March 2, 2026

Rhode Island Senate Committee on Judiciary
82 Smith Street
Providence, RI 02903

Re: S 2406 - "Relating to Commercial Law – General Regulatory Provisions – Age Appropriate Design Code" (Oppose)

Dear Chair LaMountain, Vice Chair McKenney, and Members of the Senate Committee on Judiciary:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose S 2406. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.[1] Proposed regulations on the intrastate provision of digital services therefore can have a significant, nationwide impact on CCIA members.

CCIA firmly believes that children are entitled to security and privacy online. Our members have designed and developed 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] However, while CCIA shares the goal of protecting minors online, S 2406 introduces significant compliance concerns that would negatively impact Rhode Island residents and businesses.

S 2406 contains many requirements that are not well-defined. For instance, most privacy laws that prohibit the use of "dark patterns" do so only in specific contexts, such as to obtain consent.[3] S 2406, however, bars "dark patterns" in a vaguely defined array of contexts, prohibiting their use "to cause known children to provide personal data beyond what is reasonably expected to provide that online service, product, or feature to forego privacy protections, or to take any action that the covered entity knows, or has reason to know, is not consistent with the duty to use reasonable care to avoid any heightened risk of harm to children." Furthermore, prohibiting interface designs "with the effect of substantially subverting or impairing user autonomy, decisionmaking, or choice" is itself a vague requirement when used outside the consent context.

Deciding when design features impair *any* choice a consumer might make is far more subjective than determining when such features impair the choice to provide consent. As

[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] *See, e.g.*, Texas Data Privacy and Security Act, Tex. Bus. & Com. Code § 541.001(6)(C) (West 2024), https://statutes.capitol.texas.gov/?tab=1&code=BC&chapter=BC.541&artSec=; Connecticut Data Privacy Act, Conn. Gen. Stat. § 42-515(7)(C) (2024), https://www.cga.ct.gov/2024/sup/chap_743jj.htm.

written, this rule does not give covered entities sufficient information to know if (or when) a given interface design is prohibited. This requirement should therefore be specific to the consent context.

S 2406 also requires covered entities to use "reasonable care to avoid any heightened risk of harm to children caused by such online service, product or feature." Similarly, "heightened risk of harm to children" is defined using broad and undefined terms such as "in a manner that presents a reasonably foreseeable risk," "unlawful disparate impact on," "reputational injury," and "any physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of a minor if the intrusion would be offensive to a reasonable person." While well-intended, it is unclear what obligations these provisions confer in practice, leaving covered businesses unable to know whether they are violating the law. A covered entity has no certain way of ascertaining what constitutes "reasonable care" in this context, nor does it have any means of identifying what specific scenarios it has a duty to protect children from, or whether it is succeeding. Defining covered services' obligations using such vague and subjective terms risks arbitrary and inconsistent application of the law.

* * * * *

We appreciate your consideration of CCIA's comments and stand ready to provide additional information as you consider proposals related to technology policy.

Sincerely,

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