

September 21, 2022

Senator Richard Blumenthal
Chair, Senate Commerce, Science, and Transportation, Subcommittee on Consumer Protection,
Product Safety, and Data Security
706 Hart Senate Office Building
Washington, DC 20510

Senator Marsha Blackburn
Ranking Member, Senate Commerce, Science, and Transportation, Subcommittee on Consumer
Protection, Product Safety, and Data Security
357 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Blumenthal and Ranking Member Blackburn,

We write as organizations representing multicultural creators and operators of video streaming services that serve underrepresented communities and celebrate diverse and culturally authentic stories. Together, we work every day to elevate fresh new voices and connect compelling, multicultural programming with new audiences.

While we strongly support your efforts to protect children online, we are concerned about the inclusion of “video streaming services” in the Kids Online Safety Act.

In its current form, your bill poses a serious threat to the survival of our multicultural streaming services by forcing massive technical changes to operations that would jeopardize our ability to create and provide a home for inclusive programming. It would also create dangerous potential liability for films and shows addressing topics some could choose to allege are “harmful to children” – including programming dealing with race, religion, sexuality, or politics. And it would greatly diminish the ability of generalist streaming services to connect multicultural films and shows to their users by hindering use of recommendation engines.

We therefore ask that you narrow the scope of this bill to include only those video streaming services whose works are generated by users and who have been the focus of your inquiries.

The online harms motivating your legislation are real and profound. And you rightly state that “[t]he vital importance of mitigating the harmful effects of social media has been made all the more urgent by the pandemic as more educational and social activities have moved online.”¹

This is doubly true for our communities, where discrimination, bullying, and exploitation of Black, Indigenous and People of Color youth on social media is well-documented.

¹ https://www.blumenthal.senate.gov/imo/media/doc/kids_online_safety_act_-_one_pager.pdf

But whatever dangers exist in the depths of the internet simply don't exist on culturally specific streaming services – where people, not algorithms, carefully vet and intentionally select our libraries of video content, comprised exclusively of professionally produced and licensed films and shows. Social media, by contrast, could not tell you all the content they carry and deny responsibility for it under overbroad interpretations of “safe harbor” laws.²

Extending the reach of this legislation to streaming video content and services like ours will impose costly technology mandates our customers don't need and we cannot afford by requiring covered services to develop and implement additional, expensive, and technically challenging video content controls, account management capabilities, time limitation features, and more. These mandates would be prohibitively costly for small companies like ours offering non-user-generated video programming.

Worse, the bill's overly broad provisions – enforceable by any of 50 state Attorneys General as well as the FTC – create enormous and unpredictable legal risk. In our divided country, we already see far too many elected officials weaponizing cultural differences and disagreements into major public controversies and even criminal prosecutions.

Your hearings demonstrated concrete harms posed by user-generated content that large social media platforms disseminate, and those companies have the resources to meet the new obligations in the legislation. By contrast, your hearings did not indicate similar harms stemming from streaming video content and services and smaller companies like ours lack those resources. As a result, they will be forced to make massive programming cuts and deprive viewers of access to shows dealing with a huge range of vital topics, including history, sexuality, race, religion, protest, and more.

At the same time, while all streaming services are creating more opportunities for diverse creators and video content, “discoverability” – the ability of a viewer to find a particular film or show amongst so many options – remains challenging, especially on huge platforms with large slates of programming. Recommendations are one way that all services can help promote diverse films and shows. Forcing services to disable recommendations by default would have the unintended consequence of burying diverse voices to the benefit of homogenized blockbusters – creating yet another obstacle for diverse creators in an already challenging environment.

For these reasons, we urge you to revise this important legislation by excluding video streaming content and services like ours from the many new requirements and obligations it imposes – all of which were clearly designed with user-generated content reliant social platforms in mind.

Thank you for your attention to these important issues – and we are grateful for your bipartisan leadership and your genuine desire to address a wide range of very real dangers children face.

² <https://www.icontalks.com/wp-content/uploads/2018/09/Multicultural-Creators-Letter-9.4.18.pdf>

Sincerely,

1. A Mama's Boy Production
2. African American Film Critics Association
3. ALLvanza
4. American Black Film Festival
5. Atlanta Film Society
6. Autumn Bailey Entertainment
7. Bossgurl Productions
8. Carlos López Estrada, Academy Award-nominated Director
9. Completion Films
10. Cookies + Milk
11. Creative Thought Media
12. Dame Dash Studios
13. EMC+ TV
14. Financial Services Innovation Coalition
15. ForUsByUs Network
16. Georgia Latino Film Alliance
17. HallMills Network, LLC
18. Icon Talks
19. Imagine This Women's International Festival
20. Kelly Marie Tran, Actress and Producer
21. LA SkinsFEST
22. Latinos in Information Sciences and Technology
23. Mann Robinson Studios
24. National Association of Latino Independent Producers
25. Native American Media Alliance
26. New York Latino Film Festival
27. Newark International Film Festival
28. NFLUENCE
29. Partnership for Inclusion and Empowerment – PIE
30. Plaza Theater
31. RAL Productions
32. Reel Works
33. Southern Christian Leadership Conference
34. Southern Christian Leadership Global Initiative
35. Take Creative Control
36. Tate Men Entertainment
37. The Burns Brothers
38. The Hispanic Institute
39. Undaunted Content
40. Urbanworld Foundation, Inc.
41. Vault
42. WIA: Women in Animation