



27 July 2022

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

Re: AB 2273 (Wicks, Cunningham, Petrie-Norris): The California Age-Appropriate Design Code Act. **(SPONSOR)**

Dear Chair Portantino,

On behalf of the 5Rights Foundation, we are writing to express our strong support for the California Age-Appropriate Design Code Act. AB 2273, as amended on June 30, 2022, would require businesses that provide an online service, product or feature that is likely to be accessed by a minor to comply with specific requirements to ensure that products are designed in the best interests of those under 18 years old. This measure will drive innovation at the product design level by requiring companies to consider the best interest of children and teens when developing their online products, services and features that are likely to be accessed by them.

Policy Considerations

Children and youth across the globe are facing an unprecedented mental health crisis. Even before the onset of COVID-19 and subsequent social distancing and isolation, teen suicide was on the rise; during February 21–March 20, 2021, suspected suicide attempt ED visits were 50.6% higher among girls aged 12–17 years than during the same period in 2019.¹

Ensuring the safety of tech products is long overdue. We have nutrition labels on food packaging, rigorous testing for cribs and car seats, and yet the technology children use daily from the youngest of ages have little to no safeguards and those for teens none at all.

- 75% of the top social media platforms use Artificial Intelligence (AI) to recommend children's profiles to strangers.²
- Of the top 100 free apps for kids in Google Play, 1 in 3 have banner ads, including ads for adult content.³
- 60% of school-based apps share kids' data with third parties.⁴

¹ [U.S. News, CDC Study Documents Rise in Adolescent Suicide Attempts During Pandemic](#)

² [5Rights Foundation, Risky-By-Design](#)

³ [Science Daily, Advertising in kids' apps more prevalent than parents may realize](#)

⁴ [Me2B Alliance, Product Testing Report: School Mobile Apps Student Data Sharing Behavior](#)

- A leaked internal survey found that “1 in 3 teenage girls is exacerbating body image problems” on Instagram, and that 6% of US teens link their interest in suicide directly to the platform.⁵

More than 80% of Americans say they want legislation that requires social media platforms to take action to minimize harm to minors.⁶ California can lead the nation in protecting our children online and prioritizing well-being over profit, childhood over exploitation. Two-thirds (64%) of California teens and parents (68%) say that social networks do a poor job explaining what they do with users’ data.⁷

In September 2021, the Age-Appropriate Design Code⁸ went into effect in the UK. Since then, tech companies have made changes to products that children use to ensure their data is not needlessly collected, they are not deceived by dark patterns, and that product design is not detrimental to their health and well-being.

The Code protects all minors, including older teens at particular risk of poor mental health outcomes, while ensuring that near adults have full access to products and services. Current law in the US has determined children online are either under 13 or under 16 years old which is not adequate to the lived experience of children and parents who see their children unprotected all stages of childhood, including and often especially when they are teens. The California AADC establishes that a child is under 18, which will provide a major step forward in addressing the need for product design to take account of children’s safety and wellbeing by default.

The UK AADC ensures that product changes are age appropriate and design decisions are made by the company. For example, TikTok has announced that accounts belonging to users aged 13-15 will not receive push notifications at night starting at 9pm, and accounts for users aged 16-17 will have push notifications disabled starting at 10pm. These are two of hundreds of examples of changes that demonstrate that companies can leverage innovation to offer an experience for children that is protective by design and default.

Recent amendments provide additional clarity and direction to obligated parties, including specificity around “likely to be accessed,” clarifying that the measure does not include a private right of action, and constraining enforcement on the measure to the Attorney General. The bill continues to mirror the UK AADC and must stay as strong as, and aligned with, that framework in California.

Fiscal Considerations

5Rights has considerable experience in supporting regulators, the tech sector and others and remains committed to engaging with the relevant regulators on expertise and best

⁵ [The Guardian, Teenage girls, body image and Instagram’s ‘perfect storm’](#)

⁶ [Morning Consult + Politico, National Tracking Poll March 2022](#)

⁷ [Common Sense, Privacy Matters: Protecting Digital Privacy for Parents and Kids](#)

⁸ [ICO, Introduction to the Age-appropriate design code](#)

practices. The AADC is increasingly a measure to which the tech sector designs its services and there is a wealth of experience that should support and enhance the implementation of this measure.

After reviewing recent budget change proposals (BCP) on similar issues, including implementation of the California Consumer Privacy Act (CCPA)⁹ and California Privacy Rights Act (CPRA)¹⁰, we do not believe this measure will generate significant, new costs but will require resources to ensure success. Moreover, given that the California Privacy Protection Agency (Agency) is already required to do regulatory work and enforcement of the CPRA, we believe there will be efficiencies that reduce costs of implementation of this measure. Finally, we do not believe that recent amendments will create any new costs on top of the estimates highlighted in the Assembly Appropriations Committee.

In terms of the Department of Justice, we note that the enforcement of the measure was limited to the Attorney General, but we do not believe that will create significant upward pressure on the estimated costs provided by the Department and reflected in the Assembly Appropriations Committee analysis on May 9, 2022.

All told, the benefits of establishing a statutory structure that drives child protection to the forefront of design considerations for online services, products or features will have benefits that significantly outweigh the cost of implementation.

For these reasons, we are in strong support of AB 2273, The California Age-Appropriate Design Code Act, and respectfully request your support of this important measure.

Sincerely,



Baroness Beeban Kidron
Chair, 5Rights Foundation

Cc: The Honorable Patricia Bates, Vice Chair, Senate Appropriations Committee
Honorable Members, Senate Appropriations Committee
The Honorable Buffy Wicks, California State Assembly

⁹ [Department of Justice, 2019 Budget Change Proposal](#)

¹⁰ [CPPA, 2022 Budget Change Proposal](#)