



March 26, 2023

The Honorable Zack Stephenson, Chair
Minnesota House Commerce Finance & Policy Committee

RE: House Commerce Omnibus bill – HF 2680

Dear Representative Stephenson,

On behalf of TechNet's member companies, I respectfully submit this letter of opposition to two provisions as currently drafted in the House Commerce omnibus ("the omnibus") bill, HF 2680.

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.

The two issues that we remain opposed to as currently drafted are the "Digital Fair Repair" provision (151.13) and the "Minnesota Age-Appropriate Design Code" provision (168.3).

"Digital Fair Repair"

While TechNet remains in opposition to the repair provisions as drafted in the omnibus, we remain committed to continuing our work with the proponents of the bill to get to a final product that works for all stakeholders.

Over the last several weeks, TechNet has been in communication with the proponents of the language and have identified areas that we agree on, areas of the bill that need more discussion and areas that may be sticking points. I believe those issues can be overcome in any final product.

There are several remaining items that we would like to see addressed in this provision, however, in the interest of time, I would like to highlight one issue that demonstrates the unintended consequences of passing this bill as is.

One of the issues that is in this bill that must be addressed is the language relating to electronic security locks (154.25). Back in 2014, Minnesota was the first State in the Union to require smartphones and tablets sold in the state to have remote shut-off feature as a way to deter theft. This law became known as the "Kill Switch" law.

If this provision remains in the bill, Original Equipment Manufacturers (OEMs) would be forced to hand over the keys and passcodes to stolen phones – making that landmark law essentially useless. Or worse, OEMs would be forced to hand over the keys and passcodes to unlock phones of consumers who would be taking their devices to get serviced. Leaving unfettered access to text messages and sensitive pictures and videos – with no protections under the bill.

I want to assure you that we are working with the advocates in good faith to find language that works for everyone. Language that protects the integrity of the devices sold in this state, a bill that protects the privacy of your constituents, all while giving the advocates what they sought out to achieve. We are requesting that you encourage the work of all parties to continue in order to reach “peace in the valley” that could be reflected in the final bill that becomes law.

“Minnesota Age-Appropriate Design Code”

TechNet strongly believes children deserve a heightened level of security and privacy online and there are several efforts within the industry to incorporate protective design features into 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. Our member companies are committed to providing a safe, age- appropriate experience for young people online.

The requirements in this provision would impose many unintended consequences on all businesses operating in the state, not just technology companies. We remain opposed for the following reasons: One, the breadth of this legislation would be felt by pretty much every business that operates on the internet; two, there are some legitimate privacy concerns that persist throughout the bill; and three, there are some ongoing legal implications that would likely arise should this bill become law.

First, I want to highlight the breadth of this provision and how it will impact many businesses throughout this state. If enacted, this new regulatory regime on the internet in Minnesota would apply to any business that has personal information on 50k consumers and operates an online service that is likely to be accessed by a child. This would include all major news outlets, as well as a significant number of local news services, most online magazines and podcast channels, E-books and e-reader apps, social media services, video and music streaming services, and individual blogs and discussion forums.

Furthermore, this provision would require any website that is likely to be accessed by a child to have the best interest of the child in mind and would need to complete a data impact assessment for any online service, product, or feature likely to be accessed by a child.

These impact assessments would require companies to determine whether the design of the online product, service, or feature could be harmful to children. But it is unclear who determines the best interest of the child and who determines what is harmful. A business could be expected to document the risks, for example, that photographs and videos depicting the global effects of climate change or the war in Ukraine, could cause minors anxiety; or that a content recommendation for the next episode of a cartoon TV series could “harm” a minor who is struggling to focus on homework or to get more exercise.

To further complicate things, businesses would need to estimate the age of child users with a reasonable level of certainty or apply the privacy and data protections afforded to children to all consumers. It is also unclear how these platforms, many of which operate under anonymous browsing, would know with certainty the age of the user.

This provision does not specify the exact method that regulated entities must use to perform age assurance. Unfortunately, every available option is problematic in ways that undercut the objective of increasing children’s privacy. Businesses would be placed in a difficult spot by having to choose between assuring the age of all users (both minors and adults alike) or redesigning all their online features to treat adults as if they were children.

This provision, which borrows from the California Age-Appropriate Design Code, is currently under litigation in California. The lawsuit argues alleged violations of the First Amendment and for violating federal preemption with the federal Children’s Online Privacy Protection Act. If this language were to become enacted, it would undoubtedly be challenged with the ongoing pending lawsuit in California.

We recognize the importance of strong protections for Minnesota youth, but those efforts should account for teens’ autonomy and aim to achieve consistency with emerging norms. For the above stated reasons, including pending litigation, TechNet is opposed to this provision in the omnibus.

Thank you,



Tyler Diers
Executive Director, Midwest
TechNet