



May 3, 2024

The Honorable Charles Schumer
Majority Leader
United States Senate

The Honorable Mitch McConnell
Minority Leader
United States Senate

Sen. Ben Ray Luján
Chairman
Commerce Subcommittee on Communications,
Media, and Broadband
United States Senate

Sen. John Thune
Ranking Member
Commerce Subcommittee on Communications,
Media, and Broadband
United States Senate

Dear Majority Leader Schumer, Minority Leader McConnell, Chair Luján, and Ranking Member Thune:

As Congress considers Federal Aviation Administration (FAA) reauthorization, a handful of lawmakers have lobbied to attach the Kids Online Safety Act (KOSA) to this must-pass legislation. We write to warn against the inclusion of KOSA, a controversial digital bill that has faced years of opposition from a broad range of constituencies,¹ in an expedited and unrelated FAA package. Impacted youth and online communities deserve for their concerns to be heard in a thoughtful debate over online regulations rather than being sidelined with a backdoor tech policy amendment.

At the heart of KOSA's problems is the fact that the legislation gives state attorneys general and federal policymakers enormous power to sue online platforms for hosting content they deem harmful to children.² In many states, attorneys general have made it clear they believe LGBTQ content and content exploring racism in America are harmful to teens.³

KOSA specifically targets platforms for hosting online content that allows for the "exploitation" and "abuse" of minors. Unfortunately, extremist lawmakers and media personalities have employed a smear campaign adopting this same terminology to attack supporters and members of the LGBTQ community.⁴

When it comes to censoring access to LGBTQ resources, radical lawmakers have not stopped at rhetoric. PEN America recently reported a 30 percent increase in book bans in the US, with some states

¹<https://19thnews.org/2024/03/why-some-lgbtq-groups-oppose-the-current-kids-online-safety-act>

²<https://aboutbgov.com/bck3>

³<https://www.them.us/story/florida-ag-says-school-libraries-are-for-government-speech-not-free-expression>

⁴<https://www.nbcnews.com/feature/nbc-out/gop-candidate-pardoned-trump-compares-lgbtq-movement-pedophilia-n1154771>

banning hundreds of books over the course of a single year.⁵ A third of banned books are about race or racism or include characters of color, and 26 percent have LGBTQ characters or themes.⁶ Again, lawmakers have appropriated terminology around child exploitation to justify bans against books in school libraries.⁷

Notably, the chief sponsor of KOSA, Sen. Marsha Blackburn, has applauded the bill's anti-LGBTQ impacts, highlighting that KOSA would, "protect minor children from the transgender [sic] in this culture and that influence."⁸

In order to censor content supporting LGBTQ and other marginalized communities, state attorneys general would only need the threat of enforcement under KOSA to force far-ranging takedowns of related content online. Attorneys general have similarly used threats under obscenity laws to push corporations like Target to censor LGBTQ products, all without having to convince a judge or jury in court.⁹

While sponsors made changes to KOSA's enforcement mechanisms earlier this year - providing additional authority to the chair of the Federal Trade Commission (FTC) - the legislation continues to give enormous powers to state attorneys general with a history of radical anti-LGBTQ policymaking.

The FTC Chair, too, is not immune from political pressures to abuse KOSA's enforcement powers depending on who sits in the White House.¹⁰

We, the undersigned organizations, share the goal of creating safer spaces for minors online. However, KOSA fails to achieve that goal, and reshaping speech, content moderation, and the digital world for teens is a complex issue that deserves its own debate in Congress. With the FAA reauthorization deadline approaching, we urge you to exclude KOSA as non-germane from legislation brought to the floor.

Thank you for your leadership.

Sincerely,

Chamber of Progress
Equality New Mexico
Freedom Oklahoma
LGBT Tech
TransOhio
Woodhull Freedom Foundation

⁵<https://pen.org/press-release/new-report-book-bans-spike-by-33-over-last-school-year/>

⁶<https://www.latimes.com/world-nation/story/2023-04-22/book-bans-soaring-schools-new-laws-republican-states>

⁷<https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/>

⁸<https://mashable.com/article/kids-online-safety-act-would-target-trans-content-says-marsha-blackburn>

⁹<https://truthout.org/articles/7-gop-attorneys-general-threaten-target-calling-lgbtq-merchandise-obscene/>

¹⁰ <https://19thnews.org/2024/03/why-some-lgbtq-groups-oppose-the-current-kids-online-safety-act/>