



July 9, 2021

Senate Judiciary Committee
1315 10th Street
Room 2187
Sacramento, CA 95814

Re: CCIA Comments on AB 587

Dear Chair Umberg, Vice Chair Borgeas, and Members of the Senate Judiciary Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to express concerns with AB 587 in advance of the Senate Judiciary Committee hearing on July 13. CCIA is a not-for-profit trade association representing small, medium, and large communications and technology firms. For almost 50 years, CCIA has promoted open markets, open systems, and open networks.¹ CCIA advocates for balanced intermediary protections, which are critical for services that users rely upon to share information online.

Responsible digital services take aggressive steps to moderate dangerous and illegal content, consistent with their terms of service. This year, a number of online businesses announced that they have been voluntarily participating in the Digital Trust & Safety Partnership to develop best practices to ensure a safer and more trustworthy Internet.²

While we appreciate the goals of this bill, industry has a wide range of concerns with AB 587 and its potential unintended consequences:

1. Overly prescriptive regulation of terms of service could harm vulnerable users.

Digital services invest significant resources in developing and carrying out content moderation practices that protect users from harmful or offensive content, and need flexibility in order to address new challenges as they emerge. Instead, the proposed requirements in AB 587 would mandate that services disclose internal content moderation practices such as training materials that could be exploited by bad actors to the detriment of marginalized users the bill seeks to protect.

The bill's provisions related to terms of service are overly prescriptive and rather than protecting consumers from harmful content, might have the adverse unintended consequence of giving

¹ For more information about CCIA, please see: <https://www.ccianet.org>.

² Margaret Harding McGill, *Tech giants list principles for handling harmful content*, Axios (Feb. 18, 2021), <https://www.axios.com/tech-giants-list-principles-for-handling-harmful-content-5c9cfba9-05bc-49ad-846a-baf01abf5976.html>.

nefarious foreign agents, bigots, or other bad actors a playbook for circumventing digital services' policies.

2. The transparency reporting requirement is redundant and could disproportionately impact smaller companies.

AB 587 would require companies to compile and submit a quarterly transparency report to the California Attorney General. Many online platforms already voluntarily generate such reports regularly and make them publicly available on their websites.³ However, the development of such reports is extremely labor intensive, and requiring detailed documentation with this frequency could disproportionately burden smaller companies with limited resources.

3. Businesses operating online depend on clear regulatory certainty under federal law.

Existing U.S. law provides websites and online businesses with legal and regulatory certainty that they will not be held liable for third-party content and conduct. By limiting the liability of digital services for misconduct by third-party users, U.S. law has created a robust Internet ecosystem where commerce, innovation, and free expression thrive — all while enabling providers to take creative and aggressive steps to fight online abuse. Ambiguous and inconsistent regulation at the state level would undermine this business certainty and deter new entrants, harming competition and consumers.

4. The proposed date would not provide a sufficient on-ramp for compliance.

Implementing these proposed requirements would be a lengthy and burdensome process for large and small firms alike. To be successful, businesses must have sufficient opportunity to meet their compliance obligations. To this end, we urge the legislature to solicit input from industry stakeholders and technical experts. If enacted this session, AB 587 would take effect July 1, 2022. We encourage revisiting this date to ensure a minimum of two years for compliance.

We appreciate your consideration of these comments, and stand ready to provide additional information as the Committee considers proposals related to technology policy.

Sincerely,

Alyssa Doom
State Policy Director
Computer & Communications Industry Association

³ See, e.g., <https://transparencyreport.google.com/>; <https://transparency.fb.com/data/>; <https://transparency.twitter.com/>; <https://www.reddit.com/wiki/transparency>; <https://blog.discord.com/discord-transparency-report-july-dec-2020-34087f9f45fb>.