



April 16, 2024

The Honorable Thomas Umberg  
Chair  
Senate Judiciary Committee  
1021 O Street, Room 3240  
Sacramento, CA 95814

Re: SB 976 - "Social Media Youth Addiction Law"

Dear Chair Umberg and members of the committee,

On behalf of Chamber of Progress, a tech industry association supporting public policies to build a more inclusive country in which all people benefit from technological leaps, **we urge you to oppose SB 976** which would actually make children less safe online, compromise online privacy, isolate at-risk youth, and threatens to violate First Amendment rights, likely leading to a protracted and unwinnable legal battle.

**Personalized feeds and Age-Appropriate Design are essential to protecting young users**

Curated feeds play a key role in keeping online experiences safe, including for young people. However, as amended, SB 976 would bar technology platforms from curating social feeds in most cases by forbidding services from tailoring content to younger teens based on age inference. In other words, we worry that **this bill would prevent platforms from implementing age-appropriate design**. Personalized feeds are essential for platforms to protect users from toxic feeds, like those that promote self-harm, eating disorders, and suicide. Without algorithmic content curation, users are likely to be exposed to *more* of this type of harmful content, worsening the problem the SB 976 is trying to address.

Social platforms use algorithmic content curation to create age-appropriate experiences. However, SB 976 would make that impossible in many instances. At a time where internet and social media usage are nearly ubiquitous across the US, it is important to remember that minors represent a broad and diverse group of people online. What may be appropriate for a 17-year-old often is not appropriate for a 13 year old. At the movies, for instance, the ratings G, PG and PG-13 distinguish between different ages of minors. However, this bill ignores this nuance and forces social media to treat them all the same.

As an example, Instagram has announced that it would be stricter about what types of content it recommends to 13 to 18-year-olds – and rolled out new settings that give teens and parents more control over potentially upsetting content.<sup>1</sup> And in 2021, it started steering teens who are searching for disordered eating topics towards helpful support resources.<sup>2</sup> Similarly, Snapchat algorithmically highlights resources, including hotlines for help, if teenagers encounter sexual risks, like catfishing or financial extortion.<sup>3</sup>

Additionally, algorithmically curated feeds can protect users from unwanted attention, and coordinated harassment. Yet, SB 976's provisions would likely break these tools, which rely on algorithms to sift through posts and weed out that upsetting content. Instead of ensuring the internet is a positive place where young people can thrive, this bill would strip platforms from their ability to protect users altogether.

### **SB 976 would undermine the privacy and online experiences for all users**

SB 976 would effectively require social media companies to verify the identity and age of ALL users. SB 976 does not specify how platforms are expected to “reasonably determine” the age of a user, which will lead platforms to pursue explicit age verification to avoid the potential of subsequent litigation. Moreover, SB 976 opens the door to explicit age verification by empowering the Attorney General to “adopt regulations including regulations regarding age verification and parental consent.” Moreover, many adult users reasonably would prefer not to share their identifying information with online services - creating an unpleasant dilemma for adult users: turn over sensitive personal data to access protected speech online, or forego enjoyment of that online service entirely.

### **Consent laws and disparate impact on at-risk youth**

While it is important to encourage parental involvement to ensure minors' safety online, parents are not always best suited to control how their child uses a platform. Consent laws, for example, can be weaponized by divorced parents who share custody of a child. If the parents are at odds with each other, they can use consent laws to override each other's decisions, especially when they disagree on what's in the best interest of their child.

SB 976 would mandate social media companies to obtain “verifiable parental consent” for all users under the age of eighteen. This legislation gives parents far-reaching power to monitor and restrict their children's accounts with access to the minor user's account,

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<sup>1</sup>See <https://about.instagram.com/blog/announcements/giving-teens-age-appropriate-experiences>

<sup>2</sup> See <https://about.instagram.com/blog/announcements/how-were-supporting-people-affected-by-eating-disorders-and-negative-body-image>

<sup>3</sup> See <https://techcrunch.com/2023/09/07/snapchat-adds-new-minor-safety-features-cracks-down-on-age-inappropriate-content/>

including “text, audio, an image, or a video.” SB 976 also requires platforms to implement an effective curfew for minor users that restricts access between “12:00 AM and 6:00 AM, inclusive... and between the hours of 8:00 AM and 3:00 PM, inclusive, Monday through Friday from September through May,” unless modified by the consenting parent. However well-intentioned, this could have dire consequences for the most vulnerable Californian youth.

LGBTQ+ youth, especially those who may live in communities hostile to their identity, see social media as a crucial tool to connect with LGBTQ+ groups, access content from people's shared experiences, maintain positive connections, and reduce perceived isolation.<sup>4</sup> In fact, only 38% of LGBTQ youth report living in affirming households, while 60% reported finding online spaces to be supportive.<sup>5</sup> As such, LGBTQ+ youth use online platforms to seek emotional support, search for information about their identities, and find communities that accept them when their own parents do not.<sup>6</sup> Young LGBTQ+ Californians who are just coming to understand their identities may be cut off from affirming online communities and resources if SB 976 passes.

Even in the most supportive households, the requirement for verifiable consent further escalates privacy risks, as it necessitates the processing of personal information of both the parent and the teen. This dual data collection intensifies the potential cybersecurity vulnerability as any company holding so much personal data would be a ransomware target.<sup>7</sup>

### **SB 976 guarantees litigation and raises major First Amendment issues**

SB 976 stands in direct contradiction to established legal precedent. The First Amendment stringently restricts governmental interference with both the editorial discretion of private entities and the rights of individuals, regardless of age, to access lawful expression. SB 976, through its content-based and speaker-based restrictions, unequivocally infringes upon these fundamental freedoms. Moreover, similar legislative efforts aimed at restricting minors' access to protected speech have been met with significant judicial skepticism. Courts have consistently demanded a compelling justification for such measures, alongside concrete evidence of their necessity and

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<sup>4</sup> Cesar Escobar-Viera, et. al., “Examining Social Media Experiences and Attitudes Toward Technology-Based Interventions for Reducing Social Isolation Among LGBTQ Youth Living in Rural United States: An Online Qualitative Study.” *Frontiers in Digital Health*, (2022).  
<https://pubmed.ncbi.nlm.nih.gov/35832658/>

<sup>5</sup> See <https://www.thetrevorproject.org/survey-2023/>

<sup>6</sup> Michele Ybarra, et. al., “Online social support as a buffer against online and offline peer and sexual victimization among U.S. LGBT and non-LGBT youth.” *Child Abuse & Neglect* vol. 39 (2015).

<https://www.sciencedirect.com/science/article/pii/S014521341400283X?via%3Dihub>

<sup>7</sup> See <https://www.rstreet.org/commentary/if-platforms-are-required-to-have-your-government-ids-and-face-scans-hackers-and-enemy-governments-can-access-them-too/>

effectiveness in mitigating harm. Recent rulings from courts in Arkansas,<sup>8</sup> California,<sup>9</sup> and Ohio<sup>10</sup> underscore the principle that regulatory measures impacting the core editorial and curatorial functions of social media companies, even when intended to safeguard young users, are subject to rigorous constitutional scrutiny under the First Amendment – and the failure to meet this high bar of constitutional scrutiny renders these attempts legally untenable.

For these reasons, we encourage you to **oppose SB 976**.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Singleton". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Singleton".

Robert Singleton  
Director of Policy and Public Affairs, California and US West

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<sup>8</sup> *NetChoice, LLC v. Griffin*, No. 5:23-cv-05105 (W.D. Ark. filed June 29, 2023). “If the State’s purpose is to restrict access to constitutionally protected speech based on the State’s belief that such speech is harmful to minors, then arguably Act 689 would be subject to strict scrutiny.”

<sup>9</sup> *NetChoice, LLC v. Bonta*, No. 5:2022cv08861 (N.D. Cal. 2023). “[T]he Act’s restrictions on the functionality of the services limit the availability and use of information by certain speakers and for certain purposes and thus regulate[s] protected speech.”

<sup>10</sup> *NetChoice, LLC v. Yost*, 2024 WL104336 (S.D. Ohio Jan. 9, 2024). “As the [Supreme] Court explained, ‘[s]uch laws do not enforce parental authority over children’s speech and religion; they impose governmental authority, subject only to a parental veto.’ The Act appears to be exactly that sort of law. And like other content-based regulations, these sorts of laws are subject to strict scrutiny.”