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Stop the Scroll: KOSA and Congress' New Approach for Online Child Safety

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In an era where children's online safety has become a predominant concern for parents nationwide, the Kids Online Safety Act (KOSA) has emerged as a significant piece of legislation that could seriously affect the operations of technology companies. This bipartisan bill, currently making its way through Congress, aims to establish new standards for protecting minors in the digital realm.¹ However, its potential enactment raises important questions about the balance between child protection and the practicalities of implementation for tech firms.

Social media algorithms have a significant impact on teen mental health. These algorithms are designed to maximize engagement, often by promoting content that triggers strong emotional responses.² This can lead to increased anxiety, depression, and poor sleep quality among young users. A study found that teens who spent more than three hours per day on social media faced twice the risk of developing poor mental health, including depression and anxiety.³ The constant exposure to curated, idealized images on platforms like Instagram can negatively impact self-esteem and body image. Additionally, algorithms can create echo chambers that reinforce negative thought patterns and contribute to polarized thinking, further exacerbating mental health issues among teenagers.⁴ KOSA aims to address these issues with a comprehensive approach.

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¹ Kids Online Safety and Privacy Act, S.2073, 118th Cong. (2024).

² Jessica Koehler, *The Unseen Perils of Social Media*, PSYCHOLOGY TODAY. (Sept. 16, 2024, 10:20 AM).

³ Lily Klam, *Algorithms, Addiction, and Abuse: The Need to Protect Children Online*, FIRST FOCUS ON CHILDREN: BLOG, (Sept. 16, 2024, 10:30 AM).

⁴ Jessica Koehler, *The Unseen Perils of Social Media*, PSYCHOLOGY TODAY. (Sept. 16, 2024, 10:20 AM).

KOSA's reach extends to a wide array of online platforms, including social media, messaging apps, video games, and streaming services likely to be accessed by minors under 17. The bill introduces several key provisions: (1) a "duty of care" mandate requiring platforms to take reasonable measures to prevent harm to minors, (2) implementation of safeguards and tools for privacy protection and parental control, (3) mandatory annual audits and transparency reports for large platforms, and (4) enforcement powers granted to the Federal Trade Commission (FTC) and state attorneys general.⁵

The duty of care provision could require an overhaul of how tech companies design their products.⁶ Recommendation algorithms and other core features may need to be reconstructed to comply with KOSA's requirements. This could impact user experience and engagement, with secondary effects on advertising revenues.⁷ Implementing the required safeguards, conducting audits, and producing transparency reports would significantly increase compliance costs. Moreover, the expanded liability under KOSA could expose companies to increased litigation risks and potential fines for non-compliance.

Platforms may need to collect more personal information from users to meet age verification requirements and implement age-appropriate safeguards.⁸ This creates a potential conflict with existing privacy laws, placing companies in a challenging position. This additional data gathering may create new privacy risks and potential vulnerabilities to data breaches. Moreover, the implementation of these measures could inadvertently compromise user anonymity, which is crucial for many individuals, especially vulnerable youth, seeking sensitive information or support.⁹ Balancing these privacy concerns with the intended protections of KOSA presents a complex challenge for both legislators and tech companies.

The broad scope of KOSA's requirements could inadvertently stifle innovation in the tech sector. Larger companies with more resources may be better positioned to absorb compliance costs, potentially leading to further industry consolidation and creating barriers for smaller platforms and startups. As KOSA progresses through Congress, tech companies face uncertainty.

The Kids Online Safety Act represents a significant shift in the regulatory landscape for tech companies. While its intentions are commendable, implementing KOSA would require substantial adjustments in how these companies operate, design their products, and interact with younger users. As the bill progresses through the legislative process, tech companies should closely monitor developments and prepare strategies to adapt to this

⁵ Kids Online Safety and Privacy Act, S.2073, 118th Cong. (2024).

⁶ Mariana Olaizola Rosenblat, *KOSA is Good Tech Policy, But the House Has an Opportunity to Make it Even Better*, TECH POLICY PRESS, Aug. 7, 2024.

⁷ *Id.*

⁸ Quinta Jurecic, *The Kids Online Safety Act and the State of Tech Policy*, LAWFARE MEDIA, Mar. 27, 2024, 8:00 AM.

⁹ Barbara Ortutay, *What to know about the Kids Online Safety Act that just passed the Senate*, AP NEWS, July 31, 2024, 1:02 PM.

potentially transformative legislation. How companies navigate these challenges will likely shape the future of online interactions and the broader digital ecosystem for years to come