

117TH CONGRESS
1ST SESSION

S. 1628

To amend the Children’s Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2021

Mr. MARKEY (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Children’s Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children and Teens’ Online Privacy Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Table of contents.

- Sec. 2. Definitions.
- Sec. 3. Online collection, use, and disclosure of personal information of children and minors.
- Sec. 4. Fair Information Practices Principles.
- Sec. 5. Digital Marketing Bill of Rights for Minors.
- Sec. 6. Targeted marketing to children or minors.
- Sec. 7. Removal of content.
- Sec. 8. Privacy dashboard for connected devices for children and minors.
- Sec. 9. Prohibition on sale of connected devices for children and minors that fail to meet appropriate cybersecurity and data security standards.
- Sec. 10. Rule for treatment of users of websites, services, and applications directed to children or minors.
- Sec. 11. Study of mobile and online application oversight.
- Sec. 12. Youth Privacy and Marketing Division.
- Sec. 13. Enforcement and applicability.

1 SEC. 2. DEFINITIONS.

2 (a) IN GENERAL.—In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Trade Commission.

5 (2) CONSTRUCTIVE KNOWLEDGE.—

6 (A) IN GENERAL.—The term “constructive
7 knowledge” means that knowledge that a minor
8 is a minor under section 5(a)(1)(A)(i)(II) shall
9 be imputed, at a minimum, to an operator if—

10 (i) the operator directly or indirectly
11 collects, uses, profiles, buys, sells, classi-
12 fies, or analyzes (using an algorithm or
13 other form of data analytics) data about a
14 user or groups of users to estimate, iden-
15 tify, or classify the age, age range, or
16 proxy thereof;

17 (ii) the operator directly or indirectly
18 collects, uses, profiles, buys, sells, classifies

1 or analyzes (using an algorithm or other
2 form of data analytics) data about the na-
3 ture of the content of the website, online
4 service, online application, or mobile appli-
5 cation that estimates, identifies, or classi-
6 fies the content as directed to users of a
7 particular age range or similarly estimates,
8 identifies, or classifies the intended or like-
9 ly audience for the content;

10 (iii) the operator has or receives data
11 or reporting related to the age of users on
12 the website, online service, online applica-
13 tion, or mobile application under the self-
14 regulatory guidelines described in section
15 1304 of the Children’s Online Privacy Pro-
16 tection Act of 1998 (15 U.S.C. 6503) that
17 documents risks and controls, including the
18 existence of operator-controlled data ana-
19 lytics and content analytics capabilities and
20 functions or outputs;

21 (iv) the operator has or receives com-
22 plaints from parents or other third parties
23 about the age of users using its service,
24 whether through the operators’ complaint

1 mechanism, by email, or other means con-
2 veniently accessible by the user;

3 (v) the operator has or receives data
4 or reporting or information from the oper-
5 ator's internal communications, including
6 documentation about its advertising prac-
7 tices, such as an advertisement insertion
8 order, or other promotional material to
9 marketers, that indicates that data is being
10 collected from users of a particular age
11 range that are using the product or serv-
12 ice;

13 (vi) the operator has publicly available
14 data or reporting regarding the operator's
15 product or service indicating that users of
16 a particular age range are using the prod-
17 uct or service; or

18 (vii) a content provider on the opera-
19 tor's website, online service, online applica-
20 tion, or mobile application communicates
21 to an ad-network that the content is in-
22 tended for users of a particular age range
23 or likely to appeal to users of a particular
24 age range, whether directly or indirectly.

1 (B) ADDITIONAL FACTORS.—The Commis-
 2 sion may issue guidance or promulgate rules
 3 that indicate factors, in addition to those de-
 4 scribed in subparagraph (A), that should be
 5 considered to be constructive knowledge for
 6 purposes of this Act.

7 (3) STANDARDS.—The term “standards” means
 8 benchmarks, guidelines, best practices, methodolo-
 9 gies, procedures, and processes.

10 (b) OTHER DEFINITIONS.—The definitions set forth
 11 in section 1302 of the Children’s Online Privacy Protec-
 12 tion Act of 1998 (15 U.S.C. 6501), as amended by section
 13 3(a) of this Act, shall apply in this Act, except to the ex-
 14 tent the Commission provides otherwise by regulations
 15 issued under section 553 of title 5, United States Code.

16 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
 17 **PERSONAL INFORMATION OF CHILDREN AND**
 18 **MINORS.**

19 (a) DEFINITIONS.—Section 1302 of the Children’s
 20 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
 21 is amended—

22 (1) by amending paragraph (2) to read as fol-
 23 lows:

24 “(2) OPERATOR.—The term ‘operator’—

25 “(A) means any person—

1 “(i) who, for commercial purposes, in
2 interstate or foreign commerce operates or
3 provides a website on the internet, an on-
4 line service, an online application, or a mo-
5 bile application; and

6 “(ii) who—

7 “(I) collects or maintains, either
8 directly or through a service provider,
9 personal information from or about
10 the users of that website, service, ap-
11 plication, or connected device;

12 “(II) allows another person to
13 collect personal information directly
14 from users of that website, service,
15 application, or connected device (in
16 which case, the operator is deemed to
17 have collected the information); or

18 “(III) allows users of that
19 website, service, application, or con-
20 nected device to publicly disclose per-
21 sonal information (in which case, the
22 operator is deemed to have collected
23 the information); and

24 “(B) does not include any nonprofit entity
25 that would otherwise be exempt from coverage

under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).”;

(2) in paragraph (4)—

(A) by amending subparagraph (A) to read as follows:

“(A) the release of personal information collected from a child or minor for any purpose, except where the personal information is provided to a person other than an operator who—

“(i) provides support for the internal operations of the website, online service, online application, or mobile application of the operator, excluding any activity relating to targeted marketing directed to children, minors, or connected devices; and

“(ii) does not disclose or use that personal information for any other purpose; and”;

(B) in subparagraph (B)—

(i) by inserting “or minor” after “child” each place the term appears;

(ii) by inserting “or minors” after “children”; and

(iii) by striking “website or online service” and inserting “website, online

1 service, online application, or mobile appli-
 2 cation”;

3 (3) in paragraph (8), by striking subparagraphs
 4 (F) and (G) and inserting the following:

5 “(F) geolocation information;

6 “(G) information used for biometric identi-
 7 fication, as defined in section 70123 of title 46,
 8 United States Code, of an individual;

9 “(H) information reasonably associated
 10 with or attributed to an individual;

11 “(I) information (including an internet
 12 protocol address) that permits the identification
 13 of—

14 “(i) an individual; or

15 “(ii) any device used by an individual
 16 to directly or indirectly access the internet
 17 or an online service, online application, or
 18 mobile application; or

19 “(J) information concerning a child or
 20 minor or the parents of that child or minor (in-
 21 cluding any unique or substantially unique iden-
 22 tifier, such as a customer number) that an op-
 23 erator collects online from the child or minor
 24 and combines with an identifier described in
 25 this paragraph.”;

1 (4) by amending paragraph (9) to read as fol-
 2 lows:

3 “(9) VERIFIABLE CONSENT.—The term ‘verifi-
 4 able consent’ means any reasonable effort (taking
 5 into consideration available technology), including a
 6 request for authorization for future collection, use,
 7 and disclosure described in the notice, to ensure
 8 that, in the case of a child, a parent of the child,
 9 or, in the case of a minor, the minor—

10 “(A) receives specific notice of the personal
 11 information collection, use, and disclosure prac-
 12 tices of the operator; and

13 “(B) before the personal information of the
 14 child or minor is collected, freely and unambig-
 15 uously authorizes—

16 “(i) the collection, use, and disclosure,
 17 as applicable, of that personal information;
 18 and

19 “(ii) any subsequent use of that per-
 20 sonal information.”;

21 (5) by striking paragraph (10) and redesign-
 22 nating paragraphs (11) and (12) as paragraphs (10)
 23 and (11), respectively; and

24 (6) by adding at the end the following:

1 “(12) CONNECTED DEVICE.—The term ‘con-
2 nected device’ means a device that is capable of con-
3 necting to the internet, directly or indirectly, or to
4 another connected device.

5 “(13) ONLINE.—The term ‘online’ means—

6 “(A) connected to or compatible with the
7 internet; or

8 “(B) via the internet.

9 “(14) ONLINE APPLICATION.—The term ‘online
10 application’—

11 “(A) means an internet-connected software
12 program; and

13 “(B) includes a service or application of-
14 fered via a connected device.

15 “(15) ONLINE SERVICE.—The term ‘online
16 service’—

17 “(A) means broadband internet access
18 service, as defined in the Report and Order on
19 Remand, Declaratory Ruling, and Order in the
20 matter of protecting and promoting the open
21 internet, adopted by the Federal Communica-
22 tions Commission on February 26, 2015 (FCC
23 15–24); and

24 “(B) includes a service or application of-
25 fered via a connected device.

1 “(16) DIRECTED TO A CHILD OR MINOR.—

2 “(A) IN GENERAL.—The terms ‘directed to
3 a child’ or ‘directed to a minor’ means, with re-
4 spect to a website, online service, online applica-
5 tion, or mobile application, the website, online
6 service, online application, or mobile application
7 is targeted to children or minors, as the case
8 may be, as demonstrated by—

9 “(i) the subject matter of the website,
10 online service, online application, or mobile
11 application;

12 “(ii) the visual content of the website,
13 online service, online application, or mobile
14 application;

15 “(iii) the use of animated characters
16 or child-oriented activities for children, or
17 the use of minor-oriented characters or
18 minor-oriented activities for minors, and
19 related incentives on the website, online
20 service, online application, or mobile appli-
21 cation;

22 “(iv) the music or other audio content
23 on the website, online service, online appli-
24 cation, or mobile application;

1 “(v) the age of models on the website,
2 online service, online application, or mobile
3 application;

4 “(vi) the presence, on the website, on-
5 line service, online application, or mobile
6 application, of—

7 “(I) child celebrities;

8 “(II) celebrities who appeal to
9 children;

10 “(III) teen celebrities; or

11 “(IV) celebrities who appeal to
12 minors;

13 “(vii) the language used on the
14 website, online service, online application,
15 or mobile application;

16 “(viii) advertising content used on, or
17 used to advertise, the website, online serv-
18 ice, online application, or mobile applica-
19 tion; or

20 “(ix) reliable empirical evidence relat-
21 ing to—

22 “(I) the composition of the audi-
23 ence of the website, online service, on-
24 line application, or mobile application;
25 and

1 “(II) the intended audience of
2 the website, online service, online ap-
3 plication, or mobile application.

4 “(B) RULES OF CONSTRUCTION.—

5 “(i) SERVICES DEEMED DIRECTED TO
6 CHILDREN OR MINORS.—For the purposes
7 of this title, a website, online service, on-
8 line application, or mobile application shall
9 be deemed to be directed to children or mi-
10 nors if the operator of the website, online
11 service, online application, or mobile appli-
12 cation has constructive knowledge that the
13 website, online service, online application,
14 or mobile application collects personal in-
15 formation directly from users of any other
16 website, online service, online application,
17 or mobile application that is directed to
18 children or minors under the criteria de-
19 scribed in subparagraph (A).

20 “(ii) SERVICES DEEMED DIRECTED TO
21 MIXED AUDIENCES.—

22 “(I) IN GENERAL.—A website,
23 online service, online application, or
24 mobile application that is directed to
25 children or minors under the criteria

1 described in subparagraph (A), but
2 that does not target children or mi-
3 nors as the primary audience of the
4 website, online service, online applica-
5 tion, or mobile application, shall not
6 be deemed to be directed to children
7 or minors for purposes of this title if
8 the website, online service, online ap-
9 plication, or mobile application—

10 “(aa) does not collect per-
11 sonal information from any user
12 of the website, online service, on-
13 line application, or mobile appli-
14 cation before verifying age infor-
15 mation of the user; and

16 “(bb) does not, without first
17 complying with any relevant no-
18 tice and consent provision under
19 this title, collect, use, or disclose
20 personal information of any user
21 who identifies themselves to the
22 website, online service, online ap-
23 plication, or mobile application as
24 an individual who is under the
25 age of 16.

1 “(II) USE OF CERTAIN TOOLS.—

2 For purposes of this title, a website,
 3 online service, online application, or
 4 mobile application, shall not be
 5 deemed directed to children or minors
 6 solely because the website, online serv-
 7 ice, online application, or mobile appli-
 8 cation refers or links to any other
 9 website, online service, online applica-
 10 tion, or mobile application directed to
 11 children or minors by using informa-
 12 tion location tools, including—

13 “(aa) a directory;

14 “(bb) an index;

15 “(cc) a reference;

16 “(dd) a pointer; or

17 “(ee) a hypertext link.

18 “(17) MOBILE APPLICATION.—The term ‘mo-
 19 bile application’—

20 “(A) means a software program that runs
 21 on the operating system of—

22 “(i) a cellular telephone;

23 “(ii) a tablet computer; or

1 “(iii) a similar portable computing de-
 2 vice that transmits data over a wireless
 3 connection; and

4 “(B) includes a service or application of-
 5 fered via a connected device.

6 “(18) GEOLOCATION INFORMATION.—The term
 7 ‘geolocation information’ means information suffi-
 8 cient to identify a street name and name of a city
 9 or town.

10 “(19) MINOR.—The term ‘minor’ means an in-
 11 dividual over the age of 12 and under the age of 16.

12 “(20) TARGETED MARKETING.—The term ‘tar-
 13 geted marketing’ means advertising or any other ef-
 14 fort to market a product or service that is directed
 15 to a specific individual or device—

16 “(A) based on—

17 “(i) the personal information of—

18 “(I) the individual; or

19 “(II) a group of individuals who
 20 are similar in gender, age, income
 21 level, race, or ethnicity to the specific
 22 individual to whom the product or
 23 service is marketed;

24 “(ii) psychological profiling; or

1 “(iii) a unique identifier of the device;

2 or

3 “(B) as a result of use by the individual,
4 access by any device of the individual, or use by
5 a group of individuals who are similar to the
6 specific individual, of—

7 “(i) a website;

8 “(ii) an online service;

9 “(iii) an online application;

10 “(iv) a mobile application; or

11 “(v) an operating system.”.

12 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF
13 PERSONAL INFORMATION OF CHILDREN AND MINORS.—
14 Section 1303 of the Children’s Online Privacy Protection
15 Act of 1998 (15 U.S.C. 6502) is amended—

16 (1) by striking the heading and inserting the
17 following: “**ONLINE COLLECTION, USE, AND DIS-**
18 **CLOSURE OF PERSONAL INFORMATION OF**
19 **CHILDREN AND MINORS.**”;

20 (2) in subsection (a)—

21 (A) by amending paragraph (1) to read as
22 follows:

23 “(1) IN GENERAL.—It is unlawful for an oper-
24 ator of a website, online service, online application,
25 or mobile application directed to a child or minor, or

1 an operator having constructive knowledge that per-
 2 sonal information being collected is from a child or
 3 minor, to collect personal information from a child
 4 or minor in a manner that violates the regulations
 5 prescribed under subsection (b).”; and

6 (B) in paragraph (2)—

7 (i) by striking “of such a website or
 8 online service”; and

9 (ii) by striking “subsection
 10 (b)(1)(B)(iii) to the parent of a child” and
 11 inserting “subsection (b)(1)(A)(iii) to the
 12 parent of a child or under subsection
 13 (b)(1)(A)(iv) to a minor”;

14 (3) in subsection (b)—

15 (A) by amending paragraph (1) to read as
 16 follows:

17 “(1) REGULATIONS.—

18 “(A) IN GENERAL.—Not later than 1 year
 19 after the date of the enactment of the Act enti-
 20 tled ‘An Act to amend the Children’s Online
 21 Privacy Protection Act of 1998 to strengthen
 22 protections relating to the online collection, use,
 23 and disclosure of personal information of chil-
 24 dren and minors, and for other purposes’, the
 25 Commission shall promulgate, under section

1 553 of title 5, United States Code, regulations
2 to require an operator of a website, online serv-
3 ice, online application, or mobile application di-
4 rected to children or minors, or an operator
5 having constructive knowledge that personal in-
6 formation being collected is from a child or
7 minor—

8 “(i) to provide clear and conspicuous
9 notice in clear and plain language of—

10 “(I) the types of personal infor-
11 mation the operator collects;

12 “(II) how the operator uses the
13 information;

14 “(III) whether and why the oper-
15 ator discloses the information; and

16 “(IV) the procedures or mecha-
17 nisms the operator uses to ensure that
18 personal information is not collected
19 from children or minors except in ac-
20 cordance with the regulations promul-
21 gated under this paragraph;

22 “(ii) to obtain verifiable consent for
23 the collection, use, or disclosure of personal
24 information of a child or minor;

1 “(iii) to provide to a parent whose
2 child has provided personal information to
3 the operator, upon request by and proper
4 identification of the parent—

5 “(I) a description of the specific
6 types of personal information collected
7 from the child by the operator;

8 “(II) the opportunity at any time
9 to delete personal information col-
10 lected from the child; and

11 “(III) a means that is reasonable
12 under the circumstances for the par-
13 ent to obtain any personal information
14 collected from the child, if such infor-
15 mation is available to the operator at
16 the time the parent makes the re-
17 quest;

18 “(iv) to provide to a minor who has
19 provided personal information to the oper-
20 ator, upon request by and proper identi-
21 fication of the minor—

22 “(I) a description of the specific
23 types of personal information collected
24 from the minor by the operator;

1 “(II) the opportunity at any time
2 to delete personal information col-
3 lected from the minor; and

4 “(III) a means that is reasonable
5 under the circumstances for the minor
6 to obtain any personal information
7 collected from the minor, if such in-
8 formation is available to the operator
9 at the time the minor makes the re-
10 quest;

11 “(v) not to condition participation in
12 a game, or use of a website, service, or ap-
13 plication, by a child or minor on the provi-
14 sion by the child or minor of more personal
15 information than is reasonably required to
16 participate in the game or use the website,
17 service, or application; and

18 “(vi) to establish and maintain rea-
19 sonable procedures to protect the confiden-
20 tiality, security, and integrity of personal
21 information collected from children and mi-
22 nors.

23 “(B) UPDATES.—Not less frequently than
24 once every 4 years after the date on which reg-
25 ulations are promulgated under subparagraph

1 (A), the Commission shall update those regula-
2 tions as necessary.”;

3 (B) in paragraph (2)—

4 (i) in the matter preceding subpara-
5 graph (A), by striking “verifiable parental
6 consent” and inserting “verifiable con-
7 sent”;

8 (ii) in subparagraph (A)—

9 (I) by inserting “or minor” after
10 “collected from a child”;

11 (II) by inserting “or minor” after
12 “request from the child”; and

13 (III) by inserting “or minor or to
14 contact a different child or minor”
15 after “to recontact the child”;

16 (iii) in subparagraph (B)—

17 (I) by striking “parent or child”
18 and inserting “parent, child, or
19 minor”; and

20 (II) by striking “parental con-
21 sent” each place the term appears and
22 inserting “verifiable consent”;

23 (iv) in subparagraph (C)—

1 (I) in the matter preceding clause
 2 (i), by inserting “or minor” after
 3 “child” each place the term appears;

4 (II) in clause (i)—

5 (aa) by inserting “or minor”
 6 after “child” each place the term
 7 appears; and

8 (bb) by inserting “or minor,
 9 as applicable,” after “parent”
 10 each place the term appears; and

11 (III) in clause (ii)—

12 (aa) by inserting “or minor,
 13 as applicable,” after “parent”;
 14 and

15 (bb) by inserting “or minor”
 16 after “child” each place the term
 17 appears; and

18 (v) in subparagraph (D)—

19 (I) in the matter preceding clause
 20 (i), by inserting “or minor” after
 21 “child” each place the term appears;

22 (II) in clause (ii), by inserting
 23 “or minor” after “child”; and

24 (III) in the flush text following
 25 clause (iii)—

1 (aa) by inserting “or minor,
 2 as applicable,” after “parent”
 3 each place the term appears; and
 4 (bb) by inserting “or minor”
 5 after “child”; and

6 (C) by amending paragraph (3) to read as
 7 follows:

8 “(3) CONTINUATION OF SERVICE.—The regula-
 9 tions shall prohibit an operator from discontinuing
 10 service provided to a child or minor on the basis of
 11 a request by the parent of the child or by the minor,
 12 under the regulations prescribed under clauses
 13 (iii)(II) and (iv)(II), respectively, of paragraph
 14 (1)(A) to delete personal information collected from
 15 the child or minor, to the extent that the operator
 16 is capable of providing such service without such in-
 17 formation.”;

18 (4) by redesignating subsections (c) and (d) as
 19 subsections (d) and (e), respectively; and

20 (5) by inserting after subsection (b) the fol-
 21 lowing:

22 “(c) CONSTRUCTIVE KNOWLEDGE.—

23 “(1) IN GENERAL.—Constructive knowledge
 24 that personal information being collected is from a

1 child or minor under subsection (a) or (b) shall be
2 imputed, at a minimum, to an operator if—

3 “(A) the operator directly or indirectly col-
4 lects, uses, profiles, buys, sells, classifies, or
5 analyzes (using an algorithm or other form of
6 data analytics) data about a user or groups of
7 users to estimate, identify, or classify the age,
8 age range, or proxy thereof;

9 “(B) the operator directly or indirectly col-
10 lects, uses, profiles, buys, sells, classifies or
11 analyzes (using an algorithm or other form of
12 data analytics) data about the nature of the
13 content of the website, online service, online ap-
14 plication, or mobile application that estimates,
15 identifies, or classifies the content as child or
16 minor-directed or similarly estimates, identifies,
17 or classifies the intended or likely audience for
18 the content;

19 “(C) the operator has or receives data or
20 reporting related to the age of users on the
21 website, online service, online application, or
22 mobile application under the self-regulatory
23 guidelines described in section 1304 that docu-
24 ments risks and controls, including the exist-
25 ence of operator-controlled data analytics and

1 content analytics capabilities and functions or
2 outputs;

3 “(D) the operator has or receives com-
4 plaints from parents or other third parties
5 about the age of users using its service, whether
6 through the operators’ complaint mechanism,
7 by email, or other means conveniently accessible
8 by the user;

9 “(E) the operator has or receives data or
10 reporting or information from the operator’s in-
11 ternal communications, including documenta-
12 tion about its advertising practices, such as an
13 advertisement insertion order, or other pro-
14 motional material to marketers, that indicates
15 that data is being collected from children or mi-
16 nors that are using the product or service;

17 “(F) the operator has publicly available
18 data or reporting regarding the operator’s prod-
19 uct or service indicating that children or minors
20 are using its product or service; or

21 “(G) a content provider on the operator’s
22 website, online service, online application, or
23 mobile application communicates to an ad-net-
24 work that the content is intended for children

1 or minors or likely to appeal to children or mi-
 2 nors, whether directly or indirectly.

3 “(2) ADDITIONAL FACTORS.—The Commission
 4 may issue guidance or promulgate rules that indicate
 5 factors, in addition to those described in paragraph
 6 (1), that should be considered to be constructive
 7 knowledge for purposes of this section.”.

8 (c) SAFE HARBORS.—Section 1304 of the Children’s
 9 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
 10 is amended—

11 (1) in subsection (b)(1), by inserting “and mi-
 12 nors” after “children”; and

13 (2) by adding at the end the following:

14 “(d) PUBLICATION.—The Commission shall publish
 15 on the internet website of the Commission any report or
 16 documentation required by regulation to be submitted to
 17 the Commission to carry out this section.”.

18 (d) ADMINISTRATION AND APPLICABILITY OF ACT.—
 19 Section 1306 of the Children’s Online Privacy Protection
 20 Act of 1998 (15 U.S.C. 6505) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1), by striking “, in the
 23 case of” and all that follows and inserting the
 24 following: “by the appropriate Federal banking
 25 agency, with respect to any insured depository

1 institution (as those terms are defined in sec-
 2 tion 3 of that Act (12 U.S.C. 1813));”; and

3 (B) by striking paragraph (2) and redesign-
 4 nating paragraphs (3) through (6) as para-
 5 graphs (2) through (5), respectively; and

6 (2) by adding at the end the following new sub-
 7 section:

8 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
 9 OPERATORS.—

10 “(1) ENFORCEMENT BY COMMISSION.—Not-
 11 withstanding section 5(a)(2) of the Federal Trade
 12 Commission Act (15 U.S.C. 45(a)(2)), compliance
 13 with the requirements imposed under this title shall
 14 be enforced by the Commission with respect to any
 15 telecommunications carrier (as defined in section 3
 16 of the Communications Act of 1934 (47 U.S.C.
 17 153)).

18 “(2) RELATIONSHIP TO OTHER LAW.—To the
 19 extent that section 222, 338(i), or 631 of the Com-
 20 munications Act of 1934 (47 U.S.C. 222; 338(i);
 21 551) is inconsistent with this title, this title con-
 22 trols.”.

23 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

24 The Fair Information Practices Principles described
 25 in this section are the following:

1 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-
2 cept as provided in paragraph (3), personal informa-
3 tion should be collected from a child or minor only
4 when collection of the personal information is—

5 (A) consistent with the context of a par-
6 ticular transaction or service or the relationship
7 of the child or minor with the operator, includ-
8 ing collection necessary to fulfill a transaction
9 or provide a service requested by the child or
10 minor; or

11 (B) required or specifically authorized by
12 law.

13 (2) DATA QUALITY PRINCIPLE.—The personal
14 information of a child or minor should be accurate,
15 complete, and kept up-to-date to the extent nec-
16 essary to fulfill the purposes described in subpara-
17 graphs (A) through (D) of paragraph (3).

18 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
19 purposes for which personal information is collected
20 should be specified to the parent of a child or to a
21 minor not later than at the time of the collection of
22 the information. The subsequent use or disclosure of
23 the information should be limited to—

24 (A) fulfillment of the transaction or service
25 requested by the minor or parent of the child;

(B) support for the internal operations of the website, service, or application, as described in section 312.2 of title 16, Code of Federal Regulations, excluding any activity relating to targeted marketing directed to children, minors, or a device of a child or minor if the support for internal operations is consistent with the interest of the child or minor;

(C) compliance with legal process or other purposes expressly authorized under specific legal authority; or

(D) other purposes—

(i) that are specified in a notice to the minor or parent of the child; and

(ii) to which the minor or parent of the child has consented under paragraph (7) before the information is used or disclosed for such other purposes.

(4) RETENTION LIMITATION PRINCIPLE.—

(A) IN GENERAL.—The personal information of a child or minor should not be retained for longer than is necessary to fulfill a transaction or provide a service requested by the child or minor or such other purposes specified

1 in subparagraphs (A) through (D) of paragraph
2 (3).

3 (B) DATA DISPOSAL.—The operator should
4 implement a reasonable and appropriate data
5 disposal policy based on the nature and sensi-
6 tivity of personal information described in sub-
7 paragraph (A).

8 (5) SECURITY SAFEGUARDS PRINCIPLE.—The
9 personal information of a child or minor should be
10 protected by reasonable and appropriate security
11 safeguards against risks such as loss or unauthor-
12 ized access, destruction, use, modification, or disclo-
13 sure.

14 (6) OPENNESS PRINCIPLE.—

15 (A) GENERAL PRINCIPLE.—The operator
16 should maintain a general policy of openness
17 about developments, practices, and policies with
18 respect to the personal information of a child or
19 minor.

20 (B) PROVISION OF INFORMATION.—The
21 operator should provide to each parent of a
22 child, or to each minor, using the website, on-
23 line service, online application, or mobile appli-
24 cation of the operator with a clear and promi-
25 nent means—

1 (i) to identify and contact the oper-
2 ator, by, at a minimum, disclosing, clearly
3 and prominently, the identity of the oper-
4 ator and—

5 (I) in the case of an operator
6 who is an individual, the address of
7 the principal residence of the operator
8 and an email address and telephone
9 number for the operator; or

10 (II) in the case of any other op-
11 erator, the address of the principal
12 place of business of the operator and
13 an email address and telephone num-
14 ber for the operator;

15 (ii) to determine whether the operator
16 possesses any personal information of the
17 child or minor, the nature of any such in-
18 formation, and the purposes for which the
19 information was collected and is being re-
20 tained;

21 (iii) to obtain any personal informa-
22 tion of the child or minor that is in the
23 possession of the operator from the oper-
24 ator, or from a person specified by the op-
25 erator, within a reasonable time after mak-

ing a request, at a charge (if any) that is not excessive, in a reasonable manner, and in a form that is readily intelligible to the child or minor;

(iv) to challenge the accuracy of personal information of the child or minor that is in the possession of the operator;

(v) to determine if the child or minor has established the inaccuracy of personal information in a challenge under clause (iv) in order to have such information erased, corrected, completed, or otherwise amended; and

(vi) to determine the method by which the operator obtains data relevant to the child or minor.

(C) LIMITATION.—Nothing in this paragraph shall be construed to permit an operator to erase or otherwise modify personal information requested by a law enforcement agency pursuant to legal authority.

(7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

The operator should—

(A) obtain consent from a parent of a child or from a minor before using or disclosing the

personal information of the child or minor for any purpose other than the purposes described in subparagraphs (A) through (C) of paragraph (3); and

(B) obtain affirmative express consent from a parent of a child or from a minor before using or disclosing previously collected personal information of the child or minor for purposes that constitute a material change in practice from the original purposes specified to the child or minor under paragraph (3).

(8) RACIAL AND SOCIOECONOMIC PROFILING.—

The personal information of a child or minor shall not be used to direct content to the child or minor, or a group of individuals similar to the child or minor, on the basis of race, socioeconomic factors, or any proxy thereof.

SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR MINORS.

(a) ACTS PROHIBITED.—

(1) PROHIBITION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), it shall be unlawful for an operator of a website, online service, online application, or mobile application to collect personal information from a minor if—

1 (i)(I) the minor is a user of the
 2 website, online service, online application,
 3 or mobile application; and

4 (II) the operator has constructive
 5 knowledge that personal information is
 6 being collected from a minor or minors; or

7 (ii) the website, online service, online
 8 application, or mobile application is di-
 9 rected to minors.

10 (B) EXCEPTION.—Subparagraph (A) shall
 11 not apply to an operator that has adopted and
 12 complies with a Digital Marketing Bill of
 13 Rights for Minors that is consistent with the
 14 Fair Information Practices Principles described
 15 in section 4.

16 (2) EFFECTIVE DATE.—This subsection shall
 17 take effect on the date that is 180 days after the
 18 promulgation of regulations under subsection (b).

19 (b) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 1 year after
 21 the date of enactment of this Act, the Commission
 22 shall promulgate, under section 553 of title 5,
 23 United States Code, regulations to implement this
 24 section, including regulations further defining the

1 Fair Information Practices Principles described in
2 section 4.

3 (2) UPDATES.—Not less frequently than once
4 every 4 years after the date on which regulations are
5 promulgated under paragraph (1), the Commission
6 shall update those regulations as necessary.

7 **SEC. 6. TARGETED MARKETING TO CHILDREN OR MINORS.**

8 (a) ACTS PROHIBITED.—

9 (1) CHILDREN.—It shall be unlawful for an op-
10 erator of a website, online service, online application,
11 or mobile application to use, disclose to third par-
12 ties, or compile personal information of a child for
13 purposes of targeted marketing if—

14 (A)(i) the child is a user of the website,
15 online service, online application, or mobile ap-
16 plication; and

17 (ii) the operator has constructive knowl-
18 edge that personal information is being col-
19 lected from a child or children; or

20 (B) the website, online service, online ap-
21 plication, or mobile application is directed to a
22 child.

23 (2) MINORS.—

24 (A) PROHIBITION.—Except as provided in
25 subparagraph (B), it shall be unlawful for an

operator of a website, online service, online application, or mobile application to use, disclose to third parties, or compile personal information of a minor for purposes of targeted marketing if—

(i)(I) the minor is a user of the website, online service, online application, or mobile application; and

(II) the operator has constructive knowledge that the minor is a minor; or

(ii) the website, online service, online application, or mobile application is directed to a minor.

(B) EXCEPTION.—Subparagraph (A) shall not apply to an operator that has obtained the verifiable consent of the relevant minor.

(3) EFFECTIVE DATE.—This subsection shall take effect on the date that is 180 days after the promulgation of regulations under subsection (b).

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall promulgate, under section 553 of title 5, United States Code, regulations to implement this section.

1 (2) UPDATES.—Not less frequently than once
 2 every 4 years after the date on which regulations are
 3 promulgated under paragraph (1), the Commission
 4 shall update those regulations as necessary.

5 **SEC. 7. REMOVAL OF CONTENT.**

6 (a) ACTS PROHIBITED.—It is unlawful for an oper-
 7 ator to make publicly available through a website, online
 8 service, online application, or mobile application content
 9 or information that contains or displays personal informa-
 10 tion of children or minors in a manner that violates sub-
 11 section (b).

12 (b) REQUIREMENT.—

13 (1) IN GENERAL.—An operator, to the extent
 14 technologically feasible, shall—

15 (A) implement mechanisms that permit a
 16 user of the website, online service, online appli-
 17 cation, or mobile application of the operator to
 18 erase or otherwise eliminate content or informa-
 19 tion that is—

20 (i) submitted to the website, online
 21 service, online application, or mobile appli-
 22 cation by that user;

23 (ii) publicly available through the
 24 website, online service, online application,
 25 or mobile application; and

1 (iii) contains or displays personal in-
2 formation of children or minors; and

3 (B) take appropriate steps to—

4 (i) make users aware of the mecha-
5 nisms described in subparagraph (A); and

6 (ii) provide notice to users that the
7 mechanisms described in subparagraph (A)
8 do not necessarily provide comprehensive
9 removal of the content or information sub-
10 mitted by users.

11 (2) EXCEPTIONS.—Paragraph (1) shall not be
12 construed to require an operator or third party to
13 erase or otherwise eliminate content or information
14 that—

15 (A) any other provision of Federal or State
16 law requires the operator or third party to
17 maintain; or

18 (B) was submitted to the website, online
19 service, online application, or mobile application
20 of the operator by any person other than the
21 user who is attempting to erase or otherwise
22 eliminate the content or information, including
23 content or information submitted by the user
24 that was republished or resubmitted by another
25 person.

1 (c) LIMITATION.—Nothing in this section shall be
 2 construed to limit the authority of a law enforcement
 3 agency to obtain any content or information from an oper-
 4 ator as authorized by law or pursuant to an order of a
 5 court of competent jurisdiction.

6 (d) EFFECTIVE DATE.—This section shall take effect
 7 on the date that is 180 days after the date of enactment
 8 of this Act.

9 **SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES**
 10 **FOR CHILDREN AND MINORS.**

11 (a) IN GENERAL.—A manufacturer of a connected
 12 device directed to a child or minor shall prominently dis-
 13 play on the packaging for the connected device a standard-
 14 ized and easy-to-understand privacy dashboard, detailing
 15 whether, what, and how personal information of a child
 16 or minor is—

- 17 (1) collected from the connected device;
- 18 (2) transmitted from the connected device;
- 19 (3) retained on the connected device;
- 20 (4) retained by the manufacturer or affiliated
 21 person;
- 22 (5) used by the manufacturer or affiliated per-
 23 son; and
- 24 (6) protected.

1 (b) FEATURES.—A privacy dashboard under sub-
2 section (a) shall inform a consumer of—

3 (1) the extent to which the connected device
4 meets the highest cybersecurity and data security
5 standards, including if and how to obtain security
6 patches;

7 (2) the extent to which the connected device
8 gives—

9 (A) a parent meaningful control over the
10 information of a child of the parent; and

11 (B) a minor meaningful control over the
12 information of the minor;

13 (3) the extent to which the device minimizes the
14 collection, retention, and use of information from a
15 child or minor;

16 (4) the location of privacy policies;

17 (5) the type of personal information the con-
18 nected device may collect;

19 (6) the minimum length of time during which
20 a connected device will received security patches and
21 software updates;

22 (7) whether the connected device can be used
23 without being connected to the internet; and

24 (8) any other information as the Commission
25 considers appropriate.

1 (c) REGULATIONS.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act, the Commission
4 shall promulgate, under section 553 of title 5,
5 United States Code, regulations to implement this
6 section.

7 (2) UPDATES.—Not less frequently than once
8 every 4 years after the date on which regulations are
9 promulgated under paragraph (1), the Commission
10 shall update those regulations as necessary.

11 (d) EFFECTIVE DATE.—Subsections (a) and (b) shall
12 take effect on the date that is 180 days after the promul-
13 gation of regulations under subsection (c).

14 **SEC. 9. PROHIBITION ON SALE OF CONNECTED DEVICES**
15 **FOR CHILDREN AND MINORS THAT FAIL TO**
16 **MEET APPROPRIATE CYBERSECURITY AND**
17 **DATA SECURITY STANDARDS.**

18 (a) PROHIBITION.—Beginning 1 year after the date
19 of enactment of this Act, no person may sell a connected
20 device unless the connected device meets appropriate cy-
21 bersecurity and data security standards established by the
22 Commission.

23 (b) CYBERSECURITY AND DATA SECURITY STAND-
24 ARDS.—

1 (1) IN GENERAL.—The Commission shall pro-
2 mulgate, under section 553 of title 5, United States
3 Code, cybersecurity and data security standards de-
4 scribed in subsection (a).

5 (2) CONSIDERATIONS.—In promulgating cyber-
6 security and data security standards under para-
7 graph (1), the Commission shall—

8 (A) create cybersecurity and data security
9 standards for different subsets of connected de-
10 vices based on the varying degrees of—

11 (i) cybersecurity and data security
12 risk associated with each subset of con-
13 nected device;

14 (ii) sensitivity of information collected,
15 stored, or transmitted by each subset of
16 connected device; and

17 (iii) functionality of each subset of
18 connected device;

19 (B) consider incorporating, to the extent
20 practicable, existing cybersecurity and data se-
21 curity standards; and

22 (C) ensure that the cybersecurity and data
23 security standards—

1 (i) are consistent with Fair Informa-
2 tion Practice Principles described in sec-
3 tion 4; and

4 (ii) promote data minimization.

5 **SEC. 10. RULE FOR TREATMENT OF USERS OF WEBSITES,**
6 **SERVICES, AND APPLICATIONS DIRECTED TO**
7 **CHILDREN OR MINORS.**

8 For the purposes of this Act, an operator of a
9 website, online service, online application, or mobile appli-
10 cation that is directed to children or minors shall treat
11 each user of that website, online service, online applica-
12 tion, or mobile application as a child or minor, except as
13 permitted by the Commission pursuant to a regulation
14 promulgated under this Act.

15 **SEC. 11. STUDY OF MOBILE AND ONLINE APPLICATION**
16 **OVERSIGHT.**

17 Not later than 2 years after the date of enactment
18 of this Act, the Commission shall submit to each com-
19 mittee of the Senate and each committee of the House
20 of Representatives that has jurisdiction over the Commis-
21 sion a report on the processes of platforms that offer mo-
22 bile and online applications for ensuring that, of those ap-
23 plications that are directed to children or minors, the ap-
24 plications operate in accordance with—

1 (1) this Act, the amendments made by this Act,
2 and rules promulgated under this Act;

3 (2) rules promulgated by the Commission under
4 section 5 of the Federal Trade Commission Act (15
5 U.S.C. 45) relating to unfair or deceptive acts or
6 practices in marketing; and

7 (3) any other Federal or State law relating to
8 the privacy of children or minors.

9 **SEC. 12. YOUTH PRIVACY AND MARKETING DIVISION.**

10 (a) **ESTABLISHMENT.**—There is established within
11 the Commission a division to be known as the Youth Pri-
12 vacy and Marketing Division.

13 (b) **DIRECTOR.**—The Youth Privacy and Marketing
14 Division shall be headed by a Director, who shall be ap-
15 pointed by the Chairman of the Commission.

16 (c) **DUTIES.**—The Youth Privacy and Marketing Di-
17 vision established under subsection (a) shall be responsible
18 for addressing, as it relates to this Act and the amend-
19 ments made by this Act—

20 (1) the privacy of children and minors; and

21 (2) marketing directed at children and minors.

22 (d) **STAFF.**—The Director of the Youth Privacy and
23 Marketing Division shall hire adequate staff to carry out
24 the duties under subsection (c), including individuals who

1 are experts in data protection, digital advertising, data
2 analytics, and youth development.

3 (e) REPORTS.—Not later than 1 year after the date
4 of enactment of this Act, and each year thereafter, the
5 Director of the Youth and Privacy Marketing Division
6 shall submit to the Committee on Commerce, Science, and
7 Transportation of the Senate and the Committee on En-
8 ergy and Commerce of the House of Representatives a re-
9 port that includes—

10 (1) a description of the work of the Youth Pri-
11 vacy and Marketing Division on emerging concerns
12 relating to youth privacy and marketing practices;
13 and

14 (2) an assessment of how effectively the Com-
15 mission has, during the period for which the report
16 is submitted, addressed youth privacy and marketing
17 practices.

18 **SEC. 13. ENFORCEMENT AND APPLICABILITY.**

19 (a) ENFORCEMENT BY THE COMMISSION.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided, this Act and the regulations prescribed under
22 this Act shall be enforced by the Commission under
23 the Federal Trade Commission Act (15 U.S.C. 41 et
24 seq.).

1 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-
2 TICES.—Subject to subsection (b), a violation of this
3 Act or a regulation prescribed under this Act shall
4 be treated as a violation of a rule defining an unfair
5 or deceptive act or practice prescribed under section
6 18(a)(1)(B) of the Federal Trade Commission Act
7 (15 U.S.C. 57a(a)(1)(B)).

8 (3) ACTIONS BY THE COMMISSION.—

9 (A) IN GENERAL.—Subject to subsection
10 (b), and except as provided in subsection (d)(1),
11 the Commission shall prevent any person from
12 violating this Act or a regulation prescribed
13 under this Act in the same manner, by the
14 same means, and with the same jurisdiction,
15 powers, and duties as though all applicable
16 terms and provisions of the Federal Trade
17 Commission Act (15 U.S.C. 41 et seq.) were in-
18 corporated into and made a part of this Act,
19 and any person who violates this Act or such
20 regulation shall be subject to the penalties and
21 entitled to the privileges and immunities pro-
22 vided in the Federal Trade Commission Act.

23 (B) VIOLATIONS.—

24 (i) IN GENERAL.—In an action
25 brought by the Commission to enforce this

1 Act and the regulations prescribed under
 2 this Act, each connected device that fails to
 3 meet a standard promulgated under this
 4 Act shall be treated as a separate violation.

5 (ii) CIVIL PENALTY.—Notwithstand-
 6 ing section 5(m) of the Federal Trade
 7 Commission Act (15 U.S.C. 45(m)), a civil
 8 penalty recovered for a violation of this Act
 9 or a regulation prescribed under this Act
 10 may be in excess of the amounts provided
 11 for in that section as the court finds ap-
 12 propriate to deter violations of this Act
 13 and regulations prescribed under this Act.

14 (iii) FIRST VIOLATIONS.—In an action
 15 brought by the Commission to enforce this
 16 Act and the regulations prescribed under
 17 this Act, the Commission may seek a civil
 18 penalty for any violation of this Act or reg-
 19 ulation prescribed under this Act, including
 20 any violation that is the first violation of
 21 this Act or a regulation prescribed under
 22 this Act that a person against whom the
 23 action is brought has committed.

24 (b) ENFORCEMENT BY CERTAIN OTHER AGEN-
 25 CIES.—Notwithstanding subsection (a), compliance with

1 the requirements imposed under this Act shall be enforced
2 as follows:

3 (1) Under section 8 of the Federal Deposit In-
4 surance Act (12 U.S.C. 1818) by the appropriate
5 Federal banking agency, with respect to an insured
6 depository institution (as such terms are defined in
7 section 3 of such Act (12 U.S.C. 1813)).

8 (2) Under the Federal Credit Union Act (12
9 U.S.C. 1751 et seq.) by the National Credit Union
10 Administration Board, with respect to any Federal
11 credit union.

12 (3) Under part A of subtitle VII of title 49,
13 United States Code, by the Secretary of Transpor-
14 tation, with respect to any air carrier or foreign air
15 carrier subject to such part.

16 (4) Under the Packers and Stockyards Act,
17 1921 (7 U.S.C. 181 et seq.) (except as provided in
18 section 406 of that Act (7 U.S.C. 226; 227)) by the
19 Secretary of Agriculture, with respect to any activi-
20 ties subject to that Act.

21 (5) Under the Farm Credit Act of 1971 (12
22 U.S.C. 2001 et seq.) by the Farm Credit Adminis-
23 tration, with respect to any Federal land bank, Fed-
24 eral land bank association, Federal intermediate
25 credit bank, or production credit association.

1 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
2 ERAL.—

3 (1) IN GENERAL.—

4 (A) CIVIL ACTIONS.—In any case in which
5 the attorney general of a State has reason to
6 believe that an interest of the residents of that
7 State has been or is threatened or adversely af-
8 fected by the engagement of any person in a
9 practice that violates this Act or a regulation
10 prescribed under this Act, the State, as *parens*
11 *patriae*, may bring a civil action on behalf of
12 the residents of the State in a district court of
13 the United States of appropriate jurisdiction
14 to—

15 (i) enjoin that practice;

16 (ii) enforce compliance with this Act
17 or such regulation;

18 (iii) obtain damages, restitution, or
19 other compensation on behalf of residents
20 of the State; or

21 (iv) obtain such other relief as the
22 court may consider to be appropriate.

23 (B) NOTICE.—

24 (i) IN GENERAL.—Before filing an ac-
25 tion under subparagraph (A), the attorney

1 general of the State involved shall provide
2 to the Commission—

3 (I) written notice of that action;

4 and

5 (II) a copy of the complaint for
6 that action.

7 (ii) EXEMPTION.—

8 (I) IN GENERAL.—Clause (i)
9 shall not apply with respect to the fil-
10 ing of an action by an attorney gen-
11 eral of a State under this paragraph
12 if the attorney general of the State
13 determines that it is not feasible to
14 provide the notice described in that
15 clause before the filing of the action.

16 (II) NOTIFICATION.—In an ac-
17 tion described in subclause (I), the at-
18 torney general of a State shall provide
19 notice and a copy of the complaint to
20 the Commission at the same time as
21 the attorney general files the action.

22 (2) INTERVENTION.—

23 (A) IN GENERAL.—On receiving notice
24 under paragraph (1)(B), the Commission shall

1 have the right to intervene in the action that is
2 the subject of the notice.

3 (B) EFFECT OF INTERVENTION.—If the
4 Commission intervenes in an action under para-
5 graph (1), it shall have the right—

6 (i) to be heard with respect to any
7 matter that arises in that action; and

8 (ii) to file a petition for appeal.

9 (3) CONSTRUCTION.—For purposes of bringing
10 any civil action under paragraph (1), nothing in this
11 Act shall be construed to prevent an attorney gen-
12 eral of a State from exercising the powers conferred
13 on the attorney general by the laws of that State
14 to—

15 (A) conduct investigations;

16 (B) administer oaths or affirmations; or

17 (C) compel the attendance of witnesses or
18 the production of documentary and other evi-
19 dence.

20 (4) ACTIONS BY THE COMMISSION.—In any
21 case in which an action is instituted by or on behalf
22 of the Commission for violation of this Act or a reg-
23 ulation prescribed under this Act, no State may,
24 during the pendency of that action, institute an ac-
25 tion under paragraph (1) against any defendant

named in the complaint in the action instituted by
or on behalf of the Commission for that violation.

(5) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under
paragraph (1) may be brought in the district
court of the United States that meets applicable
requirements relating to venue under section
1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action
brought under paragraph (1), process may be
served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) TELECOMMUNICATIONS CARRIERS AND CABLE
OPERATORS.—

(1) ENFORCEMENT BY COMMISSION.—Notwith-
standing section 5(a)(2) of the Federal Trade Com-
mission Act (15 U.S.C. 45(a)(2)), compliance with
the requirements imposed under this Act shall be en-
forced by the Commission with respect to any tele-
communications carrier (as defined in section 3 of
the Communications Act of 1934 (47 U.S.C. 153)).

(2) RELATIONSHIP TO OTHER LAWS.—To the
extent that section 222, 338(i), or 631 of the Com-

1 munications Act of 1934 (47 U.S.C. 222; 338(i);
 2 551) is inconsistent with this Act, this Act controls.

3 (e) SAFE HARBORS.—

4 (1) DEFINITION.—In this subsection—

5 (A) the term “applicable section” means
 6 section 5, 6, 7, 8, or 9 of this Act;

7 (B) the term “covered operator” means an
 8 operator subject to guidelines approved under
 9 paragraph (2);

10 (C) the term “requesting entity” means an
 11 entity that submits a safe harbor request to the
 12 Commission; and

13 (D) the term “safe harbor request” means
 14 a request to have self-regulatory guidelines de-
 15 scribed in paragraph (2)(A) approved under
 16 that paragraph.

17 (2) GUIDELINES.—

18 (A) IN GENERAL.—An operator may sat-
 19 isfy the requirements of regulations issued
 20 under an applicable section by following a set of
 21 self-regulatory guidelines, issued by representa-
 22 tives of the marketing or online industries, or
 23 by other persons, that, after notice and an op-
 24 portunity for comment, are approved by the
 25 Commission upon making a determination that

1 the guidelines meet the requirements of the reg-
2 ulations issued under that applicable section.

3 (B) EXPEDITED RESPONSE TO RE-
4 QUESTS.—Not later than 180 days after the
5 date on which a safe harbor request is filed
6 under subparagraph (A), the Commission shall
7 act upon the request set forth in writing the
8 conclusions of the Commission with regard to
9 the request.

10 (C) APPEALS.—A requesting entity may
11 appeal the final action of the Commission under
12 subparagraph (B), or a failure by the Commis-
13 sion to act in the period described in that para-
14 graph, to a district court of the United States
15 of appropriate jurisdiction, as provided for in
16 section 706 of title 5, United States Code.

17 (3) INCENTIVES.—

18 (A) SELF-REGULATORY INCENTIVES.—In
19 prescribing regulations under an applicable sec-
20 tion, the Commission shall provide incentives
21 for self-regulation by covered operators to im-
22 plement the protections afforded children and
23 minors, as applicable, under the regulatory re-
24 quirements described in those sections.

1 (B) DEEMED COMPLIANCE.—The incen-
 2 tives under subparagraph (A) shall include pro-
 3 visions for ensuring that a covered operator will
 4 be deemed to be in compliance with the require-
 5 ments of the regulations under an applicable
 6 section if that person complies with guidelines
 7 approved under paragraph (2).

8 (4) REGULATIONS.—In prescribing regulations
 9 relating to safe harbor guidelines under an applica-
 10 ble section, the Commission shall—

11 (A) establish criteria for the approval of
 12 guidelines that will ensure that a covered oper-
 13 ator provides substantially the same or greater
 14 protections for children and minors, as applica-
 15 ble, as those contained in the regulations issued
 16 under the applicable section; and

17 (B) require that any report or documenta-
 18 tion required to be submitted to the Commis-
 19 sion by a covered operator or requesting entity
 20 will be published on the internet website of the
 21 Commission.

22 (5) REPORT BY THE INSPECTOR GENERAL.—

23 (A) IN GENERAL.—Not later than 2 years
 24 after the date of enactment of this Act, and
 25 once each 2 years thereafter, the Inspector Gen-

1 eral of the Commission shall submit to the
2 Commission and each committee of the Senate
3 and each committee of the House of Represent-
4 atives that has jurisdiction over the Commission
5 a report regarding the safe harbor provisions
6 under this subparagraph, which shall include—

7 (i) an analysis of whether the safe
8 harbor provisions are—

9 (I) operating fairly and effec-
10 tively; and

11 (II) effectively protecting the in-
12 terests of children and minors; and

13 (ii) proposals for policy changes that
14 would improve the effectiveness of the safe
15 harbor provisions.

16 (B) PUBLICATION.—Not later than 10
17 days after the date on which a report under
18 subparagraph (A) is submitted, the Commission
19 shall publish the report on the internet website
20 of the Commission.

21 (f) EFFECTIVE DATE.—This section shall take effect
22 on the date that is 90 days after the date of enactment
23 of this Act.

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