

NSR Tech Policy: Making Sense of Utah's New Social Media Laws

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What's New

- On Thursday, March 23, Utah Governor Chris Cox is expected to sign two online child safety bills that will have major implications for both minors and adults online.
- We anticipate these requirements may increase compliance costs for social media platforms, expose them to litigation, and result in advertising sales moving to other digital platforms.
- As a result, these changes are likely to have two primary effects: (1) they will benefit bigger platforms over smaller ones and (2) they will benefit other digital service providers over social media platforms.

The Two Proposals

[S.B. 152](#) and [H.B. 311](#) impose a series of new requirements and restrictions on all social media platforms that have more than five million users world-wide. Specifically, the bills:

- Require that social media platforms, narrowly defined as “online forum[s]” that allow users to view and upload posts and “interact with other account holders or users,” collect parental consent before allowing a minor to create an account. Platforms must also provide parents the ability to view all posts by and responses to minors, and must restrict minors from using accounts between 10:30 pm and 6:30 am unless they have parental permission. These provisions will require platforms to verify the ages of all users.
- Prohibit social media platforms from serving any advertising to minors. Platforms are also prohibited from collecting any data of minors beyond what is required by federal or state law.

- Prohibit platforms from displaying “targeted or suggested groups, services, products, posts, accounts, or users” to minors.
- Create a private right of action for citizens to recover damages from any “addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company’s social media platform.” If the user is under 16 “there shall be a rebuttable presumption that the harm actually occurred and that the harm was caused as a consequence of using or having an account on the social media company’s social media platform.”
- Prohibit social media platforms from using any “practice, design, or feature” that the platform knows may lead to a minor “to have an addiction to the social media platform.” As an affirmative defense, platforms can complete quarterly audits to identify and then fix any practice, design, or feature “that have the potential to cause or contribute to the addiction of a minor user.”

Potential Impact

- These provisions will likely increase compliance costs for platforms, potentially disproportionately impacting smaller platforms.
- Establishing a private right of action will likely increase platforms’ risk of litigation. We believe some platforms may attempt to limit that risk by choosing to prohibit any minor or anyone under 16 from opening an account.
- Banning all advertising to minors may result in digital advertising spending shifting away from social media platforms and to other digital providers.
- Prohibiting platforms from recommending any content, groups, or products to minors may undercut platforms functionality. Platforms may not be able to downrank problematic, false, or other “borderline” content, and may have to order all content chronologically.

Laws in Context

- Both NetChoice and TechFreedom have publicly opposed the bills and may file legal challenges to the laws on First Amendment grounds.
- The Utah bills are the latest in a series of state bills from both parties aiming to revise how social media platforms treat children.
- Last year, legislators in California passed the Age-Appropriate Design Act. In addition to requiring covered companies complete Data Protection Impact Assessments assessing potential harms to children, it requires platforms to set default settings for minors at the highest possible level, and to minimize data collected about minors. Democratic legislators in at least 4 other states have introduced bills modeled on the AADA.
- Republican legislators in Louisiana passed a law requiring websites hosting adult content to verify the age of all users. Legislators in at least 11 other states have introduced similar bills.
- Legislators in at least 8 other states have introduced bills with a series of other approaches, including banning all minors from using social media in Texas and requiring all devices to be sold with filters. None of these bills has advanced.

Full 12-month historical recommendation changes are available on request

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