

Maryland HB 772

OPPOSITION TESTIMONY

February 20, 2024

Good Morning Members of the Committee. My name is Amy Bos and I am the Director of State and Federal Affairs at NetChoice. NetChoice is a trade association of leading internet businesses. Our mission is to make the internet safe for free enterprise and free expression.

We respectfully urge the Committee to oppose advancing HB 772.

The legislation would immediately invite constitutional challenges as the act would infringe on freedom of speech by making censorship the default state of devices activated in Maryland. In fact, the Supreme Court has already struck down a similar bill after finding it violated the First Amendment rights to receive information and to free speech. Congress passed the Communications Decency Act in 1996, an attempt to restrict the access of minors to obscene content on the internet. The law was almost quickly enjoined and then struck down as unconstitutional by a District Court. The federal government lost on appeal to the Supreme Court in the 9-0, landmark case, *Reno v. ACLU*.

Additionally, the bill represents a major government incursion into the traditional role that the family has played. Parents are the best stewards of their own children, not the state. HB 772 could give families the false impression that parental oversight into the online practices of their kids is no longer necessary, thereby making it more likely young people are exposed to vile content.

Maryland parents are the ultimate arbiters of their children's wellbeing and moral development. A terrible but altogether predictable side effect of HB 772 is that the bill would give parents a false sense of security. Filtering technology is only so precise, and even the most sophisticated software will only keep out a certain number of online threats. That means, even in the most secure environments, parents need to be overseeing their children's online activity. HB 772 sends a false all-clear message to parents who would otherwise remain vigilant.

Maryland parents need to be empowered to make the decisions they deem appropriate for their own children. Government should not be making the de facto choice on their behalf that a family must then remedy. If the state wants to be a genuine partner to parents in their efforts to keep kids safe online, there are much more targeted, constitutional remedies available.

Finally, the bill is more likely to freeze the innovation of parental control products rather than spur them. As it stands, there are many different options in the marketplace for parents to choose from, and manufacturers and developers compete with each other to create more attractive products.

Maryland should look for a more narrowly tailored solution if it wants to address these issues constitutionally. *States, like Virginia, have begun to consider online and social media specific education in the classroom. This would help arm young people with the information they need to keep their data more secure, focused on age appropriate content, and away from bad actors who would do them harm.*

Again, there is no question, S 1253 would quickly meet the same fate as the Communications Decency Act. The confusion and significant cost to Maryland taxpayers a challenge would bring is best avoided in an already settled case as this one.

Again, we urge the Committee To avoid these negative outcomes, and reject HB 772. I appreciate the opportunity to provide the committee with our thoughts on this important matter and am happy to answer any questions you may have.

As it stands, dozens of manufacturers and other private companies offer device filtering technology and other parental control software to help kids stay safe online. Due to the incentives of the free market, all of those entities compete tirelessly against each other for business. That means technology is always improving, services are getting more sophisticated and easy to use, and over time kids are safer for it. HB 772 would take a wrecking ball to the entire private market of these offerings. With broad, confusing language, and legal liability attached, the freedom to innovate would be stripped away.

A one-size-fits-all approach to filtering and child safety would need to be adopted in order for companies to be sure that they would avoid lawsuits or government sanction.