



**Before the
UTAH DIVISION OF CONSUMER PROTECTION
Salt Lake City, UT 84114**

**In the Matter of the Request for Comment on The Social Media
Regulation Act, (Released Oct. 16, 2023)**

Comments of the American Consumer Institute

The American Consumer Institute is a nonprofit 501(c)(3) education and research organization. Its mission is to identify, analyze and protect the interests of consumers in legislative and rulemaking proceedings in information technology, health care, insurance, and other matters. The American Consumer Institute hereby submits these comments in response to the above-captioned proceeding.

The recent passage of the Social Media Regulation Act (SMRA) attempts to significantly restrict adolescents' access to social media under the guise of protecting them from the ongoing mental health crisis.¹ However, the law misses the mark in several important ways that will do more to put minors' privacy at risk than it will to shield them from potential harm.

This comment is meant to inform public discussion on the SMRA and discusses the lack of clear causation between mental illness in young people and social media use. It also outlines how age verification measures may risk young people's data.

The backdrop of the push for more regulation of adolescents' time on social media is the growth in mental health issues among young people, with depression rates

¹ Utah Social Media Regulation Act, S.B. 152, 68th Leg., Reg. Sess. (Utah 2023).

doubling among teenagers between 2009 and 2019.² The state of Utah has launched a campaign linking this troubling trend to increased teenage social media use.³ However, this represents just one perspective regarding the complex relationship between mental health and social media.

In May, the American Psychological Association (APA) released a health advisory on social media use among adolescents. That advisory found that social media usage is not necessarily wrong for teenagers. Whether it produces a positive or negative effect depends on each individual's psychological characteristics and social interactions.⁴

In a study on social media use during the COVID-19 pandemic, researchers Michelle Drouin, Dr. Brandon T. McDaniel, Jessica Pater, and Dr. Tammy Toscos discuss the unclear relationship between social media use and anxiety.⁵ Specifically, they examined how parents and children used the Internet to connect during social distancing and lockdowns and the usefulness of the Internet as a means of transmitting public service announcements.⁶

What they found is that there is a relationship between social media use and anxiety. However, it could not be determined whether this relationship was causal. In other words, it was not clear whether anxiety was caused by social media use or if the pandemic contributed to increased levels of anxiety in social media users.⁷ Overall, studies have found inconclusive results on the question of whether social media is good

² Cory Turner, "Social Media and Teen Mental Health: 10 Things to Know," *NPR*, February 16, 2023, accessed November 16, 2023, [Social media and teen mental health: 10 things to know : NPR](#).

³ "Harms of Social Media." *Utah Department of Health and Human Services*, accessed November 16, 2023. <https://socialharms.utah.gov/#surgeon-general>.

⁴ "Health Advisory on Social Media Use in Adolescence," American Psychological Association, May 2023, accessed November 16, 2023, <https://www.apa.org/topics/social-media-internet/health-advisory-adolescent-social-media-use.pdf>.

⁵ Michelle Drouin, et al., "How Parents and Their Children Used Social Media and Technology at the Beginning of the COVID-19 Pandemic and Associations with Anxiety," *Parkview Health Research Depository*, November 2020, accessed November 16, 2023, <https://researchrepository.parkviewhealth.org/cgi/viewcontent.cgi?article=1021&context=informatics>.

⁶ Ibid.

⁷ Ibid.

or bad for mental health. This contrasts with the narrative presented by supporters of the SMRA.⁸

In addition to misattributing the rise in mental health issues among young people to social media, the SMRA also puts their privacy at risk. Jason Kelley and Adam Schwartz at the Electronic Frontier Foundation argue that age verification mandates threaten personal privacy because they force websites to collect identifiable data.⁹ They say that one could never be sure that the data collected, such as government-issued identification, would not be retained by the website or fall into the hands of hackers or other bad actors who might use it for nefarious purposes.¹⁰

In addition, the National Commission on Informatics and Liberty (CNIL), a French regulatory agency overseeing data privacy, evaluated several possible ways to verify age and found that they were either easily circumventable or intrusive.¹¹ For example, it would be relatively easy to bypass SMRA's age verification by using a VPN to trick the website into thinking that a person is logging in from a different state.¹²

As for methods that require more information, such as facial recognition, there is always the possibility of a data leak, putting users at risk of blackmail if their identifiable information is attached to sensitive searches.¹³ The requirement to use one of these systems to determine someone's age before joining a social media platform either does little to achieve its goals or requires unnecessary collection of personal data. Neither option is desirable.

As the internet continues to evolve, it is not surprising that some lawmakers have looked for ways to better protect minors from the darker corners of social media.

⁸ Lydia Denworth "The Kids (Who Use Tech) Seem to Be Alright," *Scientific American* January 15, 2019, accessed November 16, 2023, <https://www.scientificamerican.com/article/the-kids-who-use-tech-seem-to-be-all-right/>.

⁹ Jason Kelley, Adam Schwartz, "Age Verification Mandates Would Undermine Anonymity Online" *Electronic Frontier Foundation*, March 10, 2023, accessed November 11, 2023, <https://www.eff.org/deeplinks/2023/03/age-verification-mandates-would-undermine-anonymity-online>.

¹⁰ Ibid.

¹¹ "Online Age Verification: Balancing Privacy and the Protection of Minors," *CNIL*, September 22, 2022, accessed November 16, 2023, <https://www.cnil.fr/en/online-age-verification-balancing-privacy-and-protection-minors>.

¹² Ibid.

¹³ Ibid.

However, good intentions do not automatically lead to good legislation, and the SMRA misses the mark in critical areas. Based on an incomplete understanding of the growing mental health crisis and privacy concerns, the law fails to make children safer.