

United States Senate

WASHINGTON, DC 20510

December 14, 2022

The Honorable Chuck Schumer
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20510

The Honorable Kevin McCarthy
House Minority Leader
United States House of Representatives
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, and Minority Leader McCarthy:

Threats to the privacy, health, and well-being of children and teenagers online have reached a crisis point. As Congress works to finalize legislation before the end of this session, we write to request the inclusion of critical privacy protections for young online users that have already garnered bipartisan and bicameral support.

The United States has a youth mental health crisis. Rates of mental health challenges among children and teens are soaring,¹ and the U.S. Surgeon General has called on technology and social media companies to help address threats to young people.² Popular platforms — which amass troves of user data to power algorithmic recommendation systems — pressure young people to spend more time online, foster negative body image issues, and even increase suicidal ideation.³ Today, the internet is a child's twenty-first century playground, but it is riddled with risks. Studies show that kids lack the cognitive ability to defend themselves against common data practices,⁴ and kids' screen time doubled during the pandemic,⁵ leaving them even more exposed to invasive tracking online. Children and teens are uniquely vulnerable populations in today's digital ecosystem, yet our privacy laws have failed to keep up with online harms.

¹ *AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health*, American Academy of Pediatrics (Oct. 19, 2021), <https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/>.

² *Protecting Youth Mental Health: The U.S. Surgeon General's Advisory*, Dep't of Health and Human Services (Dec. 7, 2021), <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>.

³ Georgia Wells, Jeff Horwitz and Deepa Seetharaman, *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*, Wall St. J. (Sept. 14, 2021), <https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739>.

⁴ Joseph Jerome & Ariel Fox Johnson, *AdTech and Kids: Behavioral Ads Need A Time-Out*, CommonSense (May 8, 2021), <https://www.commonsensemedia.org/sites/default/files/uploads/pdfs/blog/adtech-and-kids-explainer.pdf>.

⁵ Sara Fischer & Margaret Harding McGill, *Kids' screen time up 50% during pandemic*, Axios (Jan. 17, 2021), <https://www.axios.com/kids-screen-time-pandemic-112650a6-743c-4c15-b84a-7d86103262bb.html>.

Therefore, Congress must step in to protect our children and teens by passing, at a minimum, these key privacy provisions, all of which have bipartisan and bicameral support:⁶

- 1) **Ban targeted advertising to children.** Targeted advertising is inherently manipulative to young people online, as they are more influenced by marketing and are less capable of recognizing that a piece of content is an advertisement.⁷ Congress should finally stop online actors from relentlessly tracking young users for the purposes of this manipulative practice;
- 2) **Extend data protections to teenagers.** The Children’s Online Privacy Protection Act (COPPA) created critical privacy protections for children under the age of 13. However, today, when close to half of teens say they are online “almost constantly,”⁸ this age threshold is too low. Extending consent requirements to protect teens has overwhelming support among parents,⁹ and is an important step to protect young users from the vast data collection that powers harmful algorithms;
- 3) **Institute a federal Youth Marketing and Privacy Division.** A new division at the Federal Trade Commission (FTC) will ensure the agency focuses on the specific, unique threats to children and teens online; and
- 4) **Commission a study of the COPPA safe harbor provisions.** A report from the FTC Inspector General will help ensure the original 1998 law effectively protects the interests of children.

We commend efforts to enact broader online privacy regimes and stand ready to continue to collaborate with our colleagues on that important work. As the rate of mental health issues among children and teens skyrockets, however, Congress faces a moral imperative to protect young people’s health and privacy now. We urge you to enact these four bipartisan, bicameral provisions by the end of the year.

Thank you for your leadership and attention to this important matter.

⁶ Press Release, *Senator Markey Celebrates Successful Passage of Children and Teens’ Privacy Legislation Through Senate Commerce Committee*, Senator Edward J. Markey (July 27, 2022), <https://www.markey.senate.gov/news/press-releases/senator-markey-celebrates-successful-passage-of-children-and-teens-privacy-legislation-through-senate-commerce-committee>.; Press Release, *Bipartisan E&C Leaders Hail Committee Passage of the American Data Privacy Protection Act*, House Committee on Energy & Commerce (July 20, 2022), <https://energycommerce.house.gov/newsroom/press-releases/bipartisan-ec-leaders-hail-committee-passage-of-the-american-data-privacy>.

⁷ Matthew Lapierre et al., *The Effect of Advertising on Children and Adolescents*, *Pediatrics* (2017), 140 (2) S152-S156; doi:10.1542/peds.2016-1758V; Laura Owen et al., *Is Children’s Understanding of Non-Traditional Advertising Comparable to their Understanding of Television Advertising?*, *Journal of Public Policy Mark* (2021), 32(2):195–206 doi.org/10.1509/jppm.09.003.

⁸ Jennifer Korn, *Nearly half of all teens say they use the internet ‘almost constantly,’ survey finds*, CNN Business (Aug. 11, 2022), <https://www.cnn.com/2022/08/11/tech/facebook-teen-usage-pew/index.html>.

⁹ *NEW STUDY: One Year Into the Pandemic, 82% of Parents Are Concerned About Their Kids’ Screen Time*, Parents Together (Mar. 11, 2021), <https://parents-together.org/new-study-one-year-into-the-pandemic-82-of-parents-are-concerned-about-their-kids-screen-time-2/>.

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Sincerely,

/s/

Edward J. Markey
United States Senator

/s/

Cynthia Lummis
United States Senator

/s/

Bill Cassidy, M.D.
United States Senator

/s/

Richard Blumenthal
United States Senator