

MEMORANDUM

To: Interested Parties

Date: October 21, 2024

Re: Rebuttal to Big Tech's Lies About the Kids Online Safety Act

KOSA Does Not Censor Speech Nor Impact the 1st Amendment

- KOSA would not censor, limit, or remove any content from the internet and it does not give the FTC or state AGs the power to bring lawsuits over content or speech, no matter who it is from. This bill passes First Amendment scrutiny *because* it is content neutral.
- **Online platforms cannot be held liable for hosting or promoting conservative voices or pro-life views as a result of this bill.** The legislation does not include any enforcement powers or obligations related to content or speech.
- To be clear on Congress's intent to protect speech, the bill includes an explicit statement that it does not expand or limit Section 230, which provides online platforms broad legal immunities for third-party content. Furthermore, the bill provides legal safeguards to protect users' ability to view and search for the content that they choose to see.

KOSA Does Not Increase The Authority of the Federal Government or FTC

- It is important to note that **there is no new rulemaking power for the FTC in KOSA nor any ability to create rules about content.** KOSA gives the FTC clear direction from Congress about how to apply its existing enforcement authorities to protect kids online.
- Claims that KOSA allows the FTC to decide what kids see online are blatant falsehoods circulated by tech companies trying to stop the bill from becoming law.

What Does KOSA's Duty of Care Actually Do?

- The bill gives the FTC the ability to hold social media platforms accountable for their product designs – their own predatory business practices and deadly apps. This is the same responsibility and accountability that exists for almost every other industry in America.
- The duty of care simply states that online platforms cannot put products on the market that will cause specific harms to kids, such as suicide and sexual predation. Those harms are specified and defined by Congress, not the FTC.
- Big Tech will be required to ensure their platforms are safe for kids by default, and not put the burden exclusively on parents. This will also ensure that the protections for kids keep up with changes in technology.

KOSA Will Not Require Anyone To Upload ID

- KOSA does not impose age verification requirements or require platforms to collect more data about users (government IDs or otherwise). In fact, the bill explicitly states that it does not require age gating, age verification, or the collection of additional data.

KOSA Protects Churches, Blogs, and News Outlets

- KOSA covers **commercial, online platforms** such as social media, social networks, online video games, social messaging applications, and video streaming services, such as Instagram, TikTok, Snapchat, and Roblox.
- Non-profit organizations, blogs, personal websites, news outlets, churches, broadband companies, etc. **are not covered by KOSA**. It **would not** impact the ability of kids to watch online sports, news, or a church sermon.

KOSA Gives Parents A Seat At The Table

- For decades, Big Tech lobbyists and their front groups have dominated the conversation, denying the suffering of American families. The Kids Online Safety Council is a place where parents have a seat across the table from big tech and they can raise the issues they are seeing with their kids. The Council has no rulemaking or enforcement power.

KOSA Uses The Same Methods Our Military Utilizes to Define "Mental Health Disorder"

- For decades, the Diagnostic and Statistical Manual, Mental Disorders (DSM) has been used by Congress and states, as well as our military, the VA, and the Substance Abuse and Mental Health Services Administration.

How Can Companies Know Who Is Under 17?

- Online platforms have been required to provide legal protections to kids for more than two decades under the Children's Online Privacy Protection Act (COPPA). Just as COPPA has not required age-gating or substantial burdens on business or privacy, neither will KOSA.
- If an online platform truly doesn't know the age of the user, then it does not face any obligation under the bill. It is not required online platforms collect more data to determine the user's age.