Wednesday, February 4, 2026

The Honorable Rebecca Bauer-Kahan
Chair, Assembly Privacy and
Consumer Protection Committee
P.O. Box 942849
Sacramento, CA 94249-0006

The Honorable Christopher Cabaldon
Chair, Senate Privacy, Digital Technologies,
and Consumer Protection Committee
1021 O Street, Ste. 7320
Sacramento, CA 95814

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
P.O. Box 942849
Sacramento, CA 94249-0025

The Honorable Thomas Umberg
Chair, Senate Judiciary Committee
1021 O Street, Suite 6610
Sacramento, CA 95814

Dear Senators Cabaldon and Umberg and Assemblymembers Bauer-Kahan and Kalra,

We are tech accountability, kids safety, and civil society organizations writing to express concerns about The Parents and Kids Safe AI Act ballot measure unveiled in January. Though seemingly well-intended, the measure would exempt AI companies from the robust framework of laws already established in California to give consumers meaningful protections. Indeed, there are aspects of AI that will warrant specific treatment, but the technology is not so novel that basic consumer protections should be ignored.

As leaders of the legislative policy committees overseeing AI safety legislation, we urge you to rigorously scrutinize this ballot initiative when it comes before your committee pursuant to the Legislature's oversight authority. Voters need complete information to make informed decisions if this measure appears on the ballot this fall, especially given the potential national implications as proponents have touted this measure as a model to be replicated around the country. We hope this initiative will inform more thorough proposals to protect children during this legislative session.

SIGNERS

John Bennett, Director, California Initiative for Technology and Democracy

Sacha Haworth, Executive Director, Tech Oversight California

Elizabeth Mitchell, Senior Policy Director, Mothers Against Media Addiction

Robert Eleveld, Co-founder and CEO, Transparency Coalition

Lishaun Francis, Senior Director, Behavioral Health, Children Now

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Chris McKenna, CEO, Protect Young Eyes

Ed Howard, Senior Counsel, Children's Advocacy Institute at the University of San Diego School of Law

1. **Applies child protections only to a limited set of "severe harms," effectively shielding AI companies from liability for harms, severe or otherwise, to children's mental health and places into laws largely unenforceable duties.** The initiative defines "severe harms" narrowly as "significant physical injury due to suicide, attempted suicide, self-harm, or threats of violence" (Section 22601(q)). This definition fails to account for mental or emotional distress caused by companion chatbots or exposure to age-inappropriate content that may contribute to psychological harm. Given that this definition underpins the entire initiative, the omission of mental distress represents a critical gap in protecting children's safety.

   Additionally, the initiative's prohibition on "sexually explicit conduct/content" references a definition in federal law that may prove useful in curbing the most egregious behavior,

but it is far too narrow to address the multitude of grooming behaviors young people are currently experiencing.

2. **Reduces accountability for AI companies.** While the initiative intends to hold AI developers accountable for the harms their products or systems may cause, it also limits their accountability and liability in several potentially dangerous ways:
    a. It appears to protect businesses from class action by broadly *preventing* class actions under *any* provision of law for harms caused to children by AI (Business & Professions Code Section 22605(c)).
    b. It limits enforcement of the Act's provisions to the Attorney General and prevents parents and injured children from seeking redress under the Act on their own. Additionally, it limits the penalties that the AG can seek to $1,000 per violation or $10,000 per violation for *willful misconduct*. And these penalties only apply to procedural violations (Business & Professions Code Section 22605(b)). The AG cannot seek any penalty for actual harm caused by dangerous AI systems or products.
    c. It prevents any possible wrongdoing under the Act from being challenged as an unlawful, unfair or fraudulent business practice pursuant to existing Section 17200, even if that is precisely what it is (Business & Professions Code Section 22605(d)).
    d. There is no provision for punitive damages even if an AI company acts intentionally or with reckless disregard of the danger their products may cause and the harm caused is severe and repeated (Business & Professions Code Section 22605).

3. **Privacy protections are weak and likely exempts OpenAI.** While the initiative attempts to address privacy concerns in the AI context, its protections contain significant weaknesses:
    a. **OpenAI Exemption:** The initiative prohibits providers of AI systems from selling or sharing children's personal information, but this applies only to businesses as defined under the California Consumer Privacy Act (CCPA). OpenAI, in its current configuration as a nonprofit, is likely exempt from CCPA obligations and therefore exempt from these privacy protections.
    b. **Business Purpose Loophole:** The privacy provisions exempt the use of children's personal information for "business purposes" as defined in the CCPA. Children may confide extremely sensitive and privileged information to chatbots. This broad loophole creates risks that such information could be leaked or hacked, putting children's safety at risk. Moreover, this could allow companies to use children's conversations for training AI models, product improvement, and research, the very uses that raise privacy concerns for many.

4. **Shields AI companies from transparency.** Although the Act requires AI companies to obtain independent child safety audits and submit the results of those audits to the Attorney General, the public is *prevented* from seeing those reports. The Attorney General may release common findings, but cannot identify bad or dangerous actors. This prevents the public from being able to protect themselves from unsafe products. (Business & Professions Code Section 22604.3(a)(1))

   Additionally, while the Act provides researchers with some access to the developers' data and reports, that access is very limited and requires AG approval to access, preventing verification of company claims (Business & Professions Code Section 22604.3(a)(1)(B)).

5. **Undermines age verification protections.** The initiative undermines the age verification framework established by AB 1043 (Wicks) by making it effectively optional. It creates a dual model allowing AI developers to substitute their own age assurance systems for the Legislature's verification regime, thereby obscuring the knowledge standards established under the Digital Age Assurance Act (Section 22601.5).

6. **Undermining accountability by distorting what a companion chatbot is.** Current law defines "companion chatbot" in Section 22601(b). However, the initiative's addition of "Covered AI Systems" in Section 22601(c) creates a nested definition that lacks clarity. This overlap muddles how exemptions between the two definitions interact and undermines the Act's enforceability.

   Commercial Use Exemption: The initiative exempts AI systems used solely for commercial purposes by business entities (Section 22601(c)(2)(B)). This broad language arguably encompasses platforms like ChatGPT rather than limiting the exemption to narrower business-to-business applications.

   Voice Assistant Exemption: The initiative exempts voice command assistants from physical devices (Section 22601(c)(2)(C)). This broad carveout allows devices marketed specifically to children to avoid coverage, leaving children vulnerable to exploitation by AI systems incorporated into physical products.

   Video game exemption: The initiative exempts "video games" if the "bot that is a feature of a video game […]cannot discuss topics related to mental health, self-harm, sexually explicit conduct, or maintain a dialogue on other topics unrelated to the video game" (Section 2601(b)(2)(B)). At least a decade's worth of litigation and evidence indicates that gaming platforms are an underregulated space where users, including countless children, are frequently exploited, abused, and harassed. Gaming platforms

have failed to create safe and healthy places for users and should not be granted exemptions relevant regulation.

7. **Gives AI companies – not parents – final say on crisis notifications.** The initiative's crisis-response provisions contain substantial ambiguity and delegate excessive discretion to AI system providers. When an account is linked to a parent's account, providers must send a message in a "timely manner" if the AI system determines that the child "will" suffer severe harm (Section 22601(a)(4)(B)). This provision creates three problems: it establishes a flexible timeframe for notifying parents of a child in crisis; it requires certainty ("will" suffer harm) rather than reasonable concern ("may" suffer harm); and it includes an exemption when "there is reasonable basis to believe that such notification is not in the best interest of the child." The initiative provides no guidance on how AI developers should determine a child's best interests, effectively deputizing tech companies as child welfare decision-makers.

8. **Locks in the law, even as the technology races forward.** The initiative requires a supermajority of the Legislature to make any changes, and only permits changes that are "consistent with and further the purposes" of the initiative (which will be subject to extensive litigation), significantly limiting the Legislature's ability to strengthen the Act's provisions to better protect Californians (Act, Section 4(b)). This is especially troubling given the speed at which AI is developing and new risks that may emerge after the Act is passed. While these handcuffs provide certainty for AI developers, they come at the expense of increased protections for the public.