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NetChoice
Defending Free Speech and Free Enterprise Online

SB 757, Stop Addictive Feeds Exploitation for Kids Act

TESTIMONY IN OPPOSITION

March 4, 2026

Michigan Legislature
Michigan Senate Committee on Finance, Insurance, and Consumer Protection

Dear Chair Cavanagh, Vice-Chair Irwin, Minority Vice-Chair Huizenga and Members of the Committee:

On behalf of NetChoice, a trade association working to make the internet safe for free enterprise and free expression, I write to express our strong opposition to Senate Bill 757, the so-called "Stop Addictive Feeds Act," which would ban personalized, algorithmically curated content feeds for residents under the age of 18 without parent or guardian consent. SB 757, as drafted, is constitutionally infirm and counterproductive to the goals it seeks to achieve. NetChoice respectfully asks that you **oppose** the legislation as it:

- Fails to protect a single citizen from harm
- Puts minors's sensitive data at risk
- Violates the 1st Amendment of the US Constitution

NetChoice is a trade association of leading internet businesses that promotes 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 share the sponsor's goal to better protect minors from harmful content online. NetChoice members have taken issues of teen safety seriously and in recent years have rolled out numerous new features, settings, parental tools, and protections to better empower parents and assist in monitoring their children's use of social media. We ask that you oppose SB 757 and instead use this bill as a way to jumpstart a larger conversation about how best to protect minors online and consider alternatives that do not raise constitutional issues.

SB 757 Puts Minors' Sensitive Data at Risk

SB 757 was ostensibly introduced to protect children but instead it puts children's sensitive data at greater privacy and security risks. Under the bill, a platform cannot offer an algorithmic feed unless it

can determine that a user is not a minor, forcing every user to to turn over extremely sensitive personally identifiable information. Documents which conclusively establish users' birthdates are likely to be government-issued. Large-scale mandatory collection of highly sensitive government identification data increases the risks that it will be captured and misused.Additionally, Section 9 prohibits covered operators from sending notifications to covered minors between 10 p.m. and 6 a.m., and on school-day weekdays between 8 a.m. and 4 p.m. This requires platforms to know not only that a user is a minor and a Michigan resident, but also to track the school calendar across hundreds of Michigan school districts.

Requiring identity authentication of all users adds several unconstitutional barriers to sharing and accessing First Amendment-protected online speech. SB 757 unconstitutionally restricts both adults' and minors' access to First Amendment-protected content. Laws that chill and restrict Americans' speech in this way are unconstitutional under the First Amendment unless they pass strict scrutiny; a stringent test SB 757 will surely fail.[1]

SB 757 Violates the 1st Amendment of the US Constitution- At Least Twice Over

Laws that restrict Americans' access to digital content on account of age are unconstitutional under the First Amendment unless they pass strict scrutiny.[2] To survive strict scrutiny, a law must be narrowly tailored to achieve a compelling government interest.[3] The government nearly always fails this test—in state after state, courts have invalidated restrictions on internet communications or content deemed harmful to minors.[4] SB 757 will be no different.

While the Supreme Court has acknowledged that the government has an important interest in children's welfare[5], Michigan must specifically identify an 'actual problem' in need of solving" to establish a "compelling interest."[6] In *Brown v. Entertainment Merchants' Ass'n*, the Supreme Court invalidated California's ban on the sale of violent video games to minors. The Court held that California failed strict scrutiny because (1) violent video games are constitutionally protected speech and (2) the state's "predictive judgments" that such games cause aggression in minors was not aimed at an actual problem. Indeed, the State's interest was not compelling because "without direct proof of a causal link" between video games and aggression, the State was merely speculating about a potential problem.

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[1] *See, e.g.*, *Reno v. ACLU*, 521 U.S. 844 (1997); *Ashcroft v. ACLU (Ashcroft II)*, 542 U.S. 656 (2004).
[2] *See, e.g.*, *Reno v. ACLU*, 521 U.S. 844 (1997); *Ashcroft v. ACLU (Ashcroft II)*, 542 U.S. 656 (2004).
[3] *Reno*, 521 U.S. at 874.
[4] *See, e.g.*, *American Booksellers Foundation v. Sullivan*, 799 F. Supp. 2d 1078 (D. Alaska 2011); *American Booksellers Foundation v. Coakley*, 2010 WL 4273802 (D. Mass. 2010); *PSINet, Inc. v. Chapman*, 362 F.3d 227 (4th Cir. 2004).
[5] *See Sable Commc'ns of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989) ("We have recognized that there is a compelling interest in protecting the physical and psychological well-being of minors."); *Denver Area Ed. Telecomms. Consortium, Inc. v. FCC*, 518 U.S. 727, 743 (1996) (identifying "the need to protect children from exposure to patently offensive sex-related material" as an interest "this Court has often found compelling").
[6] *Brown v. Entertainment Merchants' Ass'n*, 564 U.S. 786, 799 (2011) (invalidating California's attempt to ban minors from accessing "violent" video games because violent video games are protected speech).

SB 757 presents at least two independent First Amendment violations. First, it would infringe on the rights of users to receive protected expression without first having their age "determined" by the website and, if the user is "determined" to be a minor, securing parental consent. Second, it would infringe on the rights of *websites* to disseminate their own "distinctive expressive offering" to users without engaging in some form of age-verification.

California enacted a law similar to SB 757. But California is currently prohibited from enforcing it. The case challenging California's law is still ongoing. At the very least, if the Committee is not convinced of SB 757's unconstitutionality, it should wait until the California litigation is resolved before advancing the bill.

Age-Verification and Parental Consent Requirements are Unconstitutional

Restrictions on the access to and enjoyment of speech are rarely permitted. Indeed, restrictions are permitted only for certain categories of speech, and the Court has been careful to articulate such categories as obscenity, incitement, true threats, and fighting words. But the government cannot create new categories of unprotected speech to solve some perceived social harm. *Brown*, 564 U.S. at 792. And, as *Packingham* recognized, social media is home to troves of protected, valuable speech. 582 U.S. at 105.

When the government has attempted to restrict access to speech through requirements for speakers to "determine" or "verify" the age of audience members, the Supreme Court routinely struck them down. Such restrictions impermissibly chill speech by dissuading otherwise willing speakers and listeners from participating. The government may not impose barriers as a precondition to speak or receive the speech of others. *See Reno v. ACLU*, 521 U.S. 844, 855-857 (1997); *Ashcroft v. ACLU*, 542 U.S. 656 (2004). Similarly, the Supreme Court also invalidated parental consent requirements to access lawful speech. *Brown*, 564 U.S. 786 (2011).

While SB 757 does not purport to prevent access to social media websites outright, it *does* restrict access to the website's "distinctive expressive offering." *Moody v. NetChoice*, 603 U.S. at 738. That offering is protected expression, and the government may not prevent access to that offering any more than it could dictate how the *New York Times* or *Wall Street Journal* arrange articles in their newspapers.

Restrictions on Dissemination of Lawful Speech are Unconstitutional

Distinct from the First Amendment injury SB 757 inflicts on the viewers, readers, and users of social media websites, the law inflicts a separate injury on *websites* because it prevents them from freely offering their own "distinctive expressive offering."

The bill would make it unlawful for social media websites to offer content that is "recommended, selected, or prioritized" to users without either determining the user is an adult or obtaining parental consent for minors. This restriction prevents the exercise of editorial discretion. The judgment about what content to display "rest[s] on a set of beliefs about which messages are appropriate" to prioritize

and display to users is expressive. And the government does not have the authority to alter those decisions merely because it believes it would make better choices. *Id*. at 738.

The Supreme Court's decision last term in *NetChoice* emphatically held that the personalized feeds available on social media websites like Facebook and YouTube are protected expression under the First Amendment. Because SB 757 would prevent the exercise of editorial discretion by prohibiting the use of these personalized feeds, it is unconstitutional.

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Again, we respectfully ask you to **oppose SB 757.** As always we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.[7]

Sincerely,

Amy Bos
Vice President of Government Affairs
NetChoice
NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

[7] The views of NetChoice expressed here do not necessarily represent the views of NetChoice members.