

July 14, 2025

Chair Michael O. Moore
Chair Tricia Farley-Bouvier
Joint Committee on Advanced Information Technology,
the Internet and Cybersecurity
24 Beacon Street
Boston, MA 02133

Dear Chair Moore, Chair Farley-Bouvier and Members of the Joint Committee:

We write in support of S. 30 and H.4229, An Act Protecting Children from Addictive Social Media Feeds. The Electronic Privacy Information Center (EPIC) is an independent nonprofit research organization focused on protecting privacy, freedom of expression, and democratic values in the information age.¹

I. S.30/H.4229 Effectively Regulates Harmful Platform Design

Existing protections for the privacy and safety of minors online are deeply inadequate. Many companies employ design features that use minors' data to figure out the best way to manipulate each minor into staying on the platform as long as possible.²

These design choices lead to over-use or compulsive use of social media and harm minors by interfering with core life activities such as sleeping, exercising, and socializing.³ All the while, evidence shows that companies' behavioral engineering tactics are ruthlessly effective, preventing minors from controlling the amount of time they spend on social media. These design practices

¹ EPIC, *About EPIC*, <https://epic.org/about/>.

² See Arvind Narayanan, *Understanding Social Media Recommendation Algorithms*, The Knight First Amendment Institute at Columbia University 20–22 (2023), https://s3.amazonaws.com/kfai-documents/documents/4a9279c458/Narayanan---Understanding-Social-Media-Recommendation-Algorithms_1-7.pdf.

³ See Neil Richards & Woodrow Hartzog, *Against Engagement*, 104 Boston U. L. Rev. 1151, 1166-72 (2024).

deprive minors of their autonomy, taking control of their online experiences out of their hands, and subjecting them to heightened physical safety and data security risks.

This bill will mitigate these harms in two ways: regulating “addictive feeds” and overnight notifications. The “addictive feeds” provision limits the personal data that a social media platform can use to curate feeds for minors. It addresses the current design practices of ordering feeds based on passive surveillance of users – tracking clicks, time spent watching, even time spent hovering over media. Borrowing techniques from the casino industry to induce overuse,⁴ companies use this data to predict and design what arrangement of media is likely to keep a user on the platform longer, invading minors’ privacy and contributing to compulsive use.

While S. 30/H.4229 regulates specific data management and design practices that lead to over-use, it leaves open many channels for personalized delivery of the same media based on a user’s express preferences.

This bill also prohibits push notifications between midnight and 6am for minors. These notifications are an important design feature encouraging compulsive use by incessantly reminding users of the app even when it is inactive – taking advantage of minors’ susceptibility to the fear of missing out and other social pressures. This is intentional. In Massachusetts’ ongoing lawsuit against TikTok for example, the company admitted that push notifications are key to drawing users’ attention back to the app, and they have sometimes sent thousands of notifications a day to minors.⁵

⁴ See Mattha Busby, *Social Media Copies Gambling Methods ‘To Create Psychological Cravings,’* The Guardian (May 8, 2018), <https://www.theguardian.com/technology/2018/may/08/social-media-copies-gambling-methods-to-create-psychological-cravings>.

⁵ Complaint at 32-37, Commonwealth of Massachusetts v. TikTok Inc., No. 2484CV2639-BLS-1 (Mass. Super Ct., Oct. 8, 2024), <https://www.mass.gov/doc/tiktok-complaint-unredacted/download> (unredacted complaint).

II. S. 30/H.4229 Does Not Interfere with Covered Websites' Editorial Discretion

S. 30/H.4229 does not infringe on editorial discretion rights of covered websites because it regulates non-expressive, surveillance-based activities, not First-Amendment-protected editorial expression.⁶ Editorial expression is protected by the First Amendment. It happens when someone like a newspaper editor or a parade organizer decides which pieces of third-party speech to include in a compilation, such as a newspaper or a parade, based on their judgment about those various pieces of third-party speech. In the recent *Moody v. NetChoice* case, the Supreme Court stated, in non-binding guidance, that it thinks some social media companies are engaging in editorial expression when they enforce content guidelines to create news feeds. In other words, when companies create news feeds of third-party content, they may act expressively when they remove or downrank posts in those feeds that violate their values (such as racist or pro-Nazi posts).⁷

S. 30/H.4229 does not interfere with the values-based content moderation activities that the *Moody* Court indicated were likely expressive. Nothing in the bill prevents companies from downranking or deleting content that violates their content and community guidelines. The bill only prevents companies from using information about minors' interactions with their websites—collected through surveillance of the minors' activities—to curate content. The *Moody* Court explicitly questioned the expressiveness of this exact type of feed-creation activity.⁸ The algorithms that use minors' personal data to curate content are content-agnostic—they do not choose media to include in a feed based on its communicative content. Instead, they predict what content will elicit a desired behavioral response in the minor. The typical desired response is “engagement”—liking,

⁶ For a detailed defense of the permissibility of regulating addictive feeds, see Brief for Electronic Privacy Information Center as *Amici Curiae* in Support of Defendant, *NetChoice v. Bonta*, 761 F.Supp.3d 1202 (9th Cir. Dec. 31, 2024), <https://epic.org/wp-content/uploads/2024/12/EPIC-Amicus-SB-976-NDCal.pdf>.

⁷ See *Moody v. NetChoice, LLC*, 603 U.S. 707, 738 (2024).

⁸ *Id.* at 736 n.5.

commenting on, hovering over, or otherwise interacting with a piece of content—because increased engagement helps companies sell click-through ads. Engagement-maximizing algorithms lack all the characteristics of protected editorial expression.⁹ Recognizing this, a judge in the Northern District of California refused to enjoin the addictive feeds provision of California’s analogue of S. 30/H.4229.¹⁰

S. 30/H.4229 also does not limit minors’ access to content. The bill does not control what websites can say at all: it only regulates certain *non-expressive* business practices. Further, the bill does not interfere with companies’ ability to provide personalized feeds to users, organizing content by its popularity, newsworthiness, controversiality, topic, timeliness, and/or many other values, all based on what a user has affirmatively indicated they are interested in. The bill allows for a wide variety of beneficial personalization. In fact, it gives users *more control* over how their feeds are personalized.

III. Age Assurance is Not Categorically Unconstitutional

A bill directing a business to treat adults and kids differently is not inherently unconstitutional. S. 30/H.4229’s light-touch approach to this issue gives it maximal protection from constitutional challenge. The Supreme Court recently held in that age assurance requirements are not categorically unconstitutional,¹¹ and the Attorney General who will conduct a rulemaking to decide which methods are sufficiently privacy- and speech-protective.

⁹ Brief for Electronic Privacy Information Center as *Amici Curiae* in Support of Defendant, *NetChoice v. Bonta*, 761 F.Supp.3d 1202 (9th Cir. Dec. 31, 2024), <https://epic.org/wp-content/uploads/2024/12/EPIC-Amicus-SB-976-NDCal.pdf>.

¹⁰ See *NetChoice v. Bonta*, 761 F.Supp.3d 1202, 1222 (9th Cir. Dec. 31, 2024). The decision draws heavily from the amicus brief EPIC filed in the district court.

¹¹ *Free Speech Coalition v. Paxton*, No. 23-1122, WL 1773625 (2025).

IV. Conclusion

Thank you for the opportunity to testify in support of this important bill and contribute to the record. EPIC is happy to answer any further questions, and eager to remain a resource for the Committee as this bill moves through the legislative process. Please contact Suzanne Bernstein at bernstein@epic.org with any further questions.

Respectfully submitted,

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