State Social Media Regulations Could Cut Consumer Access

The American Consumer Institute

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Key Findings

Regulations can increase the marginal cost of products and services leading to a loss in consumer welfare. Using age verification regulations for digital platforms as a case study, thirty-nine states and the District of Columbia have an estimated social media base low enough that high regulatory compliance costs may outweigh the potential revenue for platforms. As a result, consumers in those states may lose access to social media services or platforms, reducing overall welfare.

Social Media Is the Target of Increased Regulation

States across the nation have either passed or are considering social media-specific regulations, many of which focus on age verification for users before creating an account. Utah passed the Social Media Regulation Acts which requires parental consent for users under 18 and places limits on direct messaging and data collection. Age verification requirements were also established in Louisiana through the passage of HB 61. With other states introducing social media-specific legislation, companies operating within this space are facing heightened regulatory costs.

Regulatory costs are impossible to separate from the cost of doing business as shown by the World Bank's *Business Ready* program. The project looks at multiple indicators across four categories with "regulatory quality and public services" being one of the categories used to "assess the business and investment environment worldwide."

A study from the Mercatus Center underscores regulatory impact on businesses with its findings that regulatory burdens can deter business development and reduce hiring. Recent actions by digital platforms support these findings by showing that there is a point at which operating within states is no longer worth the regulatory costs. In Canada and select states, social media companies have eliminated services due to costly regulations.

Regulations Could Cut Access

Requiring online platforms to pay news providers has resulted in some platforms eliminating their news services. Following the enactment of the News Media and Digital Platforms Mandatory Bargaining Code in Australia, Facebook stopped offering news content, although the company was ultimately able to reach an agreement with the government. Canada also passed a similar bill and both Google and Meta responded with plans to cut their news services.

Bills forcing payment to news providers show that there is a threshold at which social media will cut services rather than pay regulatory compliance costs. The concern with many proposed social media bills is that regulatory costs could be high enough to incentivize social media to stop operating in select states. State-specific pull-outs have already occurred due to age verification legislation in the adult entertainment industry.

Providers of adult video content, like social media, are facing legal requirements to verify ages before users can gain access to the site.

After initially complying with an age verification bill in Louisiana, MindGeek, the parent company of multiple adult content sites, saw traffic drop by 80 percent. Following the drop in traffic, the company cut access for consumers in multiple states due to similar legislation. Currently, the states include Mississippi, Utah, Arkansas, and Virginia.

Illustration of the Potential Costs

The adult content and journalism examples show that there is a threshold at which companies will choose to not only reduce services but no longer operate in that state rather than shoulder the high compliance costs. Every additional regulation moves closer to the tipping point.

Census population data from 2021 and the reported [online viewership]() of adult content were used to calculate viewership by state. Out of the four states MindGeek no longer operates in, Virginia had the highest percentage of viewers – at an estimated 2.6 percent of national viewership.

The viewership data focuses on the years between 2016 and 2019. While this differs from the year for the population data, it was still selected as it had the most rigorous methodology of all the accessible estimates.

The Virginia percentage of users, at 2.6 percent, is used as the estimated threshold at which age verification compliance costs risk overpowering the cost of lost users. The assumption is that Virginia represents roughly 2.6 percent of MindGeek's U.S. consumer base. Although, MindGeek has stopped operating in multiple states, meaning the threshold is likely higher and more states could risk losing services.

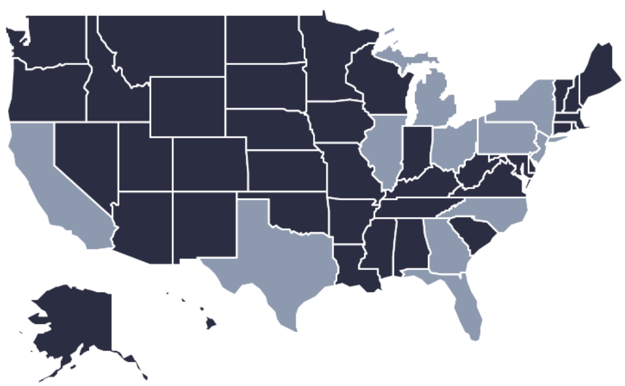
Census population data and user rates from [Pew Research]() from 2021 were used to estimate what portion of social media users reside in each state. Given that the estimates were calculated using percentages of users and population data, the percentage of social media users as a portion of all U.S. users stayed the same across the different platforms.

A total of thirty-nine states and the District of Columbia met the user threshold of 2.6 percent.

States with Social Media Populations Below the 2.6% Threshold

Below Threshold: 39 states & D.C.

Above Threshold: 11 states



Industry Differences Could Affect the Impact of Regulations

These estimates should serve as a useful threshold for determining the risk of proposed regulations. However, key differences between social media, adult content, and news content should be considered and used to temper certainty regarding predictions.

While the exact revenue for MindGeek isn't available, estimates place the annual revenue somewhere between $252 million and $460 million. The revenues are significantly less than those of social media giant Meta, the parent company of Facebook and Instagram, which had a net income of over $23 billion for the calendar year 2022.

The differences in size may change the regulatory costs and thus the calculation of whether compliance is cost-effective. A study that focused on regulatory costs, as measured by a percentage of its wage bill, found that compliance costs increase with firm size, up to about 500 employees, and then decrease.

MindGeek reports over 1,000 employees worldwide, meaning that it clears the threshold of 500 employees but still could face relatively higher costs compared to larger social media platforms.

Additionally, while Meta and Google have shown a willingness to pull content, the regulations for news weren't the same as age verification and impacted a small portion of their business. As of 2022, and according to Meta, news composed less than 3 percent of the platform's content. This means that pulling news content would minimally impact a user's experience and tilt the scales against costs imposed by legislation. It is worth noting that 3 percent is close to the estimated user threshold from MindGeek. Comparatively, not complying with more general social media regulations would impact a larger proportion of a platform's operations and would change the cost/benefit calculation.

Additional differences such as user base and user base behavior could also change the cost-benefit analysis of compliance. However, there are enough similarities that MindGeek's behavior – albeit anecdotal – can serve as a useful guide.

The age verification regulations for social media companies and MindGeek are very similar. Furthermore, both social media and MindGeek primarily operate on an advertisement-based business model. Additionally, Meta and Google have already pulled news content in response to regulations.

For these reasons, the Virginia 2.6 percent threshold of potentially lost users was selected as the estimate. However, due to reasons already discussed and workarounds, such as VPNs, which would reduce the users lost from noncompliance, this threshold is likely too low and underestimates potential state regulatory risk.

Conclusion: Social Media Regulations Cost Consumers

Based on MindGeek's response to age verification legislation, states should be leery of burdensome legislation that could encourage social media companies to exit their states. Consumers in states or nations that push social media companies out would experience reduced access to products and services and ultimately a reduction in welfare. Lawmakers should pause before passing regulations such as social media age verification and consider the costs to consumers.