

May 23, 2024

The Honorable Mike Johnson  
Speaker of the House  
U.S. House of Representatives

The Honorable Chuck Schumer  
Majority Leader  
U.S. Senate

The Honorable Mitch McConnell  
Republican Leader  
U.S. Senate

The Honorable Hakeem Jeffries  
Democratic Leader  
U.S. House of Representatives

Dear Speaker Johnson, Leader Schumer, Leader McConnell, and Leader Jeffries,

On behalf of the millions of taxpayers and consumers, we, the undersigned organizations, write to you in opposition to S. 1409/H.R. 7891, the Kids Online Safety Act (KOSA). While we applaud your efforts to improve children's privacy and online safety, KOSA fails to achieve these laudable goals and, in fact, would create greater risks for America's youth in the technology age.

S. 1409/H.R. 7891, introduced by Sens. Richard Blumenthal (D-Conn.) and Marsha Blackburn (R-Tenn.), alongside Reps. Gus Bilirakis (R-Fla.) and Kathy Castor (D-Fla.), would broadly hold online platforms liable if their design and operation of products and services fails to mitigate wide-ranging societal issues such as mental health, suicide, and addiction. This untenable standard will result in platforms being forced to censor perfectly legal speech, including that of non-minors, fearing the liability repercussions KOSA's Sec. 102 creates.

To ensure platforms' compliance, Sec. 105 of KOSA would require public reporting on age-specific statistics for users under seventeen years old. Statutorily requiring the mass collection of aggregate minor user data stands in stark contrast to what laws intending to protect children's online activity and privacy should do. Moreover, imposing the Sec. 102 Duty of Care standards would also ultimately lead to age verification requirements for platforms, something which the U.S. Court of Appeals for the Third Circuit ruled as having serious First Amendment concerns in *ACLU v. Ashcroft* (2002) and again in *ACLU v. Mukasey* (2008).

Online platforms provide a valuable space where discourse around complex issues that range the political spectrum can occur. KOSA's first version awarded state Attorneys General sweeping powers to subjectively determine the criteria for harms to children. Immediately, interested parties on both sides of the aisle have already floated various ways they could weaponize KOSA (or similar proposals) against speech they dislike, making de facto censorship an almost certain result of the bill's passage. The second, and most recent approach, to this bill awards vast decision-making authority to regulators at the Federal Trade Commission (FTC), an agency under heavy scrutiny for blatant partisanship. The FTC has been the subject of dozens of oversight hearings in the 118th Congress. Simply put, changes to KOSA loosely replace a 50-state regulatory patchwork with a partisan regulatory board at a rogue federal agency.

Regulating the ways children and teens interact with the internet is entirely different, and in many ways opposite, of protecting them. For example, Sec. 103 of KOSA would enact limits on the abilities of minors to communicate with other users. The vague language employed would likely lead to minors being unable to communicate with other minors, as well as adult users, essentially flipping the light switch off on minors' ability to engage on the internet. If enacted, KOSA would also target platform

design infrastructure such as infinite scrolling and autoplay, placing limits on the amount of content – or in more constitutional terms, free speech – individuals can access.

Protecting children online is a complex and noble endeavor and we applaud your members for trying to undertake this effort. However, considering legislation that would undo the last 30 years of internet regulation by placing the responsibility for protecting children on partisan bureaucrats will fail to protect children and strip civil liberties from Americans of all ages. We urge you to reject advancing KOSA, and instead work towards empowering law enforcement to track and catch online predators and protecting the data privacy of all Americans.

Sincerely,

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Taxpayers Protection Alliance

**Tirzah Duren**

*Vice President of Policy & Research*

American Consumer Institute

**Jessica Melugin**

*Director, Center for Technology & Innovation*

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**Yaël Ossowski**

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**Mario H. Lopez**

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**Tom Giovanetti**

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**Douglas Carswell**

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Stop Child Predators

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