hispanicfederation

WASHINGTON DC OFFICE
1001 G Street, NW
11th Floor
Washington, DC 20001
Phone: 202.887.4977

NATIONAL HEADQUARTERS
55 Exchange Place, 5th FL
New York, NY 10005
Phone: 212.233.8955
Hotline: 1.866.HF.AYUDA

September 30, 2024

Via Email to NYS OAG: ProtectNYKidsOnline@ag.ny.gov

The Honorable Leticia James
New York State Attorney General
Office of the Attorney General
State of New York
The Capitol
Albany, New York 12224-0341

RE: Advanced Notice of Proposed Rulemaking (ANPRM) pursuant to New York General Business Law section 1500 *et seq.*): SAFE for Kids Act

Dear Attorney General James:

Hispanic Federation respectfully submits the following public comment in response to the Office of the New York State Attorney General (OAG) Advanced Notice of Proposed Rulemaking (ANPRM) for the SAFE for Kids Act (hereinafter, "Proposed Rule"), published on August 1, 2024.

The mission of Hispanic Federation (HF) is to empower and advance Hispanic and Latino communities. HF provides grants and services to a broad network of over 750 nonprofit organizations in 43 states, Puerto Rico, and the District of Columbia that support the most vulnerable Latino communities across the country in the areas of immigration, education, health, economic empowerment, civic engagement, and the environment.

Hispanic Federation fully supports the goal of safeguarding children online while ensuring that policies do not inadvertently harm the communities they are meant to protect. To achieve this, it is essential that the Proposed Rule addresses potential unintended consequences. Below, we outline our concerns and respectfully propose a framework of safeguards, along with key recommendations for your consideration.

Unintended Consequences and Safeguards

1. **Privacy Risks and Data Security**: The proposed rules must include safeguards to prevent disproportionate impacts on marginalized communities, where data security concerns are already heightened.
2. **Digital Inequity and Barriers to Access**: The proposed rules must avoid creating additional barriers for families who lack reliable technology or digital literacy, which could exacerbate the digital divide.
3. **Language Access**: The language provisions of the proposed rules must ensure that information is provided in culturally and linguistically relevant formats to meet the needs of diverse communities.
4. **Impact on Marginalized Communities**: The rules must prioritize non-invasive methods that limit data collection to safeguard privacy while still protecting minors online.

Recommendations to Maximize Positive Impacts of the SAFETY for Kids Act
Commercially Reasonable and Technically Feasible Age Determination Methods (GBL section 1501(1)(a))

Age verification methods, while intended to enhance the safety of minors on social media, must be implemented carefully to avoid unintended barriers for vulnerable New Yorkers. The requirement for platforms to use "commercially reasonable and technically feasible methods" for age verification may result in excessive data collection, increasing the risk of data breaches and surveillance. This could disproportionately affect marginalized populations, where data security is already a significant concern.

Each age verification method has its strengths and weaknesses, particularly in balancing privacy, required data, and bias risks. The most privacy-preserving options typically involve minimal data collection.

Recommendations for Safeguards:

1. Stronger Data Privacy Protections: The proposed rules should mandate data minimization, encryption, and limits on data sharing and retention. Platforms must be required to implement robust protections against data misuse, strategic policies to limit storage of data, and provide transparency regarding data collection and storage practices.
2. Regular Impact Assessments: The rules should include guidelines for conducting periodic evaluations of the regulations' impact, particularly on marginalized communities, and adjust policies as necessary to prevent unintended exclusions or restrictions on access to beneficial content.

Impact of Age-Determination Methods on Safety, Utility, and User Experience (GBL section 1501(1)(a)): The implementation of age-determination methods on social media platforms will have far-reaching effects on user safety, utility, and experience. These impacts will vary depending on the enforcement of the methods.

Recommendations for Age Verification and Parental Consent:

1. Increased Safety for Minors: Age verification should block harmful content and interactions without exposing children to unnecessary data collection or privacy risks.
   o Non-invasive verification methods should be employed to limit the amount of personal data collected. All data should be securely encrypted and used solely for age determination, with full transparency on how data is collected and stored.
   o Platforms must continue providing access to educational and beneficial content such as mental health resources, civic education, and age-appropriate support services while restricting harmful content.

2. **Parental Consent**:
   o The proposed rules must ensure inclusivity by allowing flexible verification methods for users without official identification. Alternative methods such as IDNYC, school-issued IDs, or third-party verifications such as employer-issued IDs should be considered, depending on storage retention policies.
   o Consent forms must be written in plain language to be easily understood by individuals with limited literacy skills and be provided in a culturally and linguistically relevant manner.
   o For populations with low literacy levels and language barriers, parental consent forms should be offered in multilingual audio or video format to enhance comprehension. These

formats could be delivered via online platforms or mobile devices to ensure broad accessibility.

Recommendations Concerning Language Access:

GBL section 1506(1)[i] requires parental consent requests to be available in the 12 most spoken languages in New York. However, the proposed rules should expand language access to address the specific challenges faced by New York's diverse communities, particularly within the immigrant population, where minority dialects are often spoken. New York City is one of the most linguistically diverse cities in the world, with over 700 different languages and dialects spoken.[ii] The most spoken dialects should be prioritized based on New York's linguistic landscape to ensure inclusivity and accessibility.

Recommendations for Social Media Platforms and Addictive Feeds:

To avoid regulatory overreach, the definition of "addictive feed" in the proposed rules should be precise and limited to harmful algorithms. At the same time, the rules should allow beneficial personalized content that provides users with educational and supportive resources. The proposed rules should also mandate the use of a standardized glossary of terms in all translations to avoid inconsistencies. Misunderstandings caused by incorrect or varied translations of key legal terms can undermine the effectiveness of the regulations.

Hispanic Federation appreciates the opportunity to submit these recommendations and urges the inclusion of these safeguards in the final regulations. Thank you for your commitment to protecting children online while ensuring equitable access to invaluable community resources access for all New Yorkers.

Respectfully submitted,

Hispanic Federation

---

[i] https://newyork.public.law/laws/n.y._general_business_law_section_1506
[ii] https://languagemap.nyc/Info/About