



Statement for the Record
Hearing Before the Subcommittee on Commerce, Manufacturing, and Trade
Energy and Commerce Committee
United States House of Representatives
“Legislative Solutions to Protect Children and Teens Online”

December 2, 2025

Dear Chairman Bilirakis, Ranking Member Schakowsky, Chairman Guthrie, Ranking Member Pallone, and distinguished Members of the House Energy and Commerce Committee:

NetChoice respectfully submits this statement for the record regarding legislative solutions to protect kids online. NetChoice is a trade association of leading internet companies committed to promoting the value, convenience, and choice that internet business models provide to American consumers. Our mission is to make the internet safe for free enterprise and free expression.

We commend Chairman Guthrie and Chairman Bilirakis for convening this critically important hearing and for their steadfast leadership in addressing the complex challenges facing young people in the digital age. The Committee's comprehensive approach—examining 19 bills addressing various aspects of online child safety—demonstrates the seriousness with which you are approaching this issue. We share your commitment to protecting young people online, and we appreciate the opportunity to contribute to this vital conversation.

Effective child protection requires careful, evidence-based policymaking that respects constitutional principles, empowers families, holds bad actors accountable, and avoids unintended consequences that could harm the very children we seek to protect. We believe many of the proposals under consideration today can advance these goals when properly tailored to pass constitutional muster while achieving meaningful safety improvements.

NetChoice's Constitutional Track Record

NetChoice has been at the forefront of defending the First Amendment rights of both platforms and their users—including minors—in courts across the country. We have successfully challenged numerous state laws that, while framed as protecting children, would unconstitutionally restrict speech and limit young people's access to information. Our record demonstrates our unwavering commitment to defending constitutional rights while seeking genuine solutions to protect children.

Key Cases and Constitutional Principals

NetChoice v. Bonta (9th Circuit, 2024): The Ninth Circuit held that requiring platforms to assess and mitigate "harm" to children transforms design regulation into content regulation subject to strict scrutiny. The court recognized that vague harm-prevention mandates would lead platforms to block lawful content across the ideological spectrum—from conservative political organizing and religious expression to educational resources and community discussions. When the government demands that platforms opine on what speech might "harm" minors, it inevitably results in censorship that silences viewpoints bureaucrats. The Ninth Circuit emphasized that California had less restrictive means available, including empowering parental control tools, promoting digital education, and enforcing existing criminal laws.¹

Moody v. NetChoice (Supreme Court, 2025)²: Our challenges to Texas and Florida social media laws established that content moderation is protected editorial activity under the First Amendment. These victories affirm that states cannot compel platforms to host speech or dictate how they curate content. These cases protect the rights of platforms to curate and maintain a safe, appropriate environment for all users, including minors.

Free Speech Coalition v. Paxton (Supreme Court, 2025): While NetChoice was not a party in this case, this decision provides important guidance. The Court upheld Texas's age verification requirement for commercial websites with substantial sexually explicit material—but this narrow holding applies only to content unprotected as to minors, not general-purpose platforms hosting primarily protected speech. The distinction between pornography websites and social media platforms where Americans share news, organize politically, discuss their values and beliefs, engage in commerce, and exercise their First Amendment rights is constitutionally significant. Texas appropriately targeted actual obscenity for minors rather than censoring access to lawful speech, demonstrating how states can protect children online without infringing on the constitutional rights of citizens or overriding the authority of parents to guide their own children's development.

These cases establish several principles for constitutionally sound legislation:

1. **Content moderation restrictions** violate the First Amendment's guarantee that curators of speech can exercise editorial control over the speech on their services;
2. **Narrow targeting** of truly unprotected content for minors (like pornography) is permissible under *Paxton*;
3. **Compelled discussion of potential "harm" provisions** that require subjective content judgments will not survive scrutiny;
4. **Less restrictive alternatives** must be considered—parental tools, education, and enforcement; and
5. **Parental rights** cannot be overridden by one-size-fits-all government mandates.

¹ *NetChoice, LLC v. Bonta*, 113 F.4th 1101 (9th Cir. 2024)

² *Moody v. NetChoice, LLC*, 603 U.S. 703 (2024)

Legislation Under Consideration

Legislation such as the Promoting a Safe Internet for Minors Act and the Assessing Safety Tools for Parents and Minors Act represent exactly the kind of "less restrictive alternative" that courts have consistently identified as preferable to speech restrictions. The Promoting a Safe Internet for Minors Act would direct the FTC to launch a nationwide education campaign to teach children how to stay safe on the internet. Digital education empowers young people with the knowledge and skills to navigate online spaces safely, make informed decisions about their privacy, recognize manipulation and harmful content, and exercise their own judgment—all without government censorship or platform liability that inevitably leads to over-blocking of lawful speech.

Similarly, the Assessing Safety Tools for Parents and Minors Act directs the FTC to evaluate what is actually working to protect children online through education, parental controls, age-appropriate content labels, and privacy and safety settings. Evidence-based policymaking is essential in this rapidly evolving space. Too often, legislative proposals are driven by anecdotes, moral panic, or assumptions about technology rather than rigorous assessment of what interventions actually improve outcomes for children.

However, the App Store Accountability Act raises significant concerns. The Act would force app stores to verify users' ages and require parental consent for minors, which raises constitutional issues, weakens privacy, and imposes heavy regulatory burdens on platforms and developers. Rather than protecting young users, such legislation would chill free speech and restrict both minors' and adults' access to lawful apps and content. App store age-verification mandates also create new security and data-privacy risks by requiring collection and retention of sensitive personal information for all users—even those merely browsing benign apps.

The RESET Act also raises concerns. This legislation would prohibit anyone under 16 from establishing social media accounts, even on platforms that have implemented proper protective measures, thus contravening both First Amendment protections and this Committee's stated goal of safeguarding minors. Multiple state laws with comparable restrictions have already been blocked by courts for probable First Amendment violations.

Several other bills in this package contain provisions that merit careful examination. We are encouraged by the major revisions to the Kids Online Safety Act, including eliminating the vague and likely unconstitutional duty of care. However, the bill continues to incentivize covered services to verify the ages of their users in order to identify which users are minors and therefore be able to comply with the law.

We cannot emphasize enough that the Senate version of KOSA is a deeply flawed bill that threatens free speech. Its broad duty of care would force platforms to censor lawful speech based on vague standards of "harm" to minors—an approach federal courts have repeatedly rejected. The Senate bill represents the kind of government-mandated content moderation struck down in *NetChoice v. Bonta*. Rather than protecting children, it would empower officials and platforms to control what young people can access—fundamentally violating the First Amendment and parental rights. Any path forward on KOSA must reject this censorship framework and embrace constitutional alternatives that empower parents without sacrificing fundamental freedoms.

We look forward to working with the Committee to analyze implementation details, assess constitutional implications, and identify opportunities to strengthen protections while respecting fundamental rights.

Conclusion

Protecting children online is a goal we all share. But we must pursue that goal with wisdom, nuance, and respect for constitutional principles. Laws that sound tough on Big Tech may make for good headlines, but if they fail to protect children while infringing on rights and creating new privacy risks, they serve no one.

NetChoice stands ready to work with Committee members to advance legislation that effectively protects children while respecting constitutional principles and family autonomy. We believe this Committee is well-positioned to lead the nation toward solutions that can achieve bipartisan support, withstand judicial scrutiny, and make a genuine difference in young people's lives.

We appreciate the Committee's leadership on this critical issue and look forward to continued engagement as these proposals advance. Together, we can protect children and empower parents without sacrificing the constitutional freedoms that make America exceptional.

Sincerely,

Amy Bos

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