

## COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

California Department of Justice

Hearing to Solicit Public Comment on Rulemaking for SB 976

November 5, 2025

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The Electronic Privacy Information Center (EPIC) submits these comments with recommendations for the California Department of Justice’s upcoming rulemaking on SB 976. EPIC is an independent nonprofit research organization focused on protecting privacy, freedom of expression, and democratic values in the information age.<sup>1</sup> Since its passage, EPIC has publicly supported SB 976 and has filed amicus briefs supporting Attorney General Bonta both in the district court and in the Ninth Circuit.<sup>2</sup>

The DOJ’s rulemaking should make clear that SB 976 does not require companies to age gate their entire platforms. Instead, if companies choose to design their platforms with addictive feeds or push notifications, they should adopt default protections for all users, only age gating access to those regulated features. SB 976 was drafted to limit age assurance requirements to access risky features, not entire platforms. For example, companies complying with SB 976 could turn off addictive feeds and push notifications for all users by default and only require users who wish to turn these features on to go through the age assurance process. Companies would be free to provide any other feed or non-push notifications to users, regardless of age, and users would be free to access all content and non-addictive feeds on the platform without the need to undergo age assurance. The rules should require that age assurance happen only at the threshold of accessing a regulated feature.

It is also important that the rules emphasize privacy-protective age assurance methods and standards. There should be strong privacy rules to protect personal data collected for age assurance methods and the Attorney General should prioritize privacy-protective technologies like zero-knowledge proofs and other cryptographic techniques for securely transferring as little information as possible between entities. The rules should also lay out a process for evaluating the privacy-protectiveness of age assurance methods that can be used to comply with the Act. In evaluating appropriate age assurance methods, the rules should prioritize privacy over accuracy. People reasonably fear for their online privacy given the tech industry’s reliance on commercial surveillance. The burden imposed by a less accurate (but privacy-protective) age assurance method is lower and more mitigable than the burden imposed by a privacy-invasive age assurance method. With an effective error-correction process and the option for adults to try other age assurance methods, an adult should be able to easily remedy an inaccurate age assurance result. The same

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

<sup>2</sup> EPIC, *Amicus Briefs: NetChoice v. Bonta*, <https://epic.org/documents/netchoice-v-bonta-2/>.

cannot be said for harms caused by privacy-invasive age assurance methods. Finally, the rules should also ensure user choice by requiring companies to offer multiple age assurance methods and a responsive appeals or error-correction processes for a given age assurance result.

Lastly, the rules should require strong privacy and security protections for any personal data used in age assurance or parental consent processes. Privacy must be a central consideration in how the Attorney General determines standards for acceptable age assurance methods and the rules that will govern the entire age assurance process. Data minimization practices like limiting personal data collection, use, and disclosure to what is strictly necessary for determining whether a user is an adult or a minor help protect all users from breach, fraud, and abuse. All entities involved in the age assurance process should adopt robust data minimization practices and communicate the minimum information necessary to comply with SB 976. It is critical for the Attorney General to ensure that age determination does not contribute to the commercial surveillance system and broader data protection crisis. By adopting privacy- and security-enhancing regulations, the Attorney General can also incentivize the development of less invasive age assurance methods.

EPIC applauds the Attorney General's attention to the important issues shaping privacy, security, and safety for minors and adults online. EPIC is eager to engage with the Attorney General further on age assurance, data privacy, or any other issue involved in the upcoming rulemaking. Please contact EPIC Counsel Suzanne Bernstein at [Bernstein@epic.org](mailto:Bernstein@epic.org) with any questions.

Respectfully submitted,

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