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Minnesota Attorney General Keith Ellison
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March 23, 2023

Sen. Matt Klein, Chair
Commerce and Consumer Protection
Committee
Minnesota Senate Bldg.
St. Paul, MN 55155

Sen. Gary Dahms, Ranking Minority Member
Commerce and Consumer Protection
Committee
Minnesota Senate Bldg.
St. Paul, MN 55155

Re: SF 2810

Senators Klein, Senator Dahms, and Members:

Attorney General Ellison is pleased to support SF2810, the Minnesota Age Appropriate Design Code Act. This innovative legislation seeks to enhance online privacy and safety protections for children in a digital world increasingly full of pitfalls that threaten harm to Minnesota's youngest residents. Compelling research published by the 5Rights Foundation illustrates the way that—apparently by design—children are often exposed to and steered towards troubling and inappropriate content online. A key finding of their research was that “the design features of the digital world are not accidental, but are deliberately aimed to increase time, spread and activity with insufficient corresponding mitigations to protect children from the impact - even when it involves harmful material or activity. These are not bugs but features of the digital world.”

SF2810 would establish a new consumer protection act, that would require businesses over a certain size (i.e., businesses that have annual gross revenues in excess of \$25 million; buy or receive the personal information of 50,000 or more concerns, households, or devices; or derives 50% or more of its annual revenues from selling consumers' personal information) to consider the best interests of children when designing, developing, and providing online services, products, or features and to prioritize the best interests of children over commercial interests.

Protecting the best interests of children from the detrimental effects of online services, products, or features is a large and ongoing problem. For example, FTC research indicates that dark pattern practices have been deployed in children's gaming apps, leading to harm such as unauthorized charges and preventing consumer cancellation attempts. Increasing research shows that large social media platforms such as Facebook and TikTok employ practices and techniques that negatively impact children and youth, including physical and mental health harms such as depression, eating disorders, and even suicide. For example, a report from one parental control app (see reference), analyzed more than 3.4 billion messages across texts, email, apps, and social media platforms found that:

- 70% of tweens and 91% of teens encountered nudity or content of a sexual nature;
- 75% of tweens and 93% of teens engaged in conversations surrounding drugs/alcohol;



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- 72% of tweens and 85% of teens experienced bullying as a bully, victim, or witness;
- 43% of tweens and 75% of teens were involved in a self-harm/suicidal situation.

The intent of SF2810 closely aligns with the work of the Attorney General's Office, which is currently participating in a bipartisan coalition of attorneys general to investigate Facebook and TikTok's practices in targeting youth with dark patterns and failure to take appropriate steps to protect children from harmful, adult content. The investigation includes the techniques Facebook used to increase the frequency and duration of engagement by young users and the resulting harms caused by such extended engagement with its social media platform.

Attorney General Ellison reaffirms the need for substantive, enforceable laws in Minnesota that protect not only the privacy rights of children, but that also address real, demonstrated harms to children associated with the addictive use of online platforms and the exploitative and predatory use of children's personal information. Attorney General Ellison is pleased to support SF2810, and thanks you for your leadership on this important issue affecting millions of Minnesotan children.

Sincerely,

Keith Ellison
Attorney General