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California Department of Justice
Consumer Protection Section
1515 Clay Street
Oakland, CA 94612

FOSI Public Comments in response to California's Proposed Rulemaking for SB 976 -
Protecting Our Kids from Social Media Addiction Act

The Family Online Safety Institute ([FOSI](#)) appreciates the opportunity to contribute to the State of California Department of Justice's [Proposed Rulemaking for SB 976](#), the Protecting Our Kids From Social Media Addiction Act.

FOSI is an international non-profit organization working to make the online world a safer place for children and their families. We achieve this by identifying and promoting the best practices, tools, and solutions in the field of online safety. FOSI convenes leaders in industry, government, academia, and the non-profit sectors to collaborate and innovate new solutions and policies in the field of online safety. Through research, resources, events, and special projects, FOSI promotes a culture of responsibility online and encourages a sense of digital citizenship for all.

Introduction

FOSI has done extensive work on effective methods of assurance and has developed a core set of [principles](#) for all online platforms that want to utilize these tools. In addition to our work on age assurance, FOSI closely follows the development of state, federal, and international laws and regulations regarding kids' online safety. Within the US context, regulating online life for minors has been a challenge, in part because of the implications for balancing access, privacy, and free expression for all users, even adults. One approach to regulating this space has been to address the algorithms that organize content for users rather than addressing speech itself. While there is still

some regulatory overlap between speech and algorithms in terms of First Amendment protections, addressing certain specific features on platforms appears to be a more suitable solution.

In this response to California's proposed rules, we outline several considerations for SB 976 to ensure children continue to have access to safe spaces on the internet and how the law can ultimately be effective while minimizing unintended consequences. FOSI applauds California for offering stakeholders the ability to comment on the proposed rules to ensure the final outcome of SB 976 is best for kids and their families.

Algorithms and Addictive Feeds

Algorithms are a key function of many social media platforms. They organize data for users' consumption and play a significant role in determining what content users see and when. When not properly deployed, features related to algorithms such as infinite scrolling or recommended content can have some negative impacts on children. However, algorithms themselves are not inherently harmful. They are the technical tools that organize and present content to users. In fact, some algorithmic-based personalization in feeds for minors is exactly what keeps them interacting with age-appropriate content. How this algorithm is built to deliver content to the user and what tools the user has available to curate their online experience are critical.

Another crucial consideration when regulating algorithms is whether it is even feasible for a platform to function with a highly restrictive algorithm. Some platforms rely exclusively on algorithms to sort through the (oftentimes) [hundreds of millions](#) of pieces of content. That amount of content must be organized in some sort of efficient and feasible way - especially for kids. Removing all personalization would make the platform effectively nonexistent, but most importantly, it would not make the platform safer. Consider, for example, an app that displays content based on your taste and preferences (or age-appropriate content based on knowledge that the user is a minor). With new user-generated content uploaded almost constantly, there is no feasible way to have a chronological or sequential feed for this platform, nor does this approach keep kids safer.

Toggling algorithms on or off with parental consent is not a silver bullet for children's online safety. The content children see, along with the time spent across different platforms, is also important for child development. The law, while well-intentioned, approaches all algorithms the same without fully considering that algorithms are also necessary to organize content. Additionally, children need continued safety measures while using a platform even after parental consent. Privacy settings and user tools, such as blocking and filtering, are critical for navigating the internet safely.

Age Assurance

One of the key components of California's Addictive Feeds law is the issue of age assurance. Age assurance is a process to determine the age or age range of a user to provide them with an age-appropriate experience. FOSI recently released a set of [principles](#) that all age assurance approaches should meet, including but not limited to being proportional to the risk, privacy-preserving, interoperable, and high confidence. In addition to our outlined principles, FOSI developed an [introductory video](#) to describe the types of age assurance methods available.

The rulemaking for California SB 976 identifies several ways by which an operator may conduct age assurance. This is important and aligns directly with FOSI's principles that age assurance mechanisms outlined in laws should be flexible and not overly prescriptive. This flexibility ensures that users have a range of options that they feel comfortable using and that platforms can use the mechanism that best suits the content they host and their user base.

Additionally, the proposed rules state that platforms must not require users to use a government-issued ID nor have government-issued IDs as their sole form of age assurance. This also aligns directly with FOSI principles and research around balancing effective age assurance with accessibility and privacy.

Another key aspect of FOSI's age assurance principles is interoperability. FOSI appreciates that the proposed rules acknowledge that age assurance should be consistent across all access points, meaning that age assurance conducted on a platform's app should also apply to the platform's website.

Privacy and Transparency

Privacy is an important part of age assurance. The privacy provisions outlined in the proposed rules ensure that users' data is not collected or stored for any other purpose, is not stored longer than is necessary to comply with the law, and must be stored using "industry-standard data security measures." These rules help protect users' personal information. FOSI applauds the inclusion of privacy-preserving measures in the proposed rules.

Lastly, the rules outline certain reports that operators must publish on their websites to ensure that users are aware of how age determinations are made. Empowering users with knowledge on how their personal information (biometrics, birthdates, hand gestures, or other data used to determine age) is being used is important.

Transparency helps build trust between the user and the platform and can allow more users to feel comfortable using age assurance mechanisms.

Conclusion

The proposed rules for SB 976 offer some critical safeguards and privacy protections for users, as well as transparency requirements and guardrails for platforms. While attempting to regulate online life for minors, it's important to balance mitigating the risks of online life with allowing young users the rights to access digital life in meaningful ways. The goal must be to protect young people *on* the internet, not *from* the internet.

Thank you for the opportunity to comment. FOSI looks forward to working with the California Department of Justice as the rulemaking process continues and on future projects that involve youth online safety. Please do not hesitate to contact me if you have any questions or would like more information.

Respectfully Submitted,

Marissa Edmund
State Policy Lead
Family Online Safety Institute
medmund@fosi.org