

February 14, 2024

Re: In support of Consumer Protection Online Products and Services Children Data SB571

Dear Chair Beidle, and Vice-Chair Klausmeier,

For over 25 years, I served founders and venture capitalists as a trusted financial and investment advisor. In developing those confided relationships, I mentored senior executives, sitting alongside them, guiding product design, business strategy, and often personal leadership choices. These experiences provided insights into how companies create great client, customer, and user-focused products and services. Leading businesses excel in addressing their customers' existing problems and anticipating future needs, guiding them through a collaborative journey toward effective solutions with open and transparent communication. These businesses prioritize understanding and fulfilling the Best Interests of the Customer.

This background is critical because it provides a beneficial framework for businesses to conceptualize building Artificially Intelligent, Algorithmic, and Autonomous (AAA) based online products and services that help, rather than harm, consumers. SB571 Consumer Protection Online Products and Services Children Data will not only protect consumers, i.e. children, but guide companies in creating human-centric innovations that focus on solving customer problems.

With the proper perspective, businesses will see SB571 enabling ethical AI-based design that creates value for both companies and users and, through that very relationship, for the State of Maryland. It creates a how-to roadmap and provides the criteria every business should use when innovating. This is essential for the largest global technology businesses to the start-up in their garage.

During my tenure as a Fellow at ForHumanity, a non-profit civil society organization dedicated to addressing risks associated with Ethics, Bias, Privacy, Trust, and Cybersecurity in Artificial Intelligence, Algorithmic, and Autonomous (AAA) Systems, I serve a critical role as a member of the Priority Drafting Team. Our primary task involves drafting AI audit certification schemes for various international laws, including Europe's General Data Protection Regulation, (GDPR), GDPR Children's Code, the EU AI Act, the Digital Services Act, the California Consumer Protection Act, and California's AADC. Our aim is to ensure a harmonized set of criteria, enabling compliance with one law to equate to compliance with all.

Our approach entails translating legal principles into business language, facilitating practical implementation. The certification scheme outlines a binary set of criteria (compliant/non-compliant), forming the basis for independent third-party audits of AAA Systems. Through these experiences, I offer my testimony in full support of SB571 Consumer Protection Online Products and Services Children Data.

My company, Holistic Ethics, LLC, and its flagship product, KidsTechEthics, stem from a comprehensive understanding of Children's Codes. We promote AI-based innovation in technology, making safer online spaces and digital experiences for children a reality. By incorporating ethical choices and Age-Appropriate Design principles, we create significant stakeholder value and a competitive advantage for early adopters. It is through this process of

understanding what a foundational child-centric Data Protection Impact Assessment should include, that we can recommend strategies and remedies to mitigate risks.

Consumer Protection Online Products and Services Children Data aligns with evolving consumer expectations. It champions the design of products and services aligned with ethical standards, transparency, and accountability. This will enhance user trust, and foster a digital ecosystem where all stakeholders, including children, are valued and safeguarded. Contrary to what you may hear, this bill is pro-business, as it lays out the how to do it, and what to do for development and creation of ethical and responsible technologies. It guides business in considerations of they intend to use children's data and deliver them legal and appropriate content, services, and features.

This represents a significant opportunity to steer innovation in a positive direction, mitigating harms through demonstrated risk management frameworks, beneficial for both business and users. Embracing this code positions Maryland as a pioneer in ethical technology practices, offering an attractive proposition for businesses valuing consumer protection and entrepreneurial growth.

It's crucial to address challenges raised by entities like NetChoice, which conflate children's privacy and product liability with that of free speech. Section 230 protects platforms from user-generated content but doesn't absolve businesses from their duty of care and accountability for distribution of illegal content. SB571 focuses on the design methodology that platforms and businesses utilize in designing systems that deliver content, collect data, and influence users, particularly children, through AI, algorithms, and autonomous systems. Many businesses overlook understanding how their systems interact with users. This is a critical flaw you can correct.

While BigTech opposition raises few solutions and advocates for self-regulation, they fail to address harms caused by their algorithms, as evidenced by various legal actions. Documented evidence in the Attorney Generals v. Meta, which include Maryland's Attorney General Anthony Brown, should stifle the arguments made by NetChoice and technology funded lobbyists that their products are safe, or that they have things under control. It is clear that investments made by many of the largest social media and technology businesses, including Meta, are the wrong ones. They are chasing shadows versus leading. This highlights the need for frameworks like SB 571 to address ethical dimensions in content delivery, user interactions, and what will lead safety efforts as opposed to playing catchup.

SB571 wouldn't be necessary if social media and technology business placed consumer protections in their design frameworks from the start. For those seeking to innovate, Consumer Protection Online Products and Services Children Data will give them the framework to get it right. For those that choose not to take those precautions and/ or create the systems to mitigate know harms, this will provide a structure of accountability. This law ensures Maryland's children are afforded protections when engaging in the digital world.

In conclusion, SB571 does not limit lawful speech to children. It is a product design and liability framework that protects how children's personal data is collected, processed, and considered in delivery of legal content. It strikes a balance between protecting children and fostering innovation. While refinements may be necessary, protecting vulnerable populations should remain paramount as technology advances.

Sincerely,

*Jeffrey Kluge*

Jeffrey Kluge  
CEO & Founder Holistic Ethics, LLC, and Creator of KidsTechEthics  
408-256-3757