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February 2, 2024

The Honorable Vanessa Atterbeary
Chair
House Ways and Means Committee
Maryland House of Delegates
131 Taylor House Office Building
6 Bladen Street
Annapolis, Maryland 21401

RE: HB 333 (Rosenberg) - Election Law - Election Disinformation on Large Social Media Platforms and Influence Related to Voting – TechNet Opposition

Dear Chair Atterbeary and Members of the Committee,

On behalf of TechNet, I'm writing to offer comments on HB 333 related to election disinformation on social media platforms and voting influence.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

Online services enable freedom of expression for consumers, and companies have a vested interest in moderating their platforms to create a safe, welcoming online community for users. In order to ensure users understand the rules they are expected to follow, the industry has been at the leading edge of providing greater access and information regarding their moderation policies and practices.

While the intent of HB 333 is laudable, TechNet has several concerns with the legislation. The definition of "Large Social Media Platform" could be challenged as unconstitutionally vague given its implications for protected speech. For example, the law doesn't clarify what it means to be "responsible for" a communication that contains election disinformation. The definition of "Election Disinformation" is subjective and could lead to biased decision making from the platform when

preventing, detecting, and removing accounts and posts, as per the bill's requirements. The definition of "Influence" is also subjective.

Regarding potential First Amendment violations, the law imposes liability on "the person who operates the large social media platform", or "any person who exercises direction or control over the activities of the person who operates the large social media platform". These are vague standards that could be challenged under the First Amendment.

The 48-hour requirement for large social media platforms to report alleged election disinformation to the State Board is an extremely fast turnaround for platforms. Platforms need adequate time to assess whether or not a post or communication is, in fact, election disinformation. Our members are committed to keeping their users safe online, which is why social media platforms review millions of pieces of content every day to remove harmful content that conflicts with their policies, including false campaign information. In the overwhelming number of cases, removal of offensive content is accomplished as intended. However, the sheer volume of content prevents both artificial intelligence and human intelligence from getting it right 100 percent of the time. Billions of transactions, after all, will inevitably lead to errors. It would be fundamentally unfair to impose penalties for instances where code misfired, or a simple mistake was made. The fine structure in the bill is severe and fines could be subject to inconsistent interpretations by governing bodies.

Finally, there are significant privacy concerns with disclosing information to the State Board as required in the bill. The provision related to disclosing the audience of communication is especially concerning as it potentially reveals the identities of users targeted or affected by the perceived election disinformation. Along with the audience disclosure requirements, the bill also calls for the disclosure of the name of the account responsible for the alleged election disinformation. Both items, along with the other personalized information, will then be posted to the State Board of Elections public website.

Based on the reasons stated above, TechNet is opposed to HB 333. Thank you for your time and we look forward to continuing these discussions with you.

Sincerely,



Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic