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February 20, 2024

The Honorable Zack Stephenson
Minnesota House of Representatives
Room 449, State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155-1232

RE: HF 2257 (Bahner) Age-Appropriate Design Code - Oppose

Dear Representative Stephenson,

TechNet must respectfully oppose HF 2257, which would enact the Age-Appropriate Design Code. While we appreciate the intent and similarly believe in providing a safe and secure experience for kids online, we have some concerns with our ability to implement this bill effectively.

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, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

Our companies prioritize the safety and privacy of kids that access their sites and platforms. We strongly believe children deserve a heightened level of security and privacy and there are a number of efforts within the industry to incorporate protective design features into their websites and platforms. Our companies have been at the forefront of raising the standard for teen safety and privacy across our industry by creating new features, settings, parental tools, and protections that are age-appropriate and tailored to the differing developmental needs of young people.

First, HF 2257 puts companies in the position of determining what is best for children. The requirement that companies consider the "best interests of children" will mandate companies to make difficult, subjective determinations about their services and what is best for children. Different companies, even parents in one household, will have very different interpretations of what is and isn't in the "best interests" of children, or attorneys general in different states who enforce this law.

Second, the bill has an incredibly broad application, including to websites that are "reasonably likely to be accessed" by children under the age of 18. Despite attempts to

provide clarity to which sites are and are not “reasonably likely to be accessed”, it will be a difficult determination for companies to make. If they are subject to the bill, companies are required to complete a data protection impact assessment (DPIA) for any and every online service, product, and feature that children are “reasonably likely to access”. DPIAs are costly and time-consuming, particularly for websites and features that are low-risk regarding impacts on children.

Further, HF 2257 implicitly requires websites to conduct age verification to determine whether a user is a minor and receives a higher level of default privacy protections. As we’ve noted, we’re not opposed to providing greater protections to minors. But a statute that effectively requires age verification raises significantly more issues. HF 2257 places numerous restrictions on the use and processing of minors’ data, with civil penalties for violations. This strongly incentivizes companies to determine who is and isn’t a minor on their platform to make sure they are providing heightened protections to minor users.

Age-verification is a complex challenge for our industry to address and requires consideration of how to properly balance the interests of privacy and security. Stringent age-verification would require the collection of more personal information such as birthdates, addresses, and government IDs. The standard in this bill would require companies to collect more personal information, which conflicts with industry best practices and data minimization principles. Efforts are ongoing to develop more privacy protective ways to verify age online. But until there are industry-wide tools available, age-verification will continue to have tradeoffs and be difficult to implement in practice.

Finally, HF 2257 borrows heavily from the California AADC, which is the subject of ongoing litigation and is currently enjoined by a federal court. While HF 2257 attempts to avoid some of the First Amendment issues of the CA AADC, open ended requirements to analyze and consider the best interests of children and potential psychological and emotional harms will invite an analysis of the content available to minors. Given the uncertainty around the ongoing litigation over the AADC, we encourage you to wait and see how this issue plays out in Court before moving forward with the bill. Thank you for your consideration. If you have any questions regarding our opposition, please contact me 630-400-3439 or at tdiers@technet.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Diers', written in a cursive style.

Tyler Diers
Executive Director, Midwest
TechNet