FOSI Briefs

Family
Online Safety
Institute

What You Should Know About The Kids Online Safety Act

The legislative focus on online safety has continued from 2021 into the new year, with bills being written, debated, and enacted around the world. The Kids Online Safety Act (**KOSA**) is the latest comprehensive attempt by Congress to update and improve online safety, especially for children and young people. The bill specifically comes after a series of high-profile hearings that the Senate Commerce Subcommittee on Consumer Protection, Product Safety, and Data Security held in 2021. These hearings included testimony from **data privacy and child safety experts**; executives from **Facebook**, **Instagram**, Snapchat, TikTok and **YouTube**; and Facebook whistleblower **Frances Haugen**.

This bill, if passed, would have an impact around the world. It would apply to all websites or apps that are used or are likely to be used by anyone under 17 years old. KOSA has a number of sections that would improve the online safety environment, including a duty of care to mitigate harms to minors, improved user and parental controls on platforms, clear communication to children and families, a technological study on age verification, and establishing a Kids Online Safety Council. There are also some parts of the bill that we believe must be further explained and clarified, like transparency requirements and researcher access to data, for fear of unintended consequences.

It is a good thing for platforms to be required to act in the best interests of minors. Safety by design is a tide that raises all ships, making products safer for everyone, not just minors. The bill calls for a general duty to act in the best interest of minors, and also a specific duty of care for platforms to prevent and mitigate the harms associated with content featuring self-harm, suicide, eating disorders, physical harm and harassment, sexual exploitation, and

illegal products. These are exactly the types of harms that we should be mitigating and reducing youth exposure to, online and offline.

User and parental controls offered by online platforms can be very effective at creating a safer online experience for children, especially when such controls are effectively communicated to users and designed with safety in mind. FOSI's recent research from **2021** and **2020** examines how these tools work in practice and offers insight from real adults and young people about how helpful they are, while also exploring ways to improve the awareness level around them. While offering, and clearly communicating, parental and user controls can increase safety in the online environment, it is also important to educate parents and guardians about best practices for using them.

Using FOSI's **How To Be A Good Digital Parent resources** can guide families to the right balance of engaging with their kids and setting reasonable boundaries for their technology use, while respecting kids' privacy and limiting parental overreach and spying. It is laudable when bills require clear communication to the young users when parental controls are on and being used, as KOSA does. Parental controls are most effective when they facilitate and **encourage family discussions** about technology use.

Clear, easy to understand explanations of the policies, practices, and safeguards that are offered to minors and parents are an important part of improving a platform's safety. It is also important to explain to users how their personal data is used and the choices they have over what data is collected and how it is used is an important step for improving and customizing kids' online experiences. Another part of this bill would require

platforms to more clearly designate and label advertisements, something that is especially important for kids as they develop the literacy skills to differentiate paid ads from native content.

Age assurance and verification is an important but complicated part of youth online safety. Some work has been done in this area recently, including by children's **digital rights foundations** and **data privacy organizations**, and putting an expert agency like NIST in charge of studying the issue to find the most technologically feasible options is a great step forward. It is critical to be sure that minors are treated as minors, with additional protections, and assurances that they are interacting with age-appropriate content. However, we also want to follow the goals of data minimization. Collecting more information from all users to prove the age of a minor results in less privacy and puts a lot more data at risk. Empowering NIST to study the issue is a smart and responsible way to address age verification challenges.

The establishment of a Kids Online Safety Council would be transformative to family online safety in the US. FOSI has long called for the creation of a Chief Online Safety Officer to coordinate all online safety efforts across the US government. Additionally, a diverse council of experts with representation from parents, health professionals, industry, agencies and regulators, and children themselves is a significant step in improving online safety for all American families.

There are other sections of KOSA where we believe more information is needed to assuage fears about unintended consequences. For example, the bill as written would apply to nearly every website, app, and online platform. This is an especially broad definition of "covered platforms," and doesn't consider the differences between and diversity of internet operators from social media platforms and communication apps to streaming services, marketplaces, and search engines. Instead of attempting to regulate the entire internet in one bill, a more targeted version may be better able to prevent the online harms specified in this bill.

This legislation would also require platforms to publicly publish an annual report of the platform's potential harm to minors based on an independent audit. Transparency is generally a good thing, and often the first step towards accountability. However, it remains to be seen how such audits and reports will preserve both the privacy of the individual users and internal platform operations that may represent a competitive harm if made public. The bill language focuses on harms to minors including algorithmic amplification of content and other platform policies, but questions remain about what this would look like in practice.

Similarly, more information is needed about what independent researcher access to platform data would entail. The bill seeks to allow researchers associated with colleges, universities, and nonprofits to access platform data that is in the public interest. The NTIA Administrator would have broad authority to set up the process of approving researchers to have access to platform data. Public interest research into the harms that children face on platforms is certainly important, but questions remain as to who would have access to the data, how personal and sensitive the data would be, and how exactly this process would work. Some more clarity from NTIA would go a long way to assuage concerns about improper data access and use.

This bill creates new responsibilities for the FTC, NIST, the Department of Commerce and NTIA, yet it does not explicitly appropriate funds to the agencies and departments to conduct this important work. The FTC is and can be an effective and appropriate regulator, however it needs more resources, staff, and expertise to do so. FOSI sincerely hopes that if passed, the ensuing discussion of appropriations does not become a political battleground that jeopardizes the safety of minors online.

As a leading voice in family online safety worldwide, FOSI is glad to see so many recent legislative and regulatory efforts focused on children's online safety. We are encouraged to see consensus building around measures to promote safety by design and efforts to mitigate specific harms that children face online, and hope collaborative and cooperative progress can contribute to making the online world safer for kids and their families.

Andrew Zack
Policy Manager