarly, the proposed "duty of care" requires "reasonable measures" but doesn't explain how a covered entity would know if they're reasonable. Such standards fail to provide services with the legal clarity they need to ensure compliance.

These serious compliance problems are compounded by the bill's proposed 24-hour turnaround requirement for notifying a minor's "legal representative" (similarly undefined), with no guidance on how a covered platform would obtain the requisite contact information—especially as this obligation could seemingly be triggered by an adult and minor connecting who happen to be siblings—as well as the bill's apparent private right of action for "general damages, court costs, and reasonable attorney fees as ordered by the court."

Limiting teens' internet access curtails their First Amendment right to access information and supportive communities that may not be present in their physical location.

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. As noted above, the First Amendment, including the right to access information, is applicable to teens.[13] Moreover, requiring businesses to deny access to social networking sites or other online resources may also unintentionally restrict minors' 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.[14]

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,[15] individualized, reciprocal over time, and gender-specific. A study conducted by researchers from several leading universities found no evidence that associations between adolescents' digital technology engagement and mental health problems have increased.[16] Particularly, the study shows that depression has virtually no causal relation to TV or social media. Indeed, as the above Ohio court recently explained, "nearly all of the research showing any harmful effects is based on correlation, not evidence of causation."[17]

[13] *See, e.g.*, *Reno v. ACLU*, 521 U.S. 844, 874-75 (1997).
[14] *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/.
[15] 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.
[16] Amy Orben et al., *There Is No Evidence That Associations Between Adolescents' Digital Technology Engagement and Mental Health Problems Have Increased*, Sage J. (May 3, 2021), https://journals.sagepub.com/doi/10.1177/2167702621994549.
[17] *Yost* at *21 (internal quotation marks omitted).

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.

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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,

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