



Testimony of Kouri Marshall  
Director of Policy and Public Affairs, Central Region  
Chamber of Progress  
Re: MN SF 4696

**April 2, 2024**

Dear Chair Matt Klein and members of the Committee:

Thank you for the opportunity to submit testimony for the record regarding SF 4696. On behalf of Chamber of Progress, a tech industry coalition promoting technology's progressive future and ensuring that all Americans benefit from technological leaps, I urge you to **oppose** SF 4696, which would produce a worse online experience for Minnesotans and almost certainly fail in court.

**SF 4696 would make Minnesotans' online experiences worse**

As written, SF 4696 requires platforms to let "a varied set of account holders" rate content they deem as "low" or "high quality" and mandates algorithms prioritize content accordingly for all adult users—severely limiting access to content based upon new interests. **SF 4696 directs platforms to serve content based on popularity and in accordance with user preference with no guidance on how to resolve situations where user preference does not align with or has not indicated a preference for a particular piece of content.** The lack of clear, specific definitions, could prompt social media platforms to broadly interpret the law to avoid litigation and fees – resulting in over moderation, removing or restricting a wide variety of content and leaving users with a bland or unvaried online experience.

Worse still, the opposite threat is just as problematic: bigoted users could coordinate to rate racist, sexist or homophobic content as "high quality" gaming the system and algorithms—potentially forcing social media platforms to show deeply unsettling content to the public. Think about the consequences if radical groups were to brigade these platforms—as they commonly do—down-voting information on body autonomy, or gender affirming care. If companies may only rank content based on its popularity with other users, then the public may lose access to critical health information - as is already happening in red states across the country.



### **SF 4696 infringes on fundamental liberties under the First Amendment**

SF 4696 would impose "account holder daily limits," regulating *all* adult users' social media usage in the initial 30 days of opening an account. This requirement blatantly restricts access to constitutionally protected speech. An open Internet—free from government surveillance and censorship—is critical to modern freedom of expression. We all want to create safe online spaces, above all for the most vulnerable members of society, but the Legislature may not so broadly infringe on Minnesotan's First Amendment freedoms.

The recent rulings from courts in Arkansas,<sup>1</sup> California,<sup>2</sup> and Ohio<sup>3</sup> underscore the principle that regulatory measures impacting the core editorial and curatorial functions of social media companies, even when intended to safeguard users, are subject to rigorous constitutional scrutiny under the First Amendment.

### **SF 4696 is destined to lose in court**

SF 4696 stands in direct contradiction to established legal precedent. The First Amendment stringently restricts governmental interference with both the editorial discretion of private entities and the rights of individuals to access lawful expression. SF 4696, by dictating how and how often social media platforms may serve constitutionally protected content, unequivocally infringes upon these fundamental freedoms.

As such, SF 4696 not only contravenes core constitutional values but also is likely to be adjudicated as unconstitutional on the grounds of the First Amendment, among other legal and policy considerations.

For these reasons, we urge you to **oppose SF 4696**.

---

<sup>1</sup> *NetChoice, LLC v. Griffin*, No. 5:23-cv-05105 (W.D. Ark. filed June 29, 2023). "If the State's purpose is to restrict access to constitutionally protected speech based on the State's belief that such speech is harmful to minors, then arguably Act 689 would be subject to strict scrutiny."

<sup>2</sup> *NetChoice, LLC v. Bonta*, No. 5:2022cv08861 (N.D. Cal. 2023). "[T]he Act's restrictions on the functionality of the services limit the availability and use of information by certain speakers and for certain purposes and thus regulate[s] protected speech."

<sup>3</sup> *NetChoice, LLC v. Yost*, 2024 WL104336 (S.D. Ohio Jan. 9, 2024). "As the [Supreme] Court explained, '[s]uch laws do not enforce parental authority over children's speech and religion; they impose governmental authority, subject only to a parental veto.' The Act appears to be exactly that sort of law. And like other content-based regulations, these sorts of laws are subject to strict scrutiny."



Thank you,

A handwritten signature in black ink, appearing to read "K. C. Marshall", enclosed within a thin, hand-drawn oval border.

Kouri Marshall  
Director of Policy and Public Affairs, Central Region  
Chamber of Progress