



February 6, 2026

House Economic Development & Technology Committee
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

Re: SB 2761 – "Regarding Social Media Platforms; Use By Individuals Under Sixteen Years of Age Prohibited" (Oppose)

Dear Chair Ilagan and Members of the House Economic Development & Technology Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 2761. 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. Lawful speech 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.

The U.S. Supreme Court has repeatedly struck down laws containing speech restrictions intended to prevent harm to minors.

The Supreme Court has repeatedly ruled that the First Amendment applies to teens as well as adults, holding that "[M]inors are entitled to a significant measure of First Amendment

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 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).

protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected materials to them.”⁵ The Court has further held that “to foreclose access to social media altogether is to prevent the user from engaging in the legitimate exercise of First Amendment rights.”⁶ Yet SB 2761 effectively does just this, foreclosing access to a wide range of protected speech for a population clearly entitled to access it.

Because the proposed bill singles out online content and broadly forecloses access to protected speech, it effectively serves as a prior restraint and is subject to strict scrutiny. The Supreme Court has held that strict scrutiny applies to “governmental regulation of content that has an expressive element” or that “impose[s] a disproportionate burden upon those engaged in First Amendment activities.”⁷ Laws triggering strict scrutiny “are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.”⁸ “If a less restrictive alternative would serve the Government’s purpose, the legislature must use that alternative.”⁹ Yet rather than rely on the narrowly targeted tools described above, the proposed bill “with one broad stroke bars access to what for many are the principal sources for knowing current events, checking ads for employment, speaking and listening in the modern public square, and otherwise exploring the vast realms of human thought and knowledge,”¹⁰ in clear violation of the First Amendment.

Restricting access to the internet for younger users limits their access to information and supportive communities.

Requiring businesses to deny 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, since children of certain minority groups may not live in areas where they can easily connect with others who relate to their unique experiences, an online meeting place to share such experiences and find support can have positive impacts.¹¹

Empirical findings regarding social media’s impact on young users are much more nuanced than SB 2761’s introductory legislative findings suggest. When the U.S. Surgeon General released the advisory entitled *Social Media and Youth Mental Health* referenced in these findings, many were quick to highlight only the harms and risks it detailed. However, the advisory is much more complex and also discusses many potential benefits of social media use among children and adolescents. It concludes, for instance, that social media provides young people with communities and connections with others who share identities, abilities, and interests.¹² It can also provide access to important information and create spaces for

⁵ See, e.g., *Erznoznik*, 422 U.S. at 212-13; *Brown v. Ent. Merchs. Ass’n*, 564 U.S. 786, 794 (2011).

⁶ *Packingham v. North Carolina*, 582 U.S. 98, 108 (2017).

⁷ *TikTok Inc. v. Garland*, 604 U.S. 56, 67-68 (2025).

⁸ *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 766 (2018) (citation omitted).

⁹ *United States v. Playboy Ent. Grp.*, 529 U.S. 803, 813 (2000).

¹⁰ *Packingham*, 582 U.S. at 107.

¹¹ *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/>.

¹² Off. of the Surgeon Gen., U.S. Department of Health & Human Services, *Social Media and Youth Mental Health: The U.S. Surgeon General’s Advisory, Social Media Has Both Positive and Negative Impacts on Children and Adolescents* (2023), <https://www.ncbi.nlm.nih.gov/books/NBK594763/>.



self-expression. Research further details that social media can especially benefit marginalized youth, including racial, ethnic, sexual, and gender minorities, as online peer support can mitigate the stresses they face.¹³ Indeed, as an Ohio court noted when striking down a law age-gating social media services last year, “nearly all of the research showing any harmful effects” for minors on social media “is based on correlation, not evidence of causation.”¹⁴

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.

To avoid restricting teens’ access to information, SB 2761 should regulate users under 13 rather than 16 in accordance with established practices.

Due to the nuanced ways in which children under the age of 18 use the internet, it is imperative to appropriately tailor such treatments to respective age groups. For example, if a 15-year-old is conducting research for a school project, it is expected that they would come across, learn from, and discern from a wider array of materials than a 7-year-old on the internet playing video games. We would suggest changing the scope of covered users to be minors under the age of 13 to align with the federal Children’s Online Privacy Protection Act (COPPA) standard.¹⁵ This would also allow for those over 13, who use the internet much differently than their younger peers, to continue to benefit from its resources.

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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,

Aodhan Downey
State Policy Manager, West Region
Computer & Communications Industry Association

¹³ *Id.*; see also Jennifer Marino et al., *Social Media Use and Health and Well-being of Lesbian, Gay, Bisexual, Transgender, and Queer Youth: Systematic Review*, J. Med. Internet Rsch. (Sept. 22, 2021), <https://www.imir.org/2022/9/e38449>.

¹⁴ *NetChoice v. Yost*, 778 F. Supp. 3d 923, 955 (S.D. Ohio 2025).

¹⁵ See 15 U.S.C. § 6501(1).