



The Honorable Chair Kesha Ram Hinsdale  
Vermont State House  
115 State Street  
Montpelier, VT  
05633-5301

Re: S. 289 - An Act relating to age-appropriate design code

**February 9, 2024**

Dear Chair Hinsdale and members of the Committee,

Thank you for the opportunity to submit testimony for the record regarding S. 289. On behalf of the Chamber of Progress, a tech industry coalition promoting technology's progressive future, I urge you to oppose S. 289 which would compromise online privacy and degrade online services for users of all ages.

Our organization works to ensure that all Americans benefit from technological leaps. Our corporate partners include companies like Amazon, Meta, Snap and Apple, but our partners do not have a vote on or veto over our positions.

One of Chamber of Progress's top priorities is ensuring children have access to safe and inclusive online spaces. Unfortunately, many regulations and policies modeled after Age-Appropriate Design Code with the intention of protecting children may end up doing more harm than good by threatening privacy protections and exacerbating the vulnerabilities of marginalized young people.

**Age verification requires threaten personal privacy**

Age-Appropriate Design Code requires covered platforms to reasonably determine the age of its users, whether through assumptions derived from the users' consumption of certain content, or through affirmative age verification methods. In either case, requiring users to verify age - whether through inserting a birthdate, or uploading an ID, or even via biometric methods - is privacy-invasive and requires widespread data collection. Such techniques would have to be used for every user, not just children, resulting in increased data collection for everyone on the internet.

**Data Protection Impact Assessments are potentially litigiously cumbersome**



For any website that is “likely to be accessed by children,” S. 289 requires a platform to create and deliver Data Protection Impact Assessments (DPIAs) each time the service creates a new service, product, or feature. Because all websites could be accessed by a child and all websites carry a nonzero risk of harm to children, S. 289’s DPIA requirements effectively chill internet services from developing new products and features—even products and features that could materially benefit and improve safety for children—to avoid future litigation risks associated with their DPIAs.

### **Platforms may over-moderate for all users**

The requirements as proposed in S. 289 would require that covered platforms act in the “best interests” of child users and create a plan to prevent the risk of children experiencing “physical or financial harm. . . psychological or emotional harm” without providing clear guidance about what that entails.

While these are important considerations, in practice, this requirement would make each site the arbiter of appropriate content for children of all age ranges and circumstances. Platforms would face difficult choices about what types of content to consider “harmful,” further complicating content moderation.

Platforms have long understood the concerns raised by many stakeholders, from parents to schools to government entities, that children require greater protection online. While state and federal policymakers have explored legislation to address this issue with mixed results, many platforms are already prioritizing child safety, and are putting in place tools and procedures aimed at child safety on their platforms.

For example, YouTube Kids is a child-focused platform through which parents choose the types of videos their children can view, such as instructional videos on American Sign Language, or entertaining videos like those of peers playing Minecraft.<sup>1</sup> With data privacy in mind, YouTube Kids does not allow children to share personal information with third parties or make it publicly available.<sup>2</sup> YouTube’s parent company, Google, has a Family Link tool that assists parents in supervising their children under 13, providing features such as screen monitoring and app permissions.<sup>3</sup> What’s more, Google does not present

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<sup>1</sup> See Youtube Kids. <https://www.youtubekids.com/>

<sup>2</sup> YouTube Kids, “Privacy Notice” YouTube, (2023). <https://kids.youtube.com/t/privacynotice>

<sup>3</sup> Google, “Family Link & Parental Supervision” Google, (2023). [https://support.google.com/families/answer/7101025?hl=en&ref\\_topic=7327495&sjid=9062330972920503214-NA#zippy=%2Cgoogle-services-your-childs-google-account%2Cchow-aaccount-management-works](https://support.google.com/families/answer/7101025?hl=en&ref_topic=7327495&sjid=9062330972920503214-NA#zippy=%2Cgoogle-services-your-childs-google-account%2Cchow-account-management-works)



personalized ads to children, meaning ads are not based on information from a child's account or profile.

We agree with the need to build in greater protections for young users, but some of this bill's requirements would undermine the protections it tries to create and would end up harming vulnerable users. Accordingly, we request you oppose S. 289.

Thank you,

Alain Xiong-Calmes  
Director of State & Local Government Affairs