

SIIA Comment to NTIA Request for Comment on Protecting Kids Online

On behalf of the Software & Information Industry Association (SIIA), we appreciate the opportunity to provide feedback on the National Telecommunications and Information Administration’s (NTIA’s) efforts to protect kids and teens online. Our comments focus on the complex relationship between social media usage and mental health concerns, and the broad diversity of online platforms that present a range of different risks and benefits to kids and teens.

SIIA is the principal trade association for those in the business of information. SIIA represents over 380 companies in academic publishing, education technology, financial information, software, platforms used by millions worldwide, and data analytics and information services. Our mission is to protect the three prongs of a healthy information environment essential to that business: creation, dissemination and productive use.

Responsible online platforms—including not only social media platforms but a whole range of ways in which users access information, engage with one another, and partake of e-commerce activity myriad services—typically offer a suite of tools available to teens, parents and families. These may include controls that enable parents to prevent access to certain sites or even entire platforms, which themselves can be set to apply at specific times.¹ Platforms have also implemented their own policies against bullying, hate speech, and misinformation, all designed to protect users from malicious actors, but especially children and teens.² SIIA believes that there is always more that can and should be done to protect kids online. Policies must be developed in a measured and nuanced way to avoid cutting off kids and teens from information and from opportunities to both learn and build virtual communities.

Identifying Health, Safety, and Privacy Risks and Potential Benefits

1. What are the current and emerging risks of harm to minors associated with social media and other online platforms?

We believe it is important to understand the nuances among services that are defined as “online platforms” and “social media.”³ The online world contains a variety of platforms not all of which can be considered social media. Various platforms will have risks and potential benefits that are materially different from each other. As this study conducted by the American Psychological Association reveals, the relationship between social media platforms in general and mental health concerns is far from conclusive.⁴ Addressing those challenges that do exist

¹ [Use parental controls on your child's iPhone, iPad, and iPod touch - Apple Support.](#)

² [Promoting Safety and Expression | Meta](#); [Community Guidelines at Twitch.](#)

³ Merriam-Webster, for example, defines social media broadly as “forms of electronic communication (such as websites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content (such as videos).”

⁴ American Psychological Association, *Health advisory on social media use in adolescence*, (May 2023),

requires an understanding of the user experience in question. Furthermore, any policy measures should be calibrated against the benefits of information access to kids and teens. Preserving access to useful content online can be essential to prevent harm to minors, and young people must have access to information to support their development, curiosity, and need for community. Choking off the flow of information is itself a risk.

The risks of platform use vary by the service’s design as well as its context. For example, design elements create disparities in risk: one-on-one chat can present a higher risk of exploitation and manipulation, for example. Conversely, viral content that may be more prevalent on widespread platforms presents a greater risk of harm if this content constitutes misinformation, which could mislead a broad swath of users.

The context for information presented online can also increase or decrease its risk to minors. For example, well-regarded news sites such as the Associated Press that appear in social media feeds empower kids to become informed while reducing the risk of harmful interactions simply because they do not present the same opportunities for exploitation, misinformation or hate speech. Because differences among social media platforms are not only a reality, but a necessary feature of the digital ecosystem, it will be important to define the harms and terms being used to better understand the threats and corresponding challenges to protecting minors online.

- 2. What are the current and emerging health and other benefits—or potential benefits—to minors associated with social media and other online platforms (including to physical, cognitive, mental, and socio-emotional well-being)?**
 - a. Are these benefits generally available to most minors? Do minors in specific demographic or age groups or youths with accessibility requirements benefit in particular (for example, blind youth, low-income youth, or youth affiliated by gender, sexuality, race, or religion)?**
 - b. Is there a particularly sensitive developmental period during which minors are more likely to obtain certain benefits?**

Digital platforms have played a key role in creating community around the challenges faced by kids and teenagers. Many teens use social media to engage with their communities, connect with family and friends, and explore their hobbies and interests. Social media enables interested teens to connect with church groups, community centers, sports leagues, universities, and educational tools. These sites are also often how teens access beneficial information, including public service announcements and emergency alerts from law enforcement and first responders who use social media to disseminate pertinent information. Social media also helps young people build skills relevant to the modern-day workforce and take advantage of opportunities they learn about online like being recruited for colleges, part-time jobs, and serving in the military.

<https://www.apa.org/topics/social-media-internet/health-advisory-adolescent-social-media-use>.



Empowering these connections is even more salient for those belonging to underrepresented groups. Such discussions are particularly relevant to development around race and gender, and social media’s enhanced capacity to connect those with similar societal challenges has resulted in an increasing number of minors having access to information around these topics. For example, LGBT teenagers are more likely than non-LGBT teenagers to search online for information about sexuality or sexual attraction (62% vs. 12%), health and medical information (81% vs. 46%), and sexual health information (19% vs. 5%).⁵ Indeed, online spaces play a crucial role in identity formation and resilience for LGBT—and racial- and ethnic-minority—adolescents.⁶ Limiting minors’ access to information deemed controversial would deal an unfortunate blow to this substantial benefit, as it would disproportionately impact underrepresented populations that are more likely to search for these topics.

Recent court cases recognize constitutional challenges with restricting this type of expression as well. In *NetChoice v. Bonta*, for example, a US District Court Judge [granted a preliminary injunction](#) against the implementation of the California Age-Appropriate Design Code because its provisions that restricted user speech fell short of both the strict scrutiny standard applied to speech restrictions—as well as even the lesser standard of scrutiny applied to commercial speech.⁷ Cases such as *Ashcroft v. ACLU* similarly find such restrictions unconstitutional, given the “number of plausible, less restrictive alternatives” to protecting kids without restricting their speech online.⁸ It is important, then, that laws and regulations passed to protect children and teens online recognize this First Amendment right. This is particularly relevant for teens, who possess a clear constitutional right to receive the practical benefits of free expression online – recognizing this right will be necessary to pass Constitutional muster.

The Status of Current Practices

6. What practices and technologies do social media and other online platform providers employ today that exert a significant positive or negative effect on minors’ health, safety, and privacy?

a. What practices and technologies do specific social media and other online platform providers employ today for assessing, preventing, and mitigating harms? What specific practices for being especially effective or ineffective?

b. Have the practices of social media and other online platforms evolved over time to enhance or undercut minors’ health and safety, including their privacy, in ways that should be taken into account for future efforts? If so, how? For

⁵ Gay, Lesbian & Straight Education Network, *Out Online: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth on the Internet* (2013), https://www.glsen.org/sites/default/files/2020-01/Out_Online_Full_Report_2013.pdf.

⁶ See Linda Charmaraman, J. Maya Hernandez, Rachel Hodes, *Marginalized and Understudied Populations Using Digital Media* in *Handbook of Adolescent Digital Media Use and Mental Health* (2022), <https://www.cambridge.org/core/books/handbook-of-adolescent-digital-media-use-and-mental-health/marginalized-and-understudied-populations-using-digital-media/11A8E212846491FFEA02A32EAFDC401E>.

⁷ See *NetChoice, LLC v. Bonta*, 5:22-cv-08861.

⁸ *Ashcroft v. ACLU*, 542 U.S. 656 (2004).



example, what factors have been significant in shaping any such evolution that are likely to have similar bearing on the future of industry practices?

Our members believe families must be given appropriate ways to control access to the online world. This applies to parents, of course, but also children, especially teens, who benefit from access to information and opportunities to socialize with their friends and peers via these platforms. At their core, each of the following tools are designed to empower families.

Some of these examples include:

- Parental supervision on messenger apps, which enables parents to see how teens spend their time as well as who they interact with on these platforms, and tools for teens themselves to limit unwanted direct messages, especially from suspicious adults
- “Quiet mode” for entire platforms at certain times of day and the ability to set time limits for platform use
- Youth education programs regarding social media and platform use, and collaborative tools to help both parents and teens guard against mental health risks caused by interactions on platforms
- Founding a new platform designed to proactively prevent teens’ (and adults’) intimate images from spreading online
- Ensuring only age-appropriate ads are shown to teens by preventing previous engagements by teens across social media feeds from informing targeted ads, and giving teens the ability to select ads they would prefer not to view

More, however, can be done. In addition to existing tools, families—both parents and kids—need greater education around the risks and opportunities of social media use. Furthermore, platforms must continue to work to moderate harmful content so it is not made available to children. This requires a significant upfront investment in personnel and technology for platforms to remove harmful content and protect kids online, but is necessary in a world where minors are spending an increasing amount of time on social media.

Identifying Proposed Guidance and/or Policies

16. What guidance, if any, should the United States government issue to advance minors' health, safety, and/or privacy online?

- a. What guidance, if any, might assist parents, guardians, caregivers and others in protecting the health, safety, and privacy of minors who use online platforms, including possible tools, their usage and potential drawbacks?**
- b. What type of guidance, if any, might be offered to social media or other online platforms either generally or to specific categories of such?**
- c. What are the benefits or downsides of the U.S. government offering such guidance, and which agencies or offices within the government are best positioned to do so?**



d. How best can we ensure that such guidance reflects the evolving consensus of experts across relevant fields, including the mental health and medical community, technical experts, child development experts, parents and caregiver groups, and other stakeholders dedicated to advancing the interests of minors, and so on?

e. How best can the U.S. government encourage compliance with any guidance issued to advance minors' health, safety, and/or privacy online?

Online “harms” are not universally agreed upon, with definitions varying by administration or state. For example, state statutes that have attempted to regulate platform activity routinely get struck down under the First Amendment, which requires both clarity and precision when legislatively addressing the dissemination of speech. Rather than attempt to require platforms to adopt a particular viewpoint or enforce specific forms of content, more policymakers could consider encouraging platforms have systems in place to address illegal and potentially harmful content – including transparency with parents and users about what systems, processes, and policies are in place to protect young users – that are based on a growing body of industry best practices related to content moderation, safety, and freedom of expression. Through guidance around routine public reporting, platforms can advance transparency about the effectiveness of these systems.

In all circumstances, parental choice remains critical. Providers have a responsibility to protect their users online and provide information about how to get in-person help. Giving families the opportunity to learn about safe social media use is fundamental to the effectiveness of technical safety protocols, and thus goes beyond placing the onus only on app providers. This is particularly salient in a multi-platform world, where the risk of use is highly dependent on the platform itself.

17. What policy actions could be taken, whether by the U.S. Congress, federal agencies, enforcement authorities, or other actors, to advance minors' online health, safety, and/or privacy? What specific regulatory areas of focus would advance protections?

As discussed above, applying a one-size-fits-all mandate to all online platforms would be far too broad to be effective. Minors are part of the information age where access to knowledge and experiences online—through sources like Wikipedia, hobby or interest-based forums, review sites, e-commerce and other exchanges of information, goods, and services—help create well-informed digital citizens and savvy consumers. Online resources are rich and varied, and are uniquely designed to mitigate the risks that any one type of service might face. No single set of design elements or regulations will serve to solve the myriad issues the companies themselves are historically competent at solving.

The challenge of delineating among categories also exists between children and teens themselves. Online freedom is essential for teens in particular, who additionally have their own



rights to both access and speech under the Constitution.⁹ Imposing limits on teenagers' access to platforms and services, especially through parental consent mechanisms, may restrict the ability of teenagers to view or discuss information about sensitive topics, particularly those where they may be uncomfortable providing parental notice or seeking parental consent.

18. How best can the U.S. government establish long-term partnerships with social media and other online platform providers to ensure that evolving needs with respect to minors' online health, safety, and/or privacy are addressed as quickly as possible?

Digital platforms will need assistance in both their public education efforts as well as attempts to combat the onslaught of toxic content and misinformation produced and disseminated by bad actors the world over. Currently in the US, we are seeing several state laws attempting to infringe or remove Section 230 protections that enable platforms to remove harmful, misleading or offensive content.¹⁰ These laws would hamstring the ability to protect kids and teens online because platforms would simply be powerless to remove material created and disseminated by malicious actors.

This is not only an issue of content moderation, either. Platforms are vulnerable to cyberattacks by private entities and even foreign governments that result in cybersecurity breaches, weakening user privacy and exposing children and teens' data despite companies' best efforts to maintain privacy protections. Platforms that hold large amounts of user data will need to collaborate with the US government to develop and deploy increasingly advanced security technologies, as well as work closely with the executive branch specifically on reporting and response protocols when breaches do inevitably occur.

Reliable Sources of Concrete Information

22. Should platforms provide more data to researchers and, if so, what would that kind of data sharing look like, what kind of data would be most useful, how would it account for the privacy of users, and what are the best models for sharing data, while also safeguarding users and their privacy?

A well-intentioned and productive relationship between digital platforms, academia and civil society will be essential to continuing to develop our understanding of digital platforms' benefits and potential harms. Providing data to these groups is vital for continuing to develop our evolving understanding of the complex interplay between various types of digital platforms, users and mental health. It will help educate families and the public regarding risks and opportunities. Finally, scholarship will also provide valuable feedback to social media companies as they develop their own platforms and algorithms with user safety and security in mind. Although not all data possessed by platforms can be shared while respecting user privacy and a

⁹ See *Am. Amusement Mach. Ass'n v. Kendrick*, 244 F.3d 572 (7th Cir. 2001) (granting preliminary injunction against ordinance limiting access to video games that depict violence based on children's right to access and consume information and media).

¹⁰ Ch. 2021-32, Laws of Fla. (S.B. 7072); 2021 Tex. Gen. Laws 3904 (H.B. 20).



platform’s own proprietary algorithms, deidentified digital data has already resulted in more nuanced scholarship, which reveals a focus on toxic or addictive content—rather than time spent on a platform—may serve as the best barometer for social media harms to all users, including children and teens.¹¹

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SIIA appreciates the opportunity given by the NTIA to comment on the Kids Online Health and Safety Task Force RFC. The United States is a thought leader in technology innovation across the globe. Here, NTIA has the possibility to create an innovative process that truly protects the rights, privacy, and safety of kids while also embracing the diversity of the ed tech field, allowing innovation and creating a competitive advantage with responsible compliance with federal compliance.

SIIA and our member companies look forward to further working with the Administration and other federal agencies to support policies that advance educational technology and provide children with greater and safer access to high-quality, innovative online platforms. Please feel free to reach out to us with questions or to discuss these issues further.

¹¹ Kleinberg et al., *The Challenge of Understanding What Users Want: Inconsistent Preferences and Engagement Optimization* (October 2023), <https://arxiv.org/pdf/2202.11776.pdf>.