



May 14, 2024

The Honorable Maria Cantwell
Chair
U.S. Senate Committee on Commerce,
Science, and Transportation
Washington, DC 20510

The Honorable Ted Cruz
Ranking Member
U.S. Senate Committee on Commerce,
Science, and Transportation
Washington, DC 20510

Re: S. 1291, the Protecting Kids on Social Media Act

Dear Chair Cantwell and Ranking Member Cruz:

On behalf of the Software & Information Industry Association (SIIA), we write to provide feedback on S.1291, the Protecting Kids on Social Media Act, which the Senate Committee on Commerce, Science, and Transportation (the Committee) will consider on May 16, 2024. We appreciate the Committee's interest in protecting the safety and privacy of children and teens on the internet. We also appreciate the work the sponsors have done to update the bill to address concerns. Nonetheless, additional changes still need to be made to ensure the bill protects the privacy of all Americans and adequately protects the privacy and safety of children and teens online. Our comments in this letter will refer to the S.1291 substitute amendment, known as the Kids Off Social Media Act (KOSMA), that we believe will serve as the basis for the discussion on May 16.

Background

SIIA is the principal trade association for the software and digital information industries worldwide. Our members include nearly 400 companies and associations reflecting the broad and diverse landscape of digital content providers and users in academic publishing, education technology, and financial information, along with creators of software and platforms used by millions worldwide and companies specializing in data analytics and information services.

SIIA serves as the key champion for the ed tech industry, representing members who develop and deliver software applications, digital instructional content, online and distance learning services, online assessment, and related technologies for millions of children and educational learners across the nation. We believe our kids deserve access to information and the virtual tools critical in keeping them connected and engrained in their communities without fear of being exploited. With appropriate federal action, policymakers have the opportunity to prioritize the privacy and safety of kids while empowering parents to be active participants in how their child operates online.

Child and Teen Privacy and Safety Principles

SIIA agrees with the overall objectives of the KOSMA sponsors to enact policies that protect children and teenagers. Earlier this year, SIIA, along with other stakeholders, released our Child and Teen Privacy and Safety Principles (the SIIA Principles).¹ The SIIA Principles provide a robust set of guidance for policymakers to keep kids safe and connected while holding platforms accountable at the same time. These Principles include minimizing data connected from young people and restricting the use of their data; prohibiting targeted advertising; and providing children, teens, and families with easy-to-understand tools. We also agree that platforms should be more transparent and should undertake risk assessments focused on children and teens.

While KOSMA reflects some of these principles, we are concerned that the bill would have an extraordinarily counterproductive effect on schools and lead to unnecessary, and technologically unfeasible, content restrictions not only on children and teens but on Americans of all ages.

We Urge the Committee to Strike the Eyes on the Board Act

While the Eyes on the Board Act – Title II of KOSMA – is well intentioned, we are deeply concerned about the impact of this legislation on schools across the United States. This Act aims to address the problem of students not paying attention in the classroom by withholding important funding from schools used to make telecommunications and information services more affordable. The bill would require schools to ban “social media” from their networks.

Social media is defined broadly in this Act and may reach information sources that the authors do not intend. Schools may be required to ban news websites or other tools used by educators. As a practical matter, students would still be able to turn off wifi access and reach whatever content their parents might permit via cellular networks that the school cannot regulate. As a result, the bill punishes schools by prohibiting the use of web content that would be useful for educational purposes, but without any discernible practical benefit. We urge the Committee to reject any efforts to include this legislation in KOSMA.

Additionally, the federal requirement for local schools to essentially monitor screen time is an overbroad, unnecessary requirement. Screens are used for a variety of purposes in the classroom but this bill lumps it all together as one category. One student may, for example, use a screen to learn about anatomy when they opt out of the dissection for religious reasons. Another student, for example, may use assistive technology via a screen to communicate with a teacher. This just places another federal burden on a local classroom.

¹ <https://www.keepkidssafeandconnected.com/principles>

We Urge the Committee to Adopt an Actual Knowledge Standard in KOSMA

With respect to Title I of KOSMA, we are concerned that the “knowledge fairly implied on the basis of objective circumstances” standard is a constructive knowledge standard that will hamstring well-intentioned compliance efforts and create unintended consequences that would be counterproductive to the goals of the legislation.

Identifying accounts held by children under 13 and restricting the use of personalized recommendation systems for users under 17 would require platforms to implement a system of age verification. The challenges of age verification are well documented. Among other things, using current technology, this would require platforms to collect significantly more personal information from kids and adults alike. The effect of this would be to increase potential privacy and cybersecurity risks, which also undermines the goal of minimizing the amount of data collected from children.

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We are grateful for your time and consideration of our thoughts and hope to work with the Committee to continue to refine this legislation to achieve the goals of protecting the privacy and safety of children and teens online.

Thank you for your time.

Respectfully,

Paul Lekas
Senior Vice President, Global Public Policy
Software & Information Industry Association