

## MEMO FOR INTERESTED PARTIES

FROM: Accountable Tech and Tech Justice Law Project  
RE: New Message Research: Big Tech's Shadow Campaign to Weaponize the Courts  
DATE: March 15, 2024

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The Supreme Court recently heard oral arguments in *Moody v. NetChoice* and *NetChoice v. Paxton*, the latest cases in a sweeping series of legal challenges being heard on tech regulations by courts across the country this year. Some of these cases are complex and present difficult questions related to tech policy and the law.

But that's by design. Big Tech companies have intentionally selected polarizing legal cases to splinter progressives and distract from their larger ambition: to quietly weaponize the courts to overturn tech regulations across America. It's their latest attempt to protect their dominance and profits at all costs.

While high profile cases like *Moody*, *Paxton*, and *Murthy v. Missouri* (arguments set for March 18, 2024) are debated at the Supreme Court, the Big Tech lobbying group NetChoice is challenging potential tech regulations in [27 states](#). From suing to block age-appropriate design and parental consent laws, to arguing Big Tech's business activities are protected by the First Amendment even if they put our democracy at risk, Big Tech is laundering extreme legal theories through NetChoice to undermine popular laws and protect their brands from backlash.

Advocates might disagree over important legal nuances in some of this term's Supreme Court cases, but we can't allow Big Tech companies to use that to their advantage. **Whenever advocates talk about specific cases, we also need to remind voters and lawmakers about Big Tech's larger effort to weaponize the courts.**

New [polling](#) released by Accountable Tech shows that Big Tech's shadow campaign is overwhelmingly unpopular, and presents a significant vulnerability for companies like Google, Meta, X, TikTok, and even Airbnb. This memo outlines how progressives can capitalize on that vulnerability. It includes key messaging, polling data, and research on Big Tech's efforts to weaponize the courts.

### **Key Messages**

Message research shows that when talking about specific tech-related litigation, advocates should frame Big Tech's larger effort by hitting the following key message points:

- **Big Tech companies are waging a shadow campaign to weaponize America's courts and overturn common sense regulations by funding industry lobbying groups to file lawsuits on their behalf.**
  - Companies like Google, Meta, and X are laundering extreme and dangerous legal theories through NetChoice, an industry lobbying group whose mission is to help corporations avoid accountability.

- **It’s a well-worn playbook for corporations to protect their dominance and profits at all costs.**
  - Like the NRA and Big Pharma, Big Tech companies are trying to neutralize a popular movement and overturn reforms – all while hiding behind a front group.
- **Big Tech’s shadow campaign is driving unprecedented online and offline harms.**
  - NetChoice is weaponizing the law to overturn child safety protections, erode limits on harmful misinformation, and allow companies to manipulate consumers.
    - EX: NetChoice has sued in every state to block the implementation of age-appropriate design laws that require platforms to consider the safety of kids and set high privacy protections by default.
  - NetChoice is advancing increasingly brazen and novel legal arguments that, if accepted, won’t just impact tech regulation, but will imperil safety and corporate accountability laws across the board – including common sense laws regulating polluters, pharmaceutical giants, Big Tobacco, and gun manufacturers.
    - EX: NetChoice is arguing that corporations have First Amendment rights that protect their business activities – including collecting data on kids – from regulation.
- **Big Tech companies are intentionally hiding this activity from the public to protect their brands.**
  - Tech giants like X and Snap claim to support reforms when speaking publicly. Behind the scenes, they’re funding lobbying and litigation efforts to block or overturn some of the very laws they’ve publicly endorsed.
    - EX: While Snap and X have endorsed the Kids Online Safety Act (KOSA), NetChoice meanwhile, opposes KOSA calling it “[deficient](#)” and claiming “[Members of Congress are wasting time propping \[it\] up](#)”

### **Polling Insights**

**Across party lines, voters are overwhelmingly concerned about Big Tech attempts to overturn tech regulations through the courts.**

*Survey respondents who selected: Very concerned or Somewhat concerned*

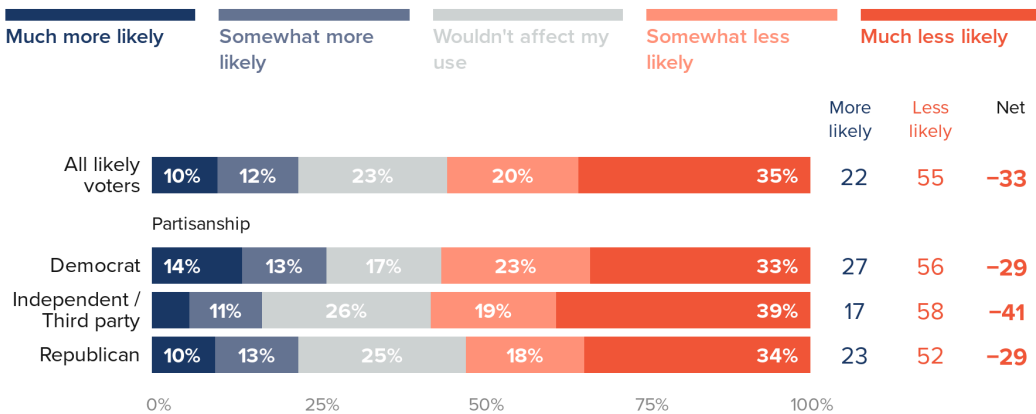
	All likely voters	Democrat	Independent / Third party	Republican
Suing the Federal Trade Commission (FTC) to continue profiting off of the data they collect from minors	77%	77%	80%	74%
Suing to overturn a state law prohibiting social media companies from collecting the data of minors who use their platforms	76%	75%	78%	75%
Suing to overturn a state law requiring these companies to set their products to the highest privacy setting by default for minors	75%	76%	74%	75%
Suing to overturn a state law requiring these companies to design their products to protect minors	74%	75%	75%	72%
Suing to overturn a state law that requires social media companies to verify a user's age	73%	72%	74%	73%
Suing to overturn a state law requiring parental permission for minors to create social media accounts	73%	71%	73%	74%

February 16–19, 2024 survey of 1,184 U.S. likely voters

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**Voters would be less likely to use the products of tech companies that sued to overturn popular tech regulations.**

*Would you be more or less likely to use the platforms and products of Meta if the company sued the federal government to overturn laws that protect consumers and the online safety of children?*

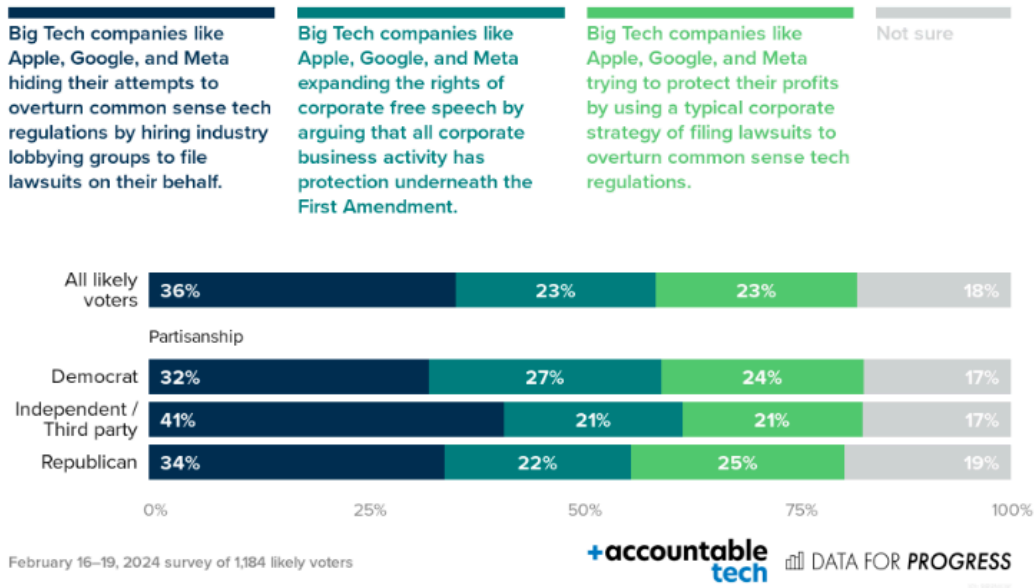


February 16–19, 2024 survey of 1,184 likely voters

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**Voters are most concerned about tech companies hiding their attempts to overturn tech regulations through industry lobbying groups.**

*Of the issues below, which of the following do you find most concerning?*



## Research Findings

Accountable Tech recently released [research](#) on how Big Tech companies are using NetChoice to block the very reforms they publicly endorse, topline findings include:

**NetChoice is actively working to overturn tech regulations in at least 27 states in America.**

- NetChoice is one of the most aggressive tech lobbyists in D.C. – its revenue jumped from \$3 million in 2020 to \$34 million in 2022 alone.
- The lobbying group is actively working to overturn tech regulations in [Alabama](#), [Arizona](#), [Arkansas](#), [California](#), [Connecticut](#), [Florida](#), [Idaho](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Louisiana](#), [Massachusetts](#), [Minnesota](#), [Montana](#), [New Jersey](#), [New Mexico](#), [New York](#), [Ohio](#), [Pennsylvania](#), [Rhode Island](#), [South Carolina](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#), and [Washington](#).

**Snap and X claim to support the Kids Online Safety Act (KOSA) when in public, but behind the scenes, they’re funding litigation to block it through their lobbying group NetChoice.**

### Public Claims:

- [Snap claims to support KOSA, 1/25/24](#): “Protecting the privacy and safety of young people on Snapchat is a top priority, and we support the Kids Online Safety [Act]...We look forward to continuing to work closely with lawmakers on this important legislation.”
- [X CEO Linda Yaccarino claims to support KOSA, 1/31/24](#): “We support KOSA and [we] will continue to make sure that it accelerates and make sure it continues to offer community to teens that are seeking that voice.”

### Private Actions:

- **[Snap and X are funding lawsuits to overturn KOSA, 2/5/24](#)**: “Decisions in NetChoice’s lawsuits against the states of California, Arkansas, and Ohio show the legal problems with the Kids Online Safety Act.”
- **[NetChoice slams KOSA as “massively” problematic for American families, 7/27/23](#)**: KOSA “hand[s] parenting over to bureaucrats,” “violat[es] free speech rights,” and creates “massive privacy and security problems for American families.”
- **[NetChoice urges Congress to block KOSA, 7/27/23](#)**: “NetChoice, a tech industry group opposing KOSA and COPPA 2.0, urged lawmakers to instead pass a federal comprehensive privacy bill and invest more in law enforcement efforts against child abuse and exploitation.”

**Meta publicly claims to empower parents to protect their children’s safety online. Privately, the company is funding NetChoice to overturn laws in Arkansas and Utah that provide parents with tools and resources to protect their children from online harms.**

### Public Claims:

- **[Meta claims to “work hard to provide parents...controls to reduce harms,” 1/31/24](#)**: “...we work hard to provide parents and teens support and controls to reduce potential harms. Technology gives us new ways to communicate with our kids and feel connected to their lives, but it can also make parenting more complicated and it's important to me that our services are positive for everyone who uses them. We are on the side of parents everywhere working hard to raise their kids.”
- **[Meta claims to have dedicated teams and tools to support minors and parents online 11/27/23](#)**: “We want teens to have safe, age-appropriate experiences online, and we have over 30 tools to support them and their parents. We’ve spent a decade working on these issues and hiring people who have dedicated their careers to keeping young people safe and supported online.”

### Private Actions:

- **[Meta funds lawsuit against Arkansas parental consent law, 8/31/23](#)**: “A federal judge has blocked an Arkansas law that requires children under 18 to get parental consent before accessing most social media websites... Judge Timothy Brooks of the U.S. District Court for the Western District of Arkansas granted tech lobbying group NetChoice’s request to stop the law from going into effect on Sept. 1.”
- **[Meta funds lawsuit against Utah parental consent law, 12/19/23](#)**: “A group representing several social media giants, including Google, Meta, TikTok and X, sued Utah on Monday over the state’s new social media law that requires platforms to verify user ages and obtain parental consent for minors.”

**TikTok claims ensuring users are over 13 years-old is a priority. But they're funding a lawsuit to block an age verification law in Ohio.**

Public Claims:

- [\*\*TikTok claims to “invest heavily” to “keep under 13s off the platform,” 6/4/23:\*\*](#) “TikTok is a platform for users aged 13 and over. We invest heavily to help keep under 13s off the platform and our 40,000 strong safety team works around the clock to help keep the platform safe for our community.”
- [\*\*TikTok CEO Shou Chew, 3/23/23:\*\*](#) “We spent a lot of time adopting measures to protect teenagers. Many of those measures are firsts for the social media industry.”

Private Actions:

- [\*\*TikTok funds lawsuit against Ohio age verification law, 1/12/24:\*\*](#) “Though most social platforms allow anyone 13 or older to set up accounts, legislation being pushed in some states would make it more difficult for teens to access social platforms. Such is the case in Ohio, where legislators passed a law requiring parental consent for children under the age of 16 to access certain social media sites. The law was set to go into effect Monday, but is on hold after a group representing social media companies [NetChoice] filed a federal lawsuit.”
- [\*\*Ohio judge rules in NetChoice’s favor blocking age verification law, 2/12/24:\*\*](#) “On Monday, a federal judge blocked Ohio's law requiring parents to sign off on their child's new social media accounts, siding with a group representing several social media sites that has filed a lawsuit against the state and argues the law is unconstitutional.”
- [\*\*NetChoice claims age-verification poses “serious First Amendment problems,” 4/13/23:\*\*](#) “Age-verification requirements raise privacy concerns, adversely stifle freedom of speech online and pose serious First Amendment problems.”

**Google publicly advocates for the development and implementation of age-appropriate design principles. Privately, they are funding lawsuits and lobbying to undo those very principles, including in California, Maryland, Minnesota, and New Mexico.**

Public Claims:

- [\*\*Google claims age-appropriate design principles increase safety and privacy, 10/16/23:\*\*](#) “Good legislative models — like those based on age-appropriate design principles — can help hold companies responsible for promoting safety and privacy, while enabling access to richer experiences for children and teens.”

Private Actions:

- [\*\*Google is funding a lawsuit to overturn age-appropriate design requirements in California, 12/14/22:\*\*](#) “Tech industry group NetChoice is suing the state of California to block its new Age-Appropriate Design Code Act, which it claims

violates the First Amendment. The group's members include Amazon, Google, Meta, TikTok and Twitter." Snap is also a [member](#).

- [\*\*NetChoice on working to “permanently” strike down the California law, 9/18/23\*\*](#): “We look forward to seeing the law permanently struck down and online speech and privacy fully protected.”
- [\*\*NetChoice lobbies against Minnesota Age Appropriate Design Code, 3/26/23\*\*](#): NetChoice claims the bill is an “unconstitutional and damaging prohibition on teenagers’ ability to access the internet.”
- [\*\*NetChoice compares age-appropriate design codes in New Mexico and Maryland to a “virus spreading across the country,” 3/14/23\*\*](#): “This is an absolute virus spreading across the country ... to create new rules on how Americans and their families engage online,’ Carl Szabo, vice president and general counsel of NetChoice, a right-of-center trade group, said in an interview. NetChoice’s members include Google, Meta, TikTok and Twitter.”