

Kids Online Safety Act (KOSA) Pre- Post Mark-up Comparison

August 31, 2023

Online Harms Prevention (OHP) Work Group, Screen Time Action Network

By: Sharon Winkler, Member, OHP; Survivor Parent, Web Publisher: Social Media Harms,
<https://socialmediaharms.org>

Section	No Change	Modified	New Content	Notes
#1. Short Title; table of contents		X	X	Different Language- Section 7 - Independent research on social media and minors ; New Section 13 - Filter Bubble Transparency requirements
#2. Definitions			X	New: See Comments Below for New Definitions; Deleted: definition for “algorithmic recommendation system.”
#3. Duty of Care		X		Modified: See Comments Below for New Definitions
#4 Safeguards for minors		X	X	Modified: Using term “Personalized Recommendation Systems vice algorithmic recommendation system; Reports of harms to minors, Sec. 4 (c)(2) (A) covered platforms with more than 10M monthly active users have 10 days instead of 14 days to “receive and substantively respond” to reports of online harms to minors. New: covered

				platforms with less than 10M monthly active users have 21 days to respond .
#5 Disclosure		X	X	New: Sec 5, (2) Notification - totally new language , should be read in its entirety.
#6 Transparency		X	X	New: Scope of Application (b) (2) should be read in its entirety. Modified: Sec 6 (C) to the end of the section, many modifications
#7 Independent Research on Social Media and Minors			X	New: Requires contract with National Academy of Sciences for five (5) “scientific, comprehensive studies and reports...on the relationship between social media and other online platforms as defined in this Act.” Should be read in its entirety.
#8 Market Research	X			No changes.
#9 Age Verification Study and Report		X		New (b) (6) study shall consider the impact of age verification systems on “competition, particularly the risk of different age verification systems creating barriers to entry for small companies.”
#10 Guidance		X		Modified Timeline: 18 months (vice 12 months) for FTC-Kids Online Safety Council to issue guidance on an range of issues. New definition for de-identified data
#11 Enforcement	X			No Changes
#12 Kids Online Safety Council (KOSC)		X		New: added Educators to KOSC

#13 Filter Bubble Transparency Requirements			X	Section is new in its entirety.
#14 Effective Date	X			Section 13 of KOSA April 2023. No changes.
#15 Rules of Construction and Other Matters		X		New: Added Children’s Online Privacy protection Act of 1998; (b) Determination of “Fairly Implied on the Basis of Objective Circumstances.”
#16 Severability.	X			No Changes.

New/ Modified Definitions

- **Section 2-Definitions (New)** or (Modified):
 - **Child** - The term "child" means an individual who is **under the age of 13**.
 - **Compulsive Usage** - The term "compulsive usage" means any response stimulated by external factors that causes an individual to engage in repetitive behavior reasonably likely to cause psychological distress, loss of control, anxiety or depression. [*harmful stress responses deleted*].
 - **Covered Platform** - The term “covered platform” means an online platform, online video game, messaging application or video streaming service that connects to the internet and is used, or is reasonably likely to be used, by a minor.
 - Exceptions. **New:**The term “covered platform” does not include: (I) a common carrier service subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.)..(II) a broadband internet access service....(III) an email service (IV) a teleconferencing or video conferencing service that allows reception and transmission of audio and video signals for real-time communication provided that (aa) is not an online platform, including a social media service or social network and (bb) the real-time communication is initiated by using a unique link or identifier to facilitate access or (V) a wireless messaging service.....(iii) any public or private preschool, elementary or secondary school or any institution of vocational, professional, or higher education; (iv) a library (v) a news website or app....(vi) a product or service that primarily functions as a business-to-business software; (vii) virtual private network.
 - **Geolocation** - “information sufficient to identify street name and name of a city or town.”
 - **Individual-specific advertising to minors.**
 - **Know or knows.** - The term “know” or “knows” means to have actual knowledge or knowledge fairly implied on the basis of objective circumstances.”
 - **Online Video Game.** Long definition-should be read in its entirety.
 - **Parent** - includes natural parents; a legal guardian or an individual with legal custody over a minor.
 - **Personal data** - “information that identifies or is linked or reasonably linkable to a particular minor, including a consumer device identifier that is linked or reasonably linkable to a minor.”

- **Personalized recommendation system.** “fully or partially automated system used to suggest, promote, or rank content, including other users or posts, based on the personal data of users.
- **Modified Definition: Duty of Care and New Addition to Definition:**
 - (a) Prevention of Harm to Minors.-A covered platform shall take reasonable measures in the design and operation of any product, service, or feature that the covered platform knows is used by minors to prevent and mitigate the following harms to minors: **New:** (1) Consistent with evidence-informed medical information, the following mental health disorders: anxiety, depression, eating disorders, substance use disorders, and suicidal behaviors. (2) patterns of use that indicate or encourage addiction-like behaviors; (3) physical violence, online bullying, and harassment of the minor; (4) sexual exploitation and abuse; (5) promotion and marketing of narcotic drugs (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), tobacco products, or other financial harms. Limitation - Nothing in subsection (a) shall be construed to require a covered platform to prevent or preclude any minor from deliberately and independently searching for, or specifically requesting, content. **New:** (2) the covered platform or individuals on the platform from providing resources for the prevention or mitigation of the harms described in subsection (a), including evidence-informed information and clinical resources.