

United States Senate
Committee on the Judiciary
Subcommittee on Privacy, Technology, and the Law

Responses to Questions for the Record

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Introduction

Thank you for the opportunity to respond to this question regarding age verification. As discussed at the hearing, these recent trials included testimony and numerous internal documents regarding the potentially addictive and certainly harmful features that many platforms have intentionally designed into their products.¹ Evidence was also admitted discussing the growing view of many mental health professionals that there is a connection between the harms youth experience and the use of these platforms.² This evidence, combined with the verdicts finding liability, all point toward conceptualizing social media platforms as potentially dangerous products that children consume without meaningful guardrails.

Should Congress follow the lead of many other nations and a growing number of states and implement some form of age based restriction for such products, age verification is an important consideration. As the question suggests, the standards for age verification Congress may embrace should consider safety, privacy, and accountability. That being said, Congress does not face a binary choice between no limits at all and an extraordinarily intrusive system. Age verification occurs in many online spaces through a variety of mechanisms. As the Supreme Court noted just last term, “age verification online is plainly a legitimate legislative choice.”³

Conceptual Framing of Age Verification

Before discussing how to engage in age verification, it is important to address why age verification is important. This “legitimate legislative choice” has a long history and legislatures often utilize it to protect children from products – many of which may have lawful uses – that risk harm to children or require a more fully advanced brain development to adequately navigate the risks of harm. Examples include age limits on tobacco, alcohol, gambling, pornography, firearms, marriage, car rentals, or certain medications. In all such contexts the use of a “bona fide age-verification requirement” is not in dispute.⁴

As was made clear through the recent trials in New Mexico and California, the focus of that litigation was on social media platforms as dangerously designed products. A growing body of research supports the view that these products pose a threat to children’s mental health not unlike the aforementioned products. The many harms potentially correlated to social media use include anxiety, depression, body dysmorphia, bullying, exposure to harmful content, access to

¹ E.g., Vincent Rodriguez and Nick Catlin, *LIVE COVERAGE: Meta trial reaches day four as former staff testimony continues*, KOAT (Feb. 13, 2026), <https://www.koat.com/article/new-mexico-meta-facebook-instagram-trial-stream/70328418>; Sonja Sharp, *Landmark L.A. Jury Verdict Finds Instagram, YouTube Were Designed to Addict Kids*, L.A. Times (Mar. 25, 2026, 1:29 PM).

² E.g., Nancy Dillon, *At Landmark Trial, Expert Says Social Media Hooks Teens Hardest*, Rolling Stone (Feb. 10, 2026).

³ *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 496 (2025).

⁴ *Id.* at 479.

them by sexual offenders, and harassment.⁵ A Snapchat study of young users found that 68% of them experienced exposure to sexualized images, grooming or catfishing.⁶ Other research reveals that youth routinely experience unwanted sexual material, grooming, and sexual interactions with others including adults online.⁷ Social media has not only become a source of exploitation but also dangerous narcotics with teens regularly purchasing drugs through platforms.⁸ This litigation and numerous congressional hearings have produced substantial evidence from internal documents and whistleblowers that suggest part of reason for these dangers is flawed design by platforms aware of the harms.⁹

These two realities - that the platforms seem to facilitate an increased risk of harm to children and that this is due to how the platforms design their features – establish that such platforms pose a serious risk to children. As with the aforementioned products (tobacco, gambling sites, pornography, medications, etc.) Congress could easily consider such sites similarly dangerous to children meriting some form of age verification. What is abundantly clear now is that the current version of voluntary self-age assurance is entirely inadequate and “[t]his situation highlights the pressing need for legislation.”¹⁰

Important Qualities of an Age Verification System

Although I am not a technologist, I can comment on some of the features that the research indicates are essential for effective age verification.

As a threshold matter, the claim that it is impossible to have effective age verification should be rejected. Many of the internal documents presented during the recent trials demonstrated that social media platforms not only are aware of who are minors on their platforms, but they actively target them based on their age and the goal to have them “hooked” as

⁵ E.g., Office of the Surgeon Gen., U.S. Dep’t of Health & Hum. Servs., *Social Media and Youth Mental Health: The U.S. Surgeon General’s Advisory* 12 (2023)

⁶ Snap Inc., *A First-of-its-Kind Campaign to Combat Online Child Sexual Exploitation and Abuse* (Apr. 17, 2024), <https://values.snap.com/news/k2p-launch>

⁷ Sheri Madigan et al., *The Prevalence of Unwanted Online Sexual Exposure and Solicitation Among Youth: A Meta-Analysis*, 63 J. Adolescent Health 133 (2018); Thorn, *Youth Perspectives on Online Safety, 2024* (2025), <https://www.thorn.org/research/state-of-the-issue/>.

⁸ Barbara Ortutay, *How Social Media Became a Storefront for Deadly Fake Pills*, Associated Press (Sept. 12, 2024)

⁹ Shannon Bond & Bobby Allyn, Whistleblower Tells Congress that Facebook Products Harm Kids and Democracy, NPR (Oct. 5, 2021, 12:09 PM), <https://www.npr.org/2021/10/05/1043207218/whistleblower-to-congress-facebook-products-harm-children-and-weaken-democracy> [<https://perma.cc/PB3Y-XBZF>] (explaining that internal research documents from the companies show that the company is aware of the harm its platforms can cause to children, but fail to adapt proper safety measures); Jeff Horwitz, *The Facebook Files: A Wall Street Journal Investigation*, Wall St. J., <https://www.wsj.com/articles/the-facebook-files-11631713039> [<https://perma.cc/K6DV-JH8X>] (last visited Mar. 5, 2025) (describing internal documentation of harmful effects of products, which demonstrated Meta’s awareness of harm it caused and failure to respond); Written Testimony of Arturo Bejar Before the Subcommittee on Privacy, Technology, and the Law, U.S. Sen. Comm. on the Judiciary (Nov. 7, 2023), <https://www.judiciary.senate.gov/imo/media/doc/2023-11-07-testimony-bejar.pdf> [<https://perma.cc/VZ6Z-A33S>].

¹⁰ Fatmaelzahraa Eltaher, Rahul Krishna Gajula, Luis Miralles-Pechuán, Christina Thorpe & Susan McKeever, *The Digital Loophole: Evaluating the Effectiveness of Child Age Verification Methods on Social Media*, in *Proceedings of the 11th International Conference on Information Systems Security and Privacy* 213 (2025).

young as possible.¹¹ Not only are a growing number of nations and states exploring requiring social media companies to take reasonable steps to verify the age of their users, but recent research noted that businesses that either have strong regulatory controls (gambling, firearms, medications) or revenue based motivations (car rental, financial services, accommodations) require user identification to gain access to their products or services.¹²

Fundamentally, such laws, if adopted, should require platforms to take reasonable steps to verify that their users are above a certain age and failure to do so would trigger significant penalties. In order to be a “reasonable” system, the law should provide that age verification systems possess certain features. These features fall within a list of characteristics that focus on choice and independence, accuracy, privacy, transparency, accountability, and accessibility.

Choice and Independence

While age verification should not fall only on parents, it also should not be held solely by the platforms. The same platforms that profit from user engagement should not be the entities who monopolize and control the methods, enforcement, and auditing of their verification systems. Once Congress and the relevant regulator establish standards for verification and best practices, third party vendors can compete on their ability to provide accurate, secure, transparent, and auditable age verification in a changing technological landscape. Indeed, the Court in *Paxton* noted that the specific verification methods in the statute at issue were “plainly legitimate” allowing “verification using government-issued identification or transactional data...[and it] can take place on the covered website itself or through a third-party service. Other age-restricted services, such as online gambling, alcohol and tobacco sales, and car rentals, rely on the same methods.”¹³ By allowing more than one option, not only can users select an appropriate source, but smaller companies can comply with legislation without having to develop an internal system.

Accuracy

It is beyond dispute that the current method of age gating which relies solely on the voluntary representation of the user is neither accurate nor adequate. Several other methods do exist that ensure more accurate verification including the use of **governmental identification, third party tokens, mobile phones, double blind systems, and age estimation systems**. Additionally, accuracy requires the system be engaged at the time of **onboarding**. That is most effective time to verify age. However, **ongoing review** of systems for verification, **fraud detection**, and **security** is also necessary to detect errors and advance accuracy.

¹¹ E.g., Dawn Chmielewski, Courtney Rozen & Jody Godoy, *Meta, Google Lose U.S. Case over Social Media Harm to Kids*, Reuters (Mar. 25, 2026).

¹² Eltaher, *et. al*, *supra* note 10.

¹³ Paxton, 606 U.S. at 497.

Privacy

Although platforms claim age verification should be rejected due to privacy concerns, the use of age verification in a variety of regulated or profit motivated businesses demonstrates that age verification can occur while still protecting privacy. This can be accomplished through **data minimization** – collecting only what is necessary for the verification process. By ensuring that a system is **portable** – i.e. that a user need only share their sensitive information once and then obtain a token or QR code which he or she can use to verify age across platforms – it limits the number of times and entities that possess the information. Limits should also be placed on the **retention of data**. This can be accomplished through processes such as **double blind systems** in which the third party verifies the age but not the identity of the user. Additionally, the UNHRC also suggests not only the strictest data protection measures, but also that children and parents **control** their information.

Transparency

Those who engage in age verification must be **transparent** about the **process**, the **storage** of information, the measures taken to **protect the information**, and the systems in place to **not utilize information for any other purpose**. **Audits** of all aspects of the system must be required regularly to ensure the standards are being met.

Accountability

It is no coincidence that current systems that successfully engage in age verification are often highly regulated such as gambling sites or access to medication. Clear **enforcement mechanism** must exist and actually be **enforced**. This must be more than a private right of action for those harmed, but **criminal and civil penalties** enforceable through both the **regulatory agency, United States Attorneys, and state attorneys general**. Moreover, it must also enforce regulations regarding not only verification but **data protection** as well.

Accessibility

Age verification processes must be **usable** for all sectors of society. People without government identification, financial resources, and other limitations must also be able to verify their age to have access to the platforms. Similarly, the system must be easy to utilize and also to report potential errors.

Conclusion

Many models already exist in sectors which rely on accurate age verification to comply with regulations or successfully engage in profit making enterprises. While Congress should not legislate the exact form of verification, Congress can establish mechanisms to create an accurate, private, transparent, accountable system which provides access to all.