



February 22, 2023

House Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

Re: HB 254 - "Consumer Protection – Social Media Regulation and Safety for Children" (Unfavorable)

Dear Chair Wilson and Members of the House Economic Matters Committee:

On behalf of the Computer & Communications Industry Association (CCIA)¹, I write to express several concerns about HB 254.

CCIA is a 50-year-old not-for-profit international tech trade association that advocates for policy and market conditions that benefit innovation, the tech sector, and consumers. While we certainly support the implementation of digital citizenship curriculum in schools, there are several concerns we would like to raise for other policies this bill would implement.

1. The bill creates compliance risk and confusion for businesses.

Organizations are already familiar with federal laws surrounding child safety online, including COPPA. However, this bill includes vague requirements over authentication that creates serious compliance risk and confusion for organizations. In order to achieve meaningful children’s safety protections, it is imperative for businesses to have a roadmap of how to properly comply and avoid unintentional violations. This measure provides broad strokes of *what* is expected of businesses but does not portend *how* businesses may achieve those objectives. Specifically, it is unclear how organizations are to achieve minimal collection of information about a child, but also must collect sufficient information, including geolocation, to ensure they do not reside outside of the state when confirming that they are an authorized user. It is also unclear what mechanisms will be put in place to address users who are intentionally misleading about their age – is the user held liable for misrepresenting themselves? Or is the business still responsible? Without proper specifications, companies will struggle to comply.

It is important to note that the fine per violation does not allow companies the opportunity to course correct and consult with the Attorney General to find a solutions-based approach. We suggest putting in place a cure period to allow businesses the chance to come into compliance and help ensure that these events are not likely to occur again. This cure period would also help to identify which entities are willing to work with the Attorney General to make sure that their online service is working to implement best practices that help keep children safe, therefore weeding out bad actors who are not working towards that common goal.

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. The reporting requirement is duplicative of efforts already underway.

HB 254 would require companies to compile and submit a report every six months to the Attorney General. Many online platforms already voluntarily and regularly generate such reports and make them publicly available on their websites. Doing so is in fact an evolving industry practice: since its launch over a year ago, DTSP has quickly developed and executed initial assessments of how its member companies are implementing the DTSP Best Practices Framework, which provides a roadmap to meaningfully increase trust and safety online. This roadmap includes several commitments to transparency and content moderation disclosures, in addition to others, to which DTSP members are expected to adhere.

However, the development of such reports is extremely labor-intensive, and requiring detailed documentation with this frequency could disproportionately burden smaller companies with limited resources. CCIA recommends that the reporting requirement be limited to annually instead of biannually to offset the time and labor necessary to produce such detailed reports.

3. The private right of action would result in the proliferation of frivolous lawsuits.

HB 254 permits users to bring legal action against companies that have been accused of violating new regulations. By creating a new private right of action, the measure would open the doors of Maryland's courthouses to plaintiffs advancing frivolous claims with little evidence of actual injury. As lawsuits prove extremely costly and time-intensive, it is foreseeable that these costs would be passed on to individual users and advertisers in Maryland, disproportionately impacting smaller businesses and startups across the state.²

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

Existing U.S. law provides websites and online businesses with legal and regulatory certainty that they will not be held liable for third-party content and conduct. By limiting the liability of digital services for misconduct by third-party users, U.S. law has created a robust Internet ecosystem where commerce, innovation, and free expression thrive — all while enabling providers to take creative and aggressive steps to fight online abuse.

Further, careful consideration of what constitutes best practice should involve conversations with practitioners and relevant stakeholders. Online businesses are already taking steps to ensure a safer and more trustworthy Internet — last year, leading online businesses announced³ that they have been voluntarily participating in the Digital Trust & Safety Partnership (DTSP) to develop and implement best practices and

² Trevor Wagener, *State Regulation of Content Moderation Would Create Enormous Legal Costs for Platforms*, Broadband Breakfast (Mar. 23, 2021), <https://broadbandbreakfast.com/2021/03/trevor-wagener-state-regulation-of-content-moderation-would-create-enormous-legal-costs-for-platforms>.

³ 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>.



recently reported on the efforts to implement these commitments.⁴ We urge lawmakers to study both the benefits and drawbacks of teen safety requirements and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions.

5. Industry efforts to support teen safety and privacy online could be bolstered by educational curricula focused on how to be a good citizen online.

We strongly believe children deserve an enhanced level of security and privacy online. Currently, there are a number of efforts among our members to incorporate protective design features into their websites and platforms.⁵ CCIA's members have been leading the effort in raising the standard for teen safety and privacy across the tech industry by creating new features, settings, parental tools, and protections that are age-appropriate and tailored to the differing developmental needs of young people.

Offering digital citizenship education to children would provide a more holistic approach to fostering children's online safety. Specifically, we laud the efforts to encourage each county board to incorporate age-appropriate lessons on digital citizenship and social media safety into county curriculum.⁶ Enabling young people to properly identify and respond to negative online behavior would promote safer online habits and may serve as a deterrent to engaging in such activities. Due to many of the positive impacts social media and online services as a whole have had on connecting with loved ones, education, resources, and much more, it is imperative to educate young people on how to appropriately and effectively navigate these spaces to further facilitate these positive outcomes from internet use while also giving them the tools to protect themselves when negative occurrences arise.

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We appreciate your consideration of these comments and stand ready to provide additional information as the legislature considers proposals related to technology policy.

Sincerely,

Jordan Rodell
State Policy Manager
Computer & Communications Industry Association

⁴ 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.

⁵ Jordan Rodell, *Why Implementing Education is a Logical Starting Point for Children's Safety Online*, Disruptive Competition Project (Feb. 7, 2023),

<https://www.project-disco.org/privacy/020723-why-implementing-education-is-a-logical-starting-point-for-childrens-safety-online/>.

⁶ See, e.g., New Jersey's recently passed law signed by Governor Phil Murphy (D) on January 4, 2023. Press Release, Phil Murphy, N.J. Governor, Governor Murphy Signs Bipartisan Legislation Establishing First in the Nation K-12 Information Literacy Education (Jan. 4, 2023), <https://www.nj.gov/governor/news/news/562022/20230104b.shtml>.