

MEMORANDUM

TO: Interested Parties
FROM: Accountable Tech
RE: CA Age Appropriate Design Code
DATE: October 17, 2022

While national press attention has largely focused on high-profile Congressional efforts to rein in Big Tech through antitrust reform and a new privacy law, The California Age Appropriate Design Code Act (AADC) may well be the most consequential piece of tech policy legislation to pass in the U.S. this year. On September 15, 2022, California Governor Gavin Newsom signed the AADC into law. This memo gives an overview of what the AADC does, the impact it will have on kids and teens across the country, and its significance for the broader tech accountability movement.

Overview – what the Age Appropriate Design Code will do

The **California Age Appropriate Design Code (AADC)** will require companies to prioritize the safety and privacy of children in the design of any digital product, service, or feature that children in California are likely to access. This bipartisan legislation was introduced by Assembly Members Buffy Wicks and Jordan Cunningham, and unanimously passed through the California State Legislature in late August 2022. The AADC is inspired by the success of the UK’s Age Appropriate Design Code in incentivizing tech platforms to make changes in order to better protect kids online.

The AADC requires companies to comprehensively assess the risks their products, services, and features may pose to young people – including algorithms, advertising systems, design functions that increase engagement, etc. – and implement systemic changes to mitigate harm. They must reasonably estimate users’ ages, in a privacy-preserving manner, proportionate to those risks – or else apply the high standards and protections afforded to children to *all consumers*.

It also prohibits many exploitative practices *altogether* – like using young people’s personal data in ways a company knows is harmful; collecting or using data beyond what’s necessary to deliver the requested services; and deploying dark patterns – and prohibits others *by default* – like profiling young people and collecting or sharing geolocation data.

The AADC will hold violators liable for a civil penalty of up to \$2,500 per affected child for each negligent violation, or \$7,500 per affected child for each intentional violation.

The AADC was introduced in the California Assembly in February 2022 by co-authors Buffy Wicks (D) and Jordan Cunningham (R). It passed the Assembly unanimously (72-0) in May and moved to the Senate in June, where it was marked up and advanced by the Judiciary Committee, and subsequently, the Appropriations Committee on Aug. 11. On Monday, August 29, 2022, the California State Senate unanimously (40-0) passed the AADC, and on September 15, Governor Newsom signed the bill into law.

The AADC is a monumental step in protecting young people online

Children across the globe are facing an unprecedented mental health crisis. Even before the onset of COVID-19 and subsequent social distancing and isolation, teen suicide was on the rise; in the US, the CDC found that between 2007 to 2017, the suicide rate among people aged 10 to 24 increased by 56%. And in the year between spring of 2020 and 2021 emergency room visits for girls ages 12 to 17 increased by 50%.

In 2020, 81% of 14 to 22-year-olds said they used social media either “daily” or “almost constantly.” This is by design, as public companies beholden to shareholders, performance incentives for product developers and executives are tied to profit and therefore time spent on their platform. Social media platforms and tech companies do not design these services with their youngest and most vulnerable users in mind.

The effects of AADC would be tangible and profound for children and teens: geolocation tracking would be turned off so companies don’t know kids’ every move, their social media accounts will be set to a high level of privacy by default, they won’t see deceptive design or dark patterns that erodes their privacy, companies won’t be collecting unnecessary data about them, and they won’t be profiled based on what they do or share online.

Setting a new bar for the tech accountability and kids’ privacy movements

After years of tech companies prioritizing profits over the wellbeing of our children, the AADC will flip the status quo on its head, requiring online products, services, and features likely to be accessed by children to be fundamentally designed around the best interests of young people.

According to [polling](#) conducted by Accountable Tech and Data for Progress earlier this year, nine-in-ten California voters say they support the measure, and nearly all Americans are [clamoring](#) for better protection of their data and for children online.

The AADC was modeled after the UK’s Age Appropriate Design Code which became law last September. The UK Code offers a comprehensive set of rules for the protection of children’s data and is already being implemented by tech companies and enforced for children in the UK. For example:

- YouTube turned off autoplay by default for under 18-year-olds
- TikTok and Instagram disabled DMs between children and adults they do not follow
- Facebook announced restrictions on ad targeting of minors

And the CA AADC – written in Silicon Valley’s home state, and backed by stronger enforcement mechanisms than the UK version – promises to deliver even more sweeping changes.

Debunking industry opposition

While the tech industry lobbied against the AADC, attempts to discredit the new law have largely relied on fear mongering and exaggerated distortions. For example, in a piece published by [Capitol Weekly](#) on August 18, Eric Goldman claims the code will require mandatory age verification on the internet. This couldn’t be further from the truth. The Code requires age estimation for sites likely to be accessed by children, in order to appropriately assess risk of harm. Some critics have asserted that “[facial scans](#) will be required to navigate to any website.” However, age estimation can be done in many ways that are privacy preserving and

non-invasive. As Hany Farid correctly [argues](#), “businesses have been using age estimation for years – not to keep children safe – but rather for targeted marketing.” **The AADC will ensure that age-estimation practices are as minimally invasive and privacy-respecting as possible, and that data collected to verify age will not be used for any other purposes.**

Others opposing the Code have also claimed that the regulation will create “[overreaching obligations](#)” for companies, requiring them to close their products to children. **The AADC comes after significant deliberation and negotiation with diverse stakeholders to ensure its feasibility and effectiveness.** According to this [article](#), “none of the hundreds of California businesses engaged in negotiations are saying they fear having to close their doors.” In addition, we have not seen this to be the case with the [UK Code](#), already in effect, which the AADC was modeled after. In addition, it also includes a “right to cure” for businesses that are in substantial compliance with its provisions, therefore limiting liability for those seeking in good faith to protect children in their service.

Conclusion

California’s leadership in protecting kids online with the Age Appropriate Design Code sends a strong and clear message that we can take on Big Tech and win. This is an historic, unprecedented tech accountability law in the US and will have an enormous impact for young people not only in California, but across the country. We believe this legislation will pave the way for a variety of other tech reforms, and look forward to other state and federal lawmakers following suit.