



July 26, 2023

The Honorable Maria Cantwell
Chairwoman
Committee on Commerce, Science, and
Transportation
United States Senate
254 Russell Senate Office Building
Washington, D.C. 50510

The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science, and
Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, D.C. 50510

Re: July 27, 2023, Committee Markup of S. 1409, the Kids Online Safety Act, and S. 1418, the Children and Teens' Online Privacy Act

Dear Chair Cantwell, Ranking Member Cruz, and Senate Commerce, Science, and Transportation Committee Members,

On behalf of the millions of taxpayers and consumers represented by the Taxpayers Protection Alliance (TPA), we write to you in opposition to S. 1409, the Kids Online Safety Act (KOSA), and S. 1418, the Children and Teens' Online Privacy Act (COPPA 2.0). While we applaud your efforts to improve children's privacy and online safety, these two pieces of legislation fail to achieve these laudable goals and, in fact, would create greater risks for America's youth in the technology age.

S. 1409, introduced by Sens. Richard Blumenthal (D-Conn.) and Marsha Blackburn (R-Tenn.), would broadly hold online platforms liable if their design and operation of products and services fails to mitigate wide-ranging societal issues such as mental health, suicide, and addiction. This untenable standard will result in platforms being forced to censor perfectly legal speech, including that of non-minors, fearing the liability repercussions created by KOSA's Sec. 3. Online platforms provide a valuable space where discourse around complex issues that range the political spectrum can occur. However, if enacted, KOSA would disassemble this infrastructure on any issue that any state Attorney General finds harmful to children. For example, debates on the cause and treatment for complex issues such as eating disorders, substance abuse, or depression could be censored, resulting in those suffering and searching for assistance unable to research.

Furthermore, in order to ensure platforms' compliance, KOSA would require reporting on age-specific statistics for users under sixteen years old. This would result in the mass collection of aggregate minor user data, which is directly opposite of what laws protecting children's online activity should do. It would also ultimately lead to age verification requirements for platforms, something which the U.S. Court of Appeals for the Third Circuit ruled as having serious First Amendment concerns in *ACLU v. Ashcroft* (2002) and again in *ACLU v. Mukasey* (2008).

Both of these cases were directly centered around the implementation of the Children's Online Privacy Protection Act of 1998 (COPPA). During this markup, your committee will review S. 1418, the Children and Teens' Online Privacy Act (COPPA 2.0), introduced by Sens. Ed Markey (D-Mass.) and Bill Cassidy (R-La.). Unfortunately, instead of heeding the courts' several rulings on the constitutionality of age verification and its impacts on Americans' First Amendment rights, this legislation doubles down and outright requires it. However, COPPA 2.0 goes far beyond doubling down on unconstitutional age verification by doing away with the "actual knowledge" standard of COPPA, unreasonably expanding the number of websites subject to burdensome regulation.

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COPPA 2.0 would also increase the age of consent for data collection from 13 to 16 and ban targeted advertising to children. By revising parental consent standards, this legislation wrongly assumes that every child has a positive relationship with their parents and their ability to access information through the internet is predicated upon this. Children with estranged parents, foster youth or LGBTQ children seeking to access websites that their parents may disagree with could all see their ability to seek information barred. The civil rights questions raised by this legislation are astounding.

While these proposals will certainly fail to protect children in the technology age, Congress should consider comprehensive data privacy and security legislation for all Americans. Again, while we applaud your committee's efforts to create a safe environment for youth, unconstitutional age verifications, ignorant consent requirements, heightened data collection, and a fundamental misunderstanding of targeted advertising do not achieve this goal, and, in fact, work to contradict it. We urge you to reject advancing KOSA and COPPA 2.0, and instead work towards protecting the data privacy of all Americans.

Sincerely,



David Williams
President