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**REGARDING THE STOP ADDICTIVE FEEDS EXPLOITATION (SAFE)
FOR KIDS ACT AND THE CHILD DATA PROTECTION ACT.**

Introduction

Thank you for holding this hearing to address Governor Hochul's FY2025 Executive Budget. I am here to address the proposed Stop Addictive Feeds Exploitation (SAFE) for Kids Act and the Child Data Protection Act.

I speak on behalf of the Cyber Harassment Clinic at New York Law School. As part of the New York Law School's Institute for Cybersafety, the clinic is the first-of-its-kind law school pro bono clinic helping victims of cyber harassment obtain justice. The clinic focuses on raising awareness about the prevalence and threat of cyber harassment. We also provide direct services to victims of nonconsensual pornography, cyberbullying, and other forms of online harassment. These services often include representing victims in their cases to help them obtain justice. Our goal is to empower victims of cyberharassment, raise awareness about the impact and risk of cyberharassment and related forms of violence, such as non-consensual pornography, and use the law as an instrument of justice for victims.

Due to the nature of our work; we are particularly familiar with the harms of the cyber world, specifically with social media and the detrimental effects it can have on young people. We are also mindful of how online spaces intersect with harms in the physical world. From this vantage point, we offer our perspective regarding two bills before the legislature. While these bills move toward protecting young people from being exposed to harmful concepts and misinformation pushed forth on them through these addictive algorithms, our clinic has concerns about how these bills could also inflict unintended harm on the same children, they intend to protect. These bills could unintentionally perpetuate abuse in homes and further isolate already marginalized groups, particularly LGBTQ+ youth, undocumented immigrants, young women exercising their reproductive rights, and older adults.

While we applaud that New York State seeks to take action, we strongly urge you to consider the unintended consequences these bills may cause to young people and marginalized groups. Instead, we would also ask you to consider ways to offer other

resources and remedies to help repair the damage these platforms are causing to their young users while simultaneously supporting measures that get to the root causes of inequity and mental health struggles for youth

With this in mind, at the Cyberharassment Clinic we note the following:

1. **Social media companies need to be held accountable as their goals regularly prioritize profit over safety and privacy.** For example, billionaire dollar companies such as Meta make money primarily by selling advertisements pushed onto users.¹ Meta also makes money selling consumer hardware products, software, and content.² Their business goal is to increase the number of users on their platform, the amount of time users are engaged with their platform, and the number of advertisements viewed by their users. This increased engagement or addiction to social media is harmful, especially to children.³
2. **Social media companies need to be held accountable because we cannot count on them to hold themselves accountable.** Meta has a history of apologies without real action⁴ The CEO of then Facebook, now Meta, once called his users “dumb” for misplaced trust in him, describing how Facebook gave him access to any information he wanted on his classmates⁵ Presently, Meta hosts more than 3.98 billion users across its apps⁶ On February 1, 2024, Meta reported a 25% increase in quarterly revenue fueled by its advertising business⁷ The United States cares about businesses, but predatory business practices are never acceptable. Therefore, it is incumbent upon the government to take action

¹ SEC filings, i.e. Meta Platforms, Inc., Annual Report (Form 10-K) (2023).

² *Id.*

³ Wan Ahmad Munsif Wan P, Muhammaad Sofwan Maahmud, Mohd Syazwan Zinal, Implications of Social Media Addiction on Academic Performance among Generation Z Student-athletes during Covid-19 Lockdown, *International Journal of Learning, Teaching and Educational Research*, Vol. 20, No. 8 (2021), <https://www.ijlter.org/index.php/ijlter/article/view/4034> (during the COVID-19 pandemic, educators particularly noticed the effects of social media use while education and social interactions all occurred online during the lockdown.); Endless studies show the following negative effects of social media use: depression, suicide, psychological distress, anxiety, difficulty concentrating, hyperactivity and nervousness, aggression, substance abuse, eating disorders, long-term mental illness, difficulty learning in school.

⁴ David Hamilton, *Mark Zuckerberg's long apology tour: A brief history*, The Associated Press, (Feb. 1, 2024, 7:14pm), <https://apnews.com/article/mark-zuckerberg-facebook-apology-c7055b654f63a23d09b6a96388dfa2b4>.

⁵ Jose Antonio Vargas, *The Face of Facebook*, The New Yorker, (Sept. 13, 2010), <https://www.newyorker.com/magazine/2010/09/20/the-face-of-facebook>.

⁶ Mike Isaac, *META Reports Profits More Than Tripled and Issues Its First Dividend*, N.Y. Times, (Feb. 1, 2024), <https://www.nytimes.com/2024/02/01/technology/meta-profit-report.html>.

⁷ Meta Platforms, Inc., *Meta Reports Fourth Quarter and Full Year 2023 Results; Initiates Quarterly Dividend*, PR Newswire, (Feb. 1, 2024, 4:05pm), <https://www.prnewswire.com/news-releases/meta-reports-fourth-quarter-and-full-year-2023-results-initiate-s-quarterly-dividend-302051285.html>.

to deter negative behaviors that disproportionately impact youth and other vulnerable communities.

- 3. Protecting Marginalized communities' access to life-saving information is paramount.** Well-intentioned laws that protect children through burdensome parental oversight of online activity may have unintended consequences. For example, youth in abusive home environments have access to restricted to restrict vital online communities and resources for victims of domestic violence and dating violence, LGBTQ+ youth, and other vulnerable groups who may rely on digital spaces for support and safety. According to a study from the Pew Research Center, 67% of youth say that using social media makes them feel like they have people who can support them through tough times.⁸ For many LGBTQ+ youth, online anonymity is a safe space where they can be themselves. In households that are unsupportive of LGBTQ+ youth, the bills could shut youth out of safe spaces online, cutting off access to support and risking further isolation and harm. Research from the Trevor Project's national study shows that 70% of LGBTQ+ youth turn to digital platforms as affirming spaces, compared to only 35% finding it at home, 17% in their communities, and 52% in schools.⁹ This is notable because the study found that LGBTQ+ youth who had access to affirming spaces reported lower rates of attempting suicide compared to those who did not.¹⁰
- 4. Age verification poses challenges to protecting youth while protecting their respective privacy rights.** The Stop Addictive Feeds Exploitation (SAFE) for Kids Act and the New York Child Data Protection Act, aim to limit features on social media platforms and help to mitigate and prevent dangerous health consequences from becoming more prominent amongst children and teens. However, they do not specify how to determine the age of the person interacting with the website or platform. While different options are posed, one that typically stands out is age verification or performing age estimation based on face biometrics. The New York Child Data Protection Act will prohibit all online sites from collecting, using, sharing, or selling personal data of anyone under 18 for advertising unless they receive informed consent or unless doing so is strictly necessary for the website. Any minor under 13 must have informed consent from the parent. As New York and states across the US are introducing well-intentioned legislation to protect children and youth from what they perceive as harm from social media, there are serious gaps regarding age identification practices that require clarification.

⁸Monica Anderson, Emily A. Vogels, Andrew Perrin, and Lee Rainie, *Connection, Creativity and Drama: Teen Life on Social Media in 2022*, Pew Research Center, (Nov. 16, 2022), <https://www.pewresearch.org/internet/2022/11/16/connection-creativity-and-drama-teen-life-on-social-media-in-2022/>

⁹ <https://www.thetrevorproject.org/survey-2023/>

¹⁰ <https://www.thetrevorproject.org/survey-2023/>

The problems in age verification systems come with implications of privacy risks. Age verification systems, according to some, are surveillance systems that impact all people, not just youth and teen groups. It is necessary to confirm the age of all website visitors or social media accounts to filter content for select age groups. While the intention is to ensure that children and teens access appropriate content, age verification may seem like a quick tech solution that is so "obvious" to solve the problem. But this "obvious" solution can bring on a host of online harms, including serious human rights implications, especially for young individuals these bills are intended to protect.

In addition, age verification may raise constitutional concerns surrounding the free speech rights of companies, websites, and/or users under the First Amendment. This is not a new issue, but it is nonetheless complex and multifaceted. With the intent to protect young people from online harm, it is of the utmost concern that there is a need to strike a balance between age verification and privacy rights. This balance faces significant hurdles. Developments and progressing forward need careful consideration of constitutional, legal, ethical, and technological implications. These considerations are achievable if there is collaboration amongst policymakers, technology experts, social media companies, constitutional scholars, and everyday internet users to help implement proactive solutions to protect minors and respect privacy rights.

- 5. Regulating social media is not enough to keep children safe online. We need to redirect resources to mental health services and education.** While social media algorithms and social media usage are huge contributors to the mental health challenges children face, the solutions require not only the regulation of social media. For example, Governor Hochul identified one harmful experience teens have online as the algorithm pushing content that reinforces eating disorder behavior.¹¹ This content and its pushing to vulnerable young minds needs to be stopped. However, more resources need to be directed to helping address mental health trends among young people, such as eating disorders, a lack of education about consent, education about the harms of cyberharassment and bullying, as well as a need for healthy relationships and comprehensive sex education. Healing involves more than removing contributing factors and social media companies need to take responsibility for the harm they cause in tandem with the government investing more money into counseling and resources for mental health. Investing resources into more preventative measures surrounding mental health will establish a safe and healthy way for children to combat these issues, which they are not only facing online. As previously mentioned, eating disorders and mental health struggles are not formed on social media but instead reinforced and continued. Helping children face these struggles head-on will be most beneficial for them and for using

¹¹ *Governor Hochul's 2024 State of the State: Our New York, Our Future*, Governor Kathy Hochul., [https://www.governor.ny.gov/news/governor-hochuls-2024-state-state-our-new-york-our-future#:~:text=The%20State%20of%20the%20State,do%2C%E2%80%9D%20Governor%20Hochul%20,\(January%209th,2024\)](https://www.governor.ny.gov/news/governor-hochuls-2024-state-state-our-new-york-our-future#:~:text=The%20State%20of%20the%20State,do%2C%E2%80%9D%20Governor%20Hochul%20,(January%209th,2024))

resources instead of regulating social media alone, as their struggles will not end there.

Thank you for the opportunity to contribute to this important discussion. The Cyberharassment Clinic at New York Law School would be honored to partner further to examine this issue in greater detail.

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