

## **Written Testimony of Ava Smithing**

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### **“Legislative Solutions to Protect Kids Online and Ensure Americans’ Data Privacy Rights”**

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I am Ava Smithing, Advocacy Director of the Young People’s Alliance and I will be sharing my experience being harmed by social media platforms, supplemented by research to make a case for both data privacy legislation and design feature specific legislation. Young people are widely active on social media. It serves as a crucial place of connection and socialization. However, at the same time, social media companies are exploiting our existence on their platforms for profit. Platforms build algorithms that are designed to keep us online for as long as possible. We are naturally biased as humans to pay more attention to negative content, which means that social media companies are incentivized to show us content that encouraged hatred to keep us online. This sends young people like me into echo chambers where our insecurities are brought to extreme levels, and we spend 8+ hours a day consuming this negative content and interacting with the negative design features of social media, such as like counts and beauty filters. To address these issues completely, we need to minimize data collection and establish user control over data through data privacy, so that companies cannot weaponize our data against us to manipulate our generation into staying online for as long as possible. Further, we also need to pass specific legislation, such as the Kids Online Safety Act, to ensure companies exercise reasonable care in the implementation of design features to prevent and mitigate harm caused by them. The combination of these legislative measures is a critical step to securing our generation’s mental health and the future of our democracy.

## **Introduction**

For years now, we have been reading about the mental health crisis facing younger generations characterized by increases in anxiety, depression, and eating disorders. The importance of these findings cannot be overstated. They shed light on the threat that social media poses to mental health, fueling both a Surgeon General advisory for safer technology and the introduction of innovative legislation.<sup>1</sup> Nonetheless, too often the intangible nature of our discourse around social media leaves us detached from the reality of social media's impact on the day to day lives of American youth. Statistics are too impersonal to generate true empathy. I intend to humanize the complex issues that we, as young people, face online by sharing my experience to ground the theory of why social media is harmful in the reality of how it harmed me. Using accounts of what happened to me and my peers integrated with academic research, I will connect the reckless data practices of social media companies to their tangible harms and explain how legislative solutions can address these injuries. In this testimony I will be nothing short of candid, it's how we do it at the Young People's Alliance. I hope my genuine account will communicate the urgency of these issues and your obligation to address them.

## **The Case for Data Privacy**

### *Data as a Valuable Asset*

It should come as no surprise that us young people are stuck in echo chambers of content that encourage us to hate others and ourselves. Our most personal biases, insecurities, and preferences have become data. Data as a word does not articulate its own importance, failing to capture the value that lies in what is now known about us by unregulated actors. Actors whose only goal is to sell our attention for profit. How was I—a 14-year-old child—supposed to

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<sup>1</sup> U.S. Department of Health and Human Services. "Social Media and Youth Mental Health: The U.S. Surgeon General's Advisory." Washington, D.C.: U.S. Department of Health and Human Services, (2023).

understand that social media platforms would use my age, location, and gender to target me with advertisements designed to instill insecurity in me? How was I supposed to understand that the posts I looked at and how long I looked at them for would follow me for the rest of my time online? How was I supposed to understand that my data would be inputted into algorithms designed to feed me content that would reflect my deepest insecurities to keep me online? It did not matter that the posts and ads I was paying the most attention to were incredibly harmful to me, only that my attention was paid.

### *Negativity Bias*

My bias to spend more time looking at negative posts, like yours, evolved as a survival instinct.<sup>2</sup> To learn and adapt for safety, humans have always needed to pay closer attention to the negative. As a young girl subjected to the harsh beauty standards of modern America being amplified by social media, surviving was no longer about staying alive, but rather about having a body worth likes. Therefore, I paid closer attention to images I saw that represented an unrealistic body type in a celebrated context, e.g., an advertisement for bikinis, because I wanted to fit into this standard and be like the model in the photo to be accepted by my contemporaries. The attention I paid to the advertisement was collected by the platforms I saw it on, recorded as data, and used to categorize the content I “preferred.” The social media platform made no distinction between content I liked and content I feared; all that mattered was what I would spend the most of my time viewing and engaging with. Since my data was linked to me and social media platforms profit when I spend more time on them, they used what they knew about me to show me more ads like the one I initially saw. They also used this information to decide what

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<sup>2</sup> Dent, Emily, and Andrew Martin. “Negative Comments and Social Media: How Cognitive Biases May Contribute to Body Image Concerns.” *PsyArXiv*. (2023, August 28). doi:10.31234/osf.io/eba9d.

posts to show me. All in the name of ‘preference,’ although, in retrospect, I would have preferred to never see these posts at all.

### *Lack of Autonomy Over Content*

Due to this, on feed-based platforms, such as Instagram, I saw more recommended content from accounts than from accounts I was following. These recommended posts were delivered in the same format as the posts from my friends—models camouflaged as my peers. While in a state of heightened peer sensitivity, I compared myself heavily to posts from accounts of users who were getting paid to look good on Instagram.<sup>3</sup> I identified, after many years of therapy, top model Kendall Jenner as a personal trigger. My therapist suggested I click ‘not interested’ or ‘don’t show me ads like this’ whenever I saw her on my feed. So, I did. Nevertheless, because the companies she models for are paying Instagram to show her photos to me, my attempt to exercise autonomy over my ad preferences made no difference. The recent lawsuit from Meta revealed that teenage girls see five times as many posts from top accounts than they do from accounts they follow.<sup>4</sup> Five times more triggering posts, like the ones that triggered me, than from friends. The lawsuit outlines how teenage girls are more likely to negatively compare themselves to images from these types of top accounts due to a wide variety of factors.<sup>5</sup>

### *Collaborative Filtering*

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<sup>3</sup> *Protecting Our Children Online, Before the U.S. Senate Committee on Judiciary*, 118 Cong. 6-7 (2023), (written statement of Mitch Prinstein, Chief Science Officer of the APA)

<sup>4</sup> *Arizona et al. v. Meta Platforms. Complaint for Injunctive and Other Relief*. US District Court for the Northern District of California (2023), 38.

<sup>5</sup> *Ibid.*, 38-39.

Next, through a process called collaborative filtering, social media platforms analyze my data in the context of other users' data.<sup>6</sup> For purposes of explanation of the concept, we will consider another user named Alex who, like me, spends an excess amount of time looking at bikini advertisements. If Alex also spent time looking at an advertisement for juice cleanses, through collaborative filtering the platform will also recommend me juice cleanses. Through this process, Alex and I are indirectly exploiting each other's vulnerabilities back and forth from a bikini advertisement to a juice cleanse ad, to exercise content, to diet content, and, for many young women like me, inevitably ending up at thinspo, or "thin inspiration" content. This content, the natural end of the "healthy eating" online rabbit hole, uses images of very thin people and quotes to glorify thinness and often promotes unhealthy dieting and exercise regimes.

#### *Variable Reward Schedules*

Not only did social media platforms exploit my insecurities to maximize engagement, but they also exploited my psychological vulnerabilities to prolong my time spent online. Platforms carefully orchestrate the timing of notifications and the order of different types of content in my feed to keep me anticipating a possible dopamine reward from the next post. Social media platforms deliver content on a variable reward schedule. In variable reward schedules, the exact timing or magnitude of the reinforcement is not guaranteed. Instead, rewards are given after a random or variable number of responses and/or at unpredictable intervals of time. This unpredictability creates a sense of anticipation and excitement, making the behavior more resistant to extinction and more likely to be repeated. This is the psychology of slot machines. It keeps users on social media apps scrolling. On its own, it can lead to compulsive and addictive

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<sup>6</sup> Shahbazi, Zeinab, Debapriya Hazra, Sejoon Park, and Yung Cheol Byun. "Toward Improving the Prediction Accuracy of Product Recommendation System Using Extreme Gradient Boosting and Encoding Approaches" *Symmetry* 12, no. 9: 1566. (2020). <https://doi.org/10.3390/sym12091566>

usage—hours and hours spent on social media platforms. Compounding this phenomenon is the negative content the user views contributing to constant, persistent anxiety.

### *The Role of Data Privacy Legislation*

I progressed from an advertisement for a bikini to content that would teach me how to lie to my friends and family about having an eating disorder. All because of decisions made by algorithms using my non-expressly given data. This progression was only made possible because social media platforms could legally collect my data, store my data, link it to my accounts, and utilize it to algorithmically recommend me content and advertisements. This progression was made worse by these same factors. This framework can be replicated across any issue area, not just eating disorders. It can happen from self-harm content, political extremist content, and violent content. This truth demonstrates a desperate need for legislation that addresses the problems at the root, through data minimization and user control over data. With a provision in place that ensured companies could not collect, process, retain, or transfer data beyond what was necessary, proportionate, and limited to provide or maintain their platform, and provisions allowing me to ensure that my data wasn't used in content recommendation algorithms, my 'preferences' would not have progressed me to content that taught me to deprive myself of sustenance or followed me across the internet. Platforms would not have been able to build out an artillery of my data to utilize when timing posts perfectly to keep me scrolling. Countless iterations of my story are lived by my contemporaries across the country each day, and data privacy legislation is necessary to combat them.

## The Case for Design Feature Specific Legislation

While strong privacy laws are a critical part of alleviating the mental health harms facing young people, it is important that this is done in tandem with online safety legislation that regulates manipulative design features to fully address the online mental health harms faced by young people. Social media platforms use several design features to harm young people's mental health. Foremost among these are content recommendation algorithms, which exploit user data to create addictive scrolling experiences that keep users online. This section will explain several other design features that are weaponized against young users to maximize their screen time at the expense of their mental health. These design features must be addressed by legislation that specifically establishes these design features as potentially harmful and requires companies to exercise reasonable care in preventing and mitigating the harms their implementation.

### *Like Counts*

It is not only professional models that pose a threat to young women like me, but the entire secondary market of influencers made possible by the design of social media platforms. An influencer is a user who is paid by companies to create sponsored post highlighting their use of a certain product of service to influence their followers to buy. Influencers fall under the 'top account' classification I mentioned earlier when citing the Meta lawsuit. Influencers are successfully able to appeal to brands for partnerships when they receive an excess number of likes on their posts. Like counts on posts quantify social status, leading to more social comparison and worse mental health outcomes for young users.<sup>7</sup> Meta's own internal findings

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<sup>7</sup> See: Choukas-Bradley, S., Nesi, J., Widman, L., and Galla, B. M. "The Appearance-Related Social Media Consciousness Scale: Development and Validation with Adolescents." *Body Image* 33 (2020): 164-174.  
See: Sherman, L. E., Hernandez, L. M., Greenfield, P. M., and Dapretto, M. "What the Brain 'Likes': Neural Correlates of Providing Feedback on Social Media." *Social Cognitive and Affective Neuroscience* 13, no. 7 (2018): 699-707. <https://doi.org/10.1093/scan/nsy051>.

through Project Daisy confirm this, concluding that turning like counts off significantly raised regulation.<sup>8</sup> I can say through personal experience, the ability to quantifiably compare yourself to another user on Instagram is harmful. I would post a photo on Instagram in which you could see my body, most likely at the pool or beach, and get a certain number of likes. Each like was a tiny hit of self-confidence. But when the likes stopped coming in, it caused a drastic drop off in my mood. This was especially harmful because I saw models and influencers get exponentially more likes on their pictures at the pool or on their vacation. The endless scroll feature on Instagram and other platforms made it especially easy to look at these photos, and hard to exit out of the platforms. The main difference between my post and their post was that they were thinner than me, so this quantification via likes reinforced the idea that I needed to be thinner to receive this level of social praise. The same comparison happened between me and my friends from school, leading to further peer social comparison that undermined my self-esteem.

### *Appearance altering filters*

Influencers provide a case study for how social media has raised beauty standards for young women beyond the limits of conventional attractiveness to standards that are physically impossible. I will provide a personal anecdote to illustrate this point. I mentioned earlier that Kendall Jenner was a trigger for me. However, my awareness of this fact did not stop me from occasionally viewing her Instagram page. I would click on her story to reveal an image heavily edited with a filter to make her look inhumanly beautiful. As a model, who was already beautiful without the addition of these tools, Kendall Jenner recorded an Instagram story of herself with a face altering filter on, saved the video to her phone, and reposted the video with no tag to remove any indication she used a filter. While this poor decision was not directly Instagram's fault,

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<sup>8</sup> Arizona et al. v. Meta Platforms, 43.



Instagram's creation of the face altering filters contributed to this occurring. It also continues to contribute to unattainable standards of beauty which perpetuate body dysmorphia despite Instagram's own internal research proving this feature harms young women.<sup>9</sup> Past my teenage years at this point, I was very easily able to tell that there was a filter on this video, but to a younger girl who was new to social media, it would be difficult to tell that this video was filtered. As a result, this video would likely result in negative social comparison, which lowers self-esteem.

### *Notifications*

“Look what you have missed!” or “See what Alex just posted on their story!” Reads notifications on my lock screen from social media companies utilizing complex social tendencies such as the fear of missing out, or FOMO, to encourage users to pick up their phones and log back onto their platforms.<sup>10</sup> This on its own is incredibly harmful. As a young user, I remember getting these notifications in class and having little ability to resist picking up my phone, simultaneously distracting myself from course material. These notifications also created an intense sense of anxiety that I was always missing out on something if I was not on my phone. They would be perfectly timed to ding right after it took me 20 minutes to pull myself out of the black hole of endless scrolling, just to get sucked back in. Agency over the way we use our time is a right and social media companies directly interfere with our ability to exercise our agency in this critical way. They hijack our minds utilizing every neurological tool in the book to turn us against ourselves. They force a Faustian bargain giving us content in exchange for our attention.

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<sup>9</sup> Ibid., 60.

<sup>10</sup> Roberts, James A., and Meredith E. David. “The Social Media Party: Fear of Missing Out (FoMO), Social Media Intensity, Connection, and Well-Being.” *International Journal of Human-Computer Interaction* 36, no. 4 (2020): 386–92. doi:10.1080/10447318.2019.1646517.

All of this leads young people to constant checking, hoping that any reason to take out their phones can also be a reason to keep them open to social media apps.

## **About YPA**

The Young People's Alliance (YPA) is a bipartisan, youth-led organization that empowers young people through advocacy and campus organizing. YPA was founded by then-high school students Sam Hiner and Mick Tobin in 2020 after they saw how a lack of youth representation in politics was harming young people. Today, YPA works across Capitol Hill, the NC General Assembly, and on eleven college campuses in North Carolina to staunchly advocate for young people and to get thousands of young people engaged in politics each year. One of the greatest current harms to young people is the massive mental health crisis that has taken shape along with the rise in social media in the last few years. As such, one of YPA's primary objectives is to advocate for legislation that would protect young people's online privacy and safety, curbing manipulative design features that harm our mental health.

## **Conclusion**

My story is one that is shared by nearly all young Americans. Social media platforms have exploited our user data to create subconsciously manipulative features that keep us attached to our phones and feed on our insecurities. Now is a unique opportunity for Congress to meet the moment for our nation's young people and pass desperately needed legislation. It is important that Congress addresses both the violative data practices and the manipulative design features of social media platforms to secure a future where we can all connect with each other online without being forced into dependence on screens that teach us to hate ourselves and each other.

We must pass KOSA, with its specific provisions to protect minors from harmful design features, as the harms they pose cannot be covered through data privacy legislation and pose the greatest threats to our youth. We must pass comprehensive data privacy legislation, that grants users' agency over how their data is utilized and transferred and minimizes the collection of it. This will protect all users from harmful data practices and protect us from future iterations of data exploitation that have not yet been fully developed, such as AI. Furthermore, recommendations based on user-related data should be turned off by default for users, so that they are not subjected to exploitative data practices and mechanisms like variable reward systems without any understanding or consent. Finally, it's important that substantial protections are extended to adults, giving them the tools needed to have autonomy over their time spent online. These provisions will not only protect young people's mental health, but will protect the future of our democracy, weakening algorithmically powered echo chambers that drive us apart. Every day we wait has irreversible consequences.

## **Oral Testimony**

Chair Bilirakis, Ranking Member Schakowsky, members of the committee, it is an honor to testify before you today. I hope to strengthen your understanding of the issues we were discussing with my own personal story and the knowledge and experience of the young people I have the privilege of representing through the Young People's Alliance.

My name is Ava Smithing, and I was one of the teenage girls on Instagram with an eating disorder. I say this all the time. I have said it to many of your staff. I first downloaded social media when I was 10 or 11 years old. There was a brief moment when the platforms did as they promised and peacefully connected me to my friends and new ideas.

Then, Facebook bought Instagram, and everything changed. We could have never imagined what would have been ushered onto social media in the coming years along with algorithmically recommended content and advertising.

Soon after this change, between photos of my friends and family appeared advertisements of women with unrealistic bodies. My natural tendency to compare and therefore inclination to pay attention to these posts was taken by Instagram as an invitation for more like them. Companies' ability to track my engagements, such as the duration of time I looked at a photo, revealed to them what would keep me engaged- my own insecurity.

Once they found out, to keep me on their platforms, they stored my insecurity as data, and linked it to all my accounts across the internet to be exploited for profit.

They used my data to infer what other types of ads and content I might "like," leading me down a pipeline from bikini ads, to exercise videos, to dieting tips, and finally to eating disorder content. I have a very specific memory of one post titled 'ballerina diet', suggesting that the daily

intake of only a black coffee, an orange and 16 almonds a day would keep me skinny. In a sea of photos of unrealistically thin women, I thought the ballerina diet was my life raft.

This data they collected represents my greatest vulnerability, that I was not thin enough. I interacted with one picture of one skinny girl, once, and that's all I was ever able to see. For 10 years I was trapped inside this echo chamber where social media takes the classic American beauty standards and put it on a loop in front of my face. While also showing me in real time the huge number of likes and comments of adoration those posts are getting - while reminding me of the lack of engagement my post, with a different body type, was getting.

Societal validation, through thinness in my specific case, is the carrot, Instagram, Pinterest and TikTok are the sticks, and I, along the rest of America's youth in many different ways, - am the donkey.

None of this would have happened to me if we had a national data privacy standard. One that ensured data minimization and gave me the ability to correct the ill-informed inferences platforms made about me. Or perhaps my life would have been different if legislation like the Kids Online Safety Act existed to ensure companies exercised reasonable care to mitigate harm to me. If I had had the option to opt-out of algorithms that targeted me, or better yet they were defaulted off.

I harbor no resentment. The unprecedented nature of social media made it impossible for us to know what was coming and properly act to prevent these harms. All I can be is grateful for the progress that we have made thus far on legislation, your continued attention to them and the chance to share with you what happened to me in hope of protecting future generations.

We desperately need to pass legislation, like KOSA, to protect against downstream harms caused by specific design features such as likes, infinite scroll and beauty filters unable to be

mitigated by data privacy alone- we need the transparency it provides for users and researchers, and we need tools it equips parents with.

We also need a comprehensive data privacy standard that protects all Americans.

Whatever steps we take to protect kids alone will in eventually prove fruitless if the democracy they grow up into is too gridlocked to function. Data privacy will protect users from harm and polarization caused by social media upstream by limiting the information platforms can collect on them and use to sort them into echo chambers. Data privacy will also ensure that future iterations of exploitation of our data are protected against and create a framework for which we can regulate AI.

I promise you, passing legislation such as the bills we are talking about today will not only protect the privacy and wellbeing of all Americans, but it will make your jobs easier when legislating on future issues currently clouded by their online discourse.

Together kids safety and data privacy legislation be fully effective at solving the issues presented to us on social media, but this is about more than data privacy and protecting kids online, it is about establishing a precedent for how we react to technology when it endangers our humanity and demonstrating to younger generations that their futures are a priority.

Thank you for all of your time and work thus far, I look forward to answering your questions.