



June 20, 2022

The Honorable Jesse Gabriel
California Capitol Office
1021 O Street Suite 5220
Sacramento, CA 94249

Dear Chair Gabriel:

I am writing on behalf of BSA | The Software Alliance to share our perspective on the important work you are doing to combat the proliferation of dangerous disinformation through the *Platform Accountability and Transparency Act* (SB-1018). Transparency mandates – such as those contemplated by SB-1018 – can be a powerful tool to effect meaningful changes in market behavior. But their effectiveness depends on ensuring that the requirements are carefully tailored to address the specific entities that are the focus of concern. We write today because we are concerned that SB-1018’s current definition of “social media platform” may sweep more broadly than is intended, potentially reaching a range of services that are ill-suited to the bill’s transparency reporting requirements and which are far removed from the disinformation risks it seeks to address. We offer below an alternative definition that better aligns with the intentions of the bill and which could help establish a uniform approach for defining the term in future legislative efforts.

BSA is the leading advocate for the global enterprise software industry. Our members are among the world’s most innovative companies, creating software solutions that help businesses of all sizes in every part of the economy to modernize and grow. With operations in more than 30 countries, BSA advocates for public policies that foster technology innovation and drive growth in the digital economy. Our members provide cloud infrastructure services, customer relationship management software, human resources management programs, identity management services, and online collaboration software.

SB-1018 is intended to address the harm caused by the “amplification of misinformation and disinformation” about COVID-19 over social media platforms.¹ To better understand what social media platforms are doing to combat the spread of misinformation, SB-1018 would require them to publish annual transparency reports with detailed statistics about the enforcement of their content moderation policies. Among other things, SB-1018 would require platforms to disclose the “total number of items of content” that violated the platforms’ polices, the extent to which such content was “recommended or otherwise amplified by platform algorithms,” the number of times such content was viewed by the platforms’ users, and an assessment of the “prevalence of violating content as a percentage of total

¹ <https://sd06.senate.ca.gov/news/2022-02-15-dr-richard-pan-and-assemblymember-evan-low-introduce-measures-combat-covid>

content” on the platform.

The transparency reporting obligations envisioned by SB-1018 were clearly conceived with specific platforms in mind to better understand whether their algorithmic promotion mechanisms are contributing to the viral spread of content that violates their own moderation policies. Unfortunately, SB-1018’s definition of “social media platform” may sweep well beyond the handful of companies that the bill’s requirements were tailored to address. For instance, the current definition is neither limited to publicly available, consumer-facing services nor to those that utilize the types of algorithmic recommendation systems that give rise to the viral amplification of content.

Because SB-1018’s definition lacks some of the key features and design elements that help to distinguish “social media” services from other online services, it could implicate companies whose service offerings are ill-suited for the bill’s transparency requirements. For instance, although enterprise communication services are not typically considered to be social media platforms, the current definition may reach them. Unlike social media services that offer publicly accessible platforms for users to interact and share content with the world, enterprise service providers generally lack visibility into the content on their networks and have no direct relationship to the individual end-users that may post content thereon. For instance, enterprise service providers may provide corporate communications tools that enable companies to manage employee communication portals. While such a portal might meet the current SB-1018 definition, the enterprise service provider would be unable to provide the type of information contemplated by the reporting requirements.

To ensure that organizations are not inadvertently subject to transparency requirements that were designed for a very narrow set of online services, it is vital that the definition of “social media platform” better reflect the type of services that SB-1018 is intended to address. To that end, we offer below an alternative definition that we think better aligns with the intentions SB-1018:

(a) “Social media platform” means a publicly accessible, consumer-facing internet-based service or platform that:

- 1. Has the primary purpose of facilitating social interactions between a potentially unlimited number of users of the service or platform;*
- 2. Uses algorithmic tools to recommend or otherwise promote content to users of the service or platform; AND*
- 3. Allows users of the service or platform to do all of the following:*
 - i. Create a profile for the purposes of signing into and using the service in a personalized manner.*
 - ii. Post comments, information, ideas and other content that is visible to the public or to specified users, as determined by the platform users’ preferences and privacy settings.*
 - iii. Search for, and connect with, other platform users in order to view the content the user has posted on the platform.*
 - iv. View and navigate a list of connections made by other users of the platform individuals within the system.*
 - v. Visit a main feed or landing site where content from advertisers and connected users is automatically displayed.*

In addition to advancing the goals of SB-1018, establishing a more focused definition of social media will help establish a vital precedent that will be useful in future lawmaking around social media. Given the volume of legislative activity in California, and around the country, that is focused on social media, there is an urgent need for consensus around a uniform definition of “social media platform.” By precisely defining “social media platform” in a manner that focuses on the key technical features and capabilities that distinguish social media platforms from other online services, we hope that the proposal will contribute to the development of effective public policy.

We hope you will consider us a resource on this important matter and would welcome the opportunity to engage with you or a member of your staff directly to discuss our concerns.

Sincerely,

A handwritten signature in blue ink that reads "Tom Foulkes". The signature is written in a cursive, flowing style.

Tom Foulkes
Senior Director, State Advocacy