January 29, 2026

New Hampshire House Committee on Commerce and Consumer Affairs
Legislative Office at Granite Place, Room 229
1 Granite Place, Concord, NH 03301

Re: HB 1650 – Relative to an Age-Appropriate Design Code (Oppose)

Dear Chairman Hunt, and Vice Chair Potucek, and Members of the House Committee on Commerce:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 1650. 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.

However, while CCIA shares the goal of increasing online safety for minors, HB 1650 introduces significant constitutional, operational, and privacy concerns that would negatively impact New Hampshire residents and businesses.

HB 1650's method of designating covered services violates the First and Fourteenth Amendments.

In 2024, the Supreme Court ruled that "regulating the content-moderation policies that the major platforms use for their feeds… to change the speech that will be displayed there… is a preference" that states "may not impose."[3] However, HB 1650 mandates specific design requirements and prohibits certain commonly used features such as notifications and engagement mechanisms. By broadly controlling how covered businesses organize, present, and prioritize information to users, the bill creates content-based restrictions on speech that raise serious First Amendment concerns.

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[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 June 10, 2025).

[3] *Moody v. NetChoice*, 144 S. Ct. 2383, 2408 (2024).

Moreover, HB 1650 regulates online services based on whether they are "reasonably likely to be accessed by a minor." Multiple federal courts have found regulating online services on this basis to be unconstitutional. Last year a federal court found that a California law regulating providers on this basis was "content-based on its face"[4] and "likely to fail strict scrutiny."[5] Months later, an Ohio court found such language to be unconstitutionally vague in violation of the Fourteenth Amendment, noting that "this expansive language would leave many operators unsure as to whether it applies to their website."[6]

HB 1650 contains vague standards for processing minors' data.

HB 1650's scope is not well-defined, applying when "The covered business knew or should have known that at least two percent of the audience of the online service, product, or feature includes minors two through 17 years of age." Since approximately 21.5% of the US population is under 18,[7] the bill could easily apply to nearly any online businesses, even those that do not cater specifically to minors (e.g. furniture stores with online websites). Moreover, the bill does not make clear when a business "should have known" that a user is a minor, and such inquiries are necessarily fact-intensive, limiting courts' ability to set broadly applicable precedents. Without objective criteria to make such determinations, companies would be incentivized to collect more data about younger users (such as via age verification) to ensure compliance, even if the bill does not require them to do so.

This incentive structure carries several downsides: First, this increased data collection would undermine privacy for both adults and minors by creating centralized repositories of their sensitive data. Second, small businesses would face competitive disadvantages: A recent Digital Trust & Safety Partnership (DTSP) report, *Age Assurance: Guiding Principles and Best Practices*, found that "smaller companies may not be able to sustain their business" if forced to implement costly age verification or assurance methods.[8] Third, the standard's subjective language risks inconsistent enforcement, leaving companies unable to know whether the law applies to them.

HB 1650 assigns covered businesses vaguely defined responsibilities.

Even if a covered business could determine whether HB 1650 applies to it, there would still be much ambiguity regarding its responsibilities. The bill assigns covered businesses "a minimum duty of care" to ensure that the "personal data of a covered minor and the design of an online service, product, or feature will not result in… Reasonably foreseeable emotional distress to a covered minor" or "Reasonably foreseeable compulsive use of the online service, product, or feature by a covered minor." However, it is unclear what obligations these provisions confer in practice, leaving covered businesses unable to know whether they are violating the law. A covered business has no certain way of ascertaining what constitutes "reasonably foreseeable

[4] *NetChoice v. Bonta*, 770 F. Supp. 3d 1164, 1186 (N.D. Cal. 2025).
[5] *Id.* at 1195.
[6] *NetChoice v. Yost*, 778 F. Supp. 3d 923, 957 (S.D. Ohio 2025).
[7] *QuickFacts: United States*, U.S. Census Bureau (last updated July 1, 2024), https://www.census.gov/quickfacts/fact/table/US/PST045224.
[8] *Age Assurance: Guiding Principles and Best Practices*, Dig. Tr. & Safety P'ship 10 (Sept. 2023), https://dtspartnership.org/wp-content/uploads/2023/09/DTSP_Age-Assurance-Best-Practices.pdf.

emotional distress," or when it can be linked to a given product, service, or design feature. The same is true of the term "compulsive usage," defined as "the repetitive use of a covered business's service that materially disrupts one or more major life activities of a minor, including sleeping, eating, learning, reading, concentrating, communicating, or working." The bill does not specify what constitutes repetitive use, material disruption of the above activities, or a link between the two. Consequently, covered entities will have no way of knowing what measures they need to institute, or how they are to know whether they are succeeding. Defining covered services' obligations using such vague and subjective terms risks arbitrary and inconsistent application of the law.

The bill incentivizes overcollection of minors' data.

HB 1650 also requires that covered businesses not "[s]end push notifications to a covered minor between 12:00 a.m. (midnight) and 6:00 a.m." Such requirements inevitably require that covered operators track when it is nighttime in a given device's location. This requirement therefore effectively mandates location-based tracking of minors' devices, thus undermining the privacy of the very population the bill is designed to protect. Requiring covered operators to track their users serves no benefit, particularly since covered operators regularly offer users the option to turn off notifications themselves.

Businesses operating online depend on clear regulatory certainty across jurisdictions nationwide.

Ambiguous and inconsistent regulation at the state level would undermine this business certainty and deter new entrants, harming competition and consumers. This particularly applies to new small businesses that tend to operate with more limited resources and could be constrained by costs associated with compliance. While larger companies may be able to more easily absorb such costs, it could disproportionately prevent new smaller start-ups from entering the market.

Further, careful consideration of what constitutes best practice should consider inputs from practitioners and relevant stakeholders. Online businesses are already taking steps to ensure a safer and more trustworthy internet — recently, leading online businesses announced[9] that they have been voluntarily participating in the Digital Trust & Safety Partnership (DTSP) to develop and implement best practices and recently reported on the efforts to implement these commitments.[10] We urge lawmakers to study both the benefits and drawbacks of teen safety and privacy requirements and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions.

[9] Margaret Harding McGill, *Tech giants list principles for handling harmful content*, Axios (Feb. 18, 2021), https://www.axios.com/techgiants-list-principles-for-handling-harmful-content-5c9cfba9-05bc-49ad-846a-baf01abf5976.html.

[10] *See, e.g.*, DTSP, *The Safe Assessments: An Inaugural Evaluation of Trust & Safety Best Practices* (July 2022), https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf (Appendix III: Links to Publicly Available Company Resources), at 37.

The concept of age-appropriate design code was intended as regulatory guidance, not law.

The Age Appropriate Design Code of the United Kingdom is not a law, but regulatory guidance, rooted in a UN Convention to which the United States does not belong. It is possible for a business to comply with UK law while not following the UK AADC. In fact, the UK Data Protection Act ("DPA") explicitly states that a "*failure by a person to act in accordance with a provision of a code issued under section 125(4) does not of itself make that person liable to legal proceedings in a court or tribunal.*"[11] The code was designed by the UK Information Commissioner's Office to meet its obligations under the UK DPA to prepare a code or suggestions for safe practice.

Many proponents of the Age Appropriate Design Code in the United States claim that the UK's internet is "still working." However, this mischaracterizes the approach taken in the United Kingdom. UK businesses processing personal data about UK children are not required to implement "*age estimations*" or other requirements in this proposed Act in order to operate. UK legislators avoided imposing "age verification" or similar higher thresholds upon organizations, recognizing the tension between higher accuracy and further data collection.

The UK also does not have the same fundamental and structural laws and rights that Americans do such as the Constitution and its First Amendment, nor does it share Americans' noted affinity for expensive civil litigation. Under U.S. law, where the proposed Act's language would be legally enforceable, covered entities would be effectively forced to implement *age verification* measures to avoid potential liability, as noted above (even if they did not want to direct their services to children).

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While we share the concerns of the sponsor and the Committee regarding the safety of young people online, we encourage Committee members to pause advancing legislation that is not adequately tailored to this objective. For these reasons, we urge the Committee to either study this proposal further or issue a report of "inexpedient to legislate" at this time. 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,

Kyle J. Sepe
State Policy Manager, Northeast Region
Computer & Communications Industry Association

[11] *Age appropriate design: A code of practice for online services*, ICO (retrieved Mar. 2, 2023), https://ico.org.uk/for-organisations/guide-to-data-protection/ico-codes-of-practice/age-appropriate-design-a-code-of-practice-for-online-services/.