

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

December 9, 2024

Dear Congressional Leaders:

We, the undersigned organizations, urge you to oppose the Kids Online Safety Act (KOSA) approved by the Senate as well as the version advanced by the House Energy and Commerce Committee. While we appreciate Congress' efforts to address the safety of minors online, the "duty of care" provision in both versions of the bill is vaguely worded and would hand the Federal Trade Commission and the Department of Justice, which has authority to litigate and seek monetary penalties for federal consumer protection cases, extraordinary powers to arbitrarily stifle access to critical information. Content at risk includes resources about reproductive healthcare, LGBTQ+ content, content relevant to the history of marginalized groups, among others.

Following the Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision, state legislatures across the country have taken significant strides to restrict access to essential reproductive health care and information. Digital tools have been pivotal in ensuring youth maintain access to such information. Over 180 million teens, parents, and educators rely on online tools to access information on topics including contraception and sexually transmitted diseases. Underscoring the importance of digital resources, nearly half of youth reported the internet as a primary source of sexual health information. The "duty of care" obligation would subject reproductive health resource providers to undue scrutiny and legal battles, particularly damaging to youth in states already hostile to reproductive health access. FTC could use its newfound powers in KOSA to claim platforms providing such content are violating their duty of care requirements. This would lead to disincentives to online platforms to continue to provide such information.

Similarly, the internet has been a critical resource for many LGBTQ+ youth in their journey of self-identity and discovery, and youth often turn to online platforms for support that they often lack in their local communities. These online communities keep LGBTQ+ youth informed, connected, and in many cases, alive. Research reveals that 64% of LGBTQ+ individuals in the US say they joined online platforms before the age of 18, and more than half joined specifically

in the search for LGBTQ+ resources and community. Further, 74% of LGBTQ+ individuals—and 90% of transgender individuals –say online platforms played a role in discovering or learning about their identity, and 69% of queer and 73% of transgender and nonbinary youth find affirming spaces online. Suicide prevention resources, physical health information, and access to information on LGBTQ+ history and culture are key components of the LGBTQ+ digital space. We are concerned that the “duty of care” would incentivize platforms to remove LGBTQ+ content to avoid legal penalties. The bill’s duty of care provision would give the FTC power to bring cases against companies that feature information about sexual orientation and gender identity, arguing that it is harmful to children.

Lastly, we are concerned about any efforts to block content relevant to the history of marginalized groups, such as the history of slavery in the U.S. At least one bill sponsor has wrongly stated that widely used educational materials that teach about the history of racism in the U.S. causes depression in kids. We believe it is important for children and teens to learn about the complexity of our history. Instead, KOSA would require platforms to take steps to prevent and mitigate any kind of anxiety, which an FTC could certainly exploit to censor a whole range of content.

We all want the internet to be a safe environment for our youth. We urge you to ensure that attempts to create safer spaces for young people do not work against everyone’s access to valuable information.

Thank you for your leadership.

Sincerely,

Advocates for Youth
American Civil Liberties Union
Bisexual Resource Center
Christie’s Place
COLAGE
Cobalt
Dutchess County Pride Center
Electronic Frontier Foundation
Equality Kansas
Equality New Mexico
Equality New York

Freedom Network USA
Harlem Pride
In Our Own Voices
LGBT Tech
Long Beach Forward
Los Angeles LGBTQ Chamber of Commerce
MA LGBTQ Bar Association
MassEquality
National Pacific Islander Education Network
NYC LGBTQS Chamber of Commerce
Restore the Fourth
SIECUS: Sex Ed for Social Change
Strength Based Community Change (SBCC)
Su Casa
Trans Lawrence Coalition
US Rural Health
Woodhull Freedom Foundation

Updated: 12/9/2024