

117TH CONGRESS  
2D SESSION

# S. 5339

To support research about the impact of digital communication platforms on society by providing privacy-protected, secure pathways for independent research on data held by large internet companies.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2022

Mr. COONS (for himself, Mr. PORTMAN, Ms. KLOBUCHAR, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To support research about the impact of digital communication platforms on society by providing privacy-protected, secure pathways for independent research on data held by large internet companies.

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 “Platform Accountability and Transparency Act”.

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

Sec. 1. Short title; table of contents.

- Sec. 2. Definitions.
- Sec. 3. Qualified research projects, qualified researchers, and qualified data and information.
- Sec. 4. Obligations and immunity for platforms.
- Sec. 5. Obligations and immunity for qualified researchers.
- Sec. 6. Reporting.
- Sec. 7. Enforcement.
- Sec. 8. Amendment to the Communications Decency Act.
- Sec. 9. Establishing a safe harbor for research on social media platforms.
- Sec. 10. Rulemaking authority.
- Sec. 11. Authorization of appropriations.
- Sec. 12. Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

5 (2) CHAIR.—The term “Chair” means the  
6 Chair of the Federal Trade Commission.

7 (3) NSF.—The term “NSF” means the Na-  
8 tional Science Foundation.

9 (4) PERSONAL INFORMATION.—The term “per-  
10 sonal information” means any information, regard-  
11 less of how the information is collected, inferred, or  
12 obtained that is linked or reasonably linkable to a  
13 specific consumer or consumer device.

14 (5) PLATFORM.—The term “platform” means  
15 any entity subject to the jurisdiction of the Federal  
16 Trade Commission under section 5(a)(2) of the Fed-  
17 eral Trade Commission Act (15 U.S.C. 45(a)(2))  
18 that—

1 (A) operates a website, desktop applica-  
2 tion, augmented or virtual reality application,  
3 or mobile application that—

4 (i) permits a person to become a reg-  
5 istered user, establish an account, or create  
6 a profile for the purpose of allowing the  
7 user to create, share, and view user-gen-  
8 erated content through such an account or  
9 profile;

10 (ii) enables one or more users to gen-  
11 erate content that can be viewed by other  
12 users of the platform; and

13 (iii) primarily serves as a medium for  
14 users to interact with content generated by  
15 other users of the platform and for the  
16 platform to deliver ads to users; and

17 (B) has at least 50,000,000 unique month-  
18 ly users in the United States for a majority of  
19 the months in the most recent 12-month period.

20 (6) QUALIFIED DATA AND INFORMATION.—

21 (A) IN GENERAL.—Subject to subpara-  
22 graph (B), the term “qualified data and infor-  
23 mation” means data and information from a  
24 platform—

1 (i) that the NSF determines is nec-  
2 essary to allow a qualified researcher to  
3 carry out a qualified research project; and

4 (ii) that—

5 (I) is feasible for the platform to  
6 provide;

7 (II) is proportionate to the needs  
8 of the qualified researchers to com-  
9 plete the qualified research project;

10 (III) will not cause the platform  
11 undue burden in providing the data  
12 and information to the qualified re-  
13 searcher; and

14 (IV) would not be otherwise  
15 available to the qualified researcher.

16 (B) EXCLUSIONS.—Such term does not in-  
17 clude any of the following:

18 (i) Direct and private messages be-  
19 tween users.

20 (ii) Biometric information, such as a  
21 fingerprint, voiceprint, eye retinas, irises,  
22 or other unique biological patterns or char-  
23 acteristics.

24 (iii) Precise geospatial information.

25 (7) QUALIFIED RESEARCHER.—

1 (A) IN GENERAL.—Subject to subpara-  
2 graph (B), the term “qualified researcher”  
3 means a researcher affiliated with a United  
4 States university or a United States nonprofit  
5 organization (as described in section 501(c) of  
6 the Internal Revenue Code of 1986) that is spe-  
7 cifically identified in a research proposal that is  
8 approved as a qualified research project pursu-  
9 ant to section 3.

10 (B) EXCLUSION.—Such term does not in-  
11 clude a researcher who is affiliated with a Fed-  
12 eral, State, local, or tribal law enforcement or  
13 intelligence agency.

14 (8) QUALIFIED RESEARCH PROJECT.—The  
15 term “qualified research project” means a research  
16 plan that has been approved pursuant to section 3.

17 (9) STATE.—The term “State” means each of  
18 the 50 States of the United States, the District of  
19 Columbia, Puerto Rico, the Virgin Islands, American  
20 Samoa, Guam, and the Northern Mariana Islands.

21 (10) USER.—The term “user” means a person  
22 that uses a platform for any purpose, including ad-  
23 vertisers and sellers, regardless of whether that per-  
24 son has an account or is otherwise registered with  
25 the platform.

1 **SEC. 3. QUALIFIED RESEARCH PROJECTS, QUALIFIED RE-**  
2 **SEARCHERS, AND QUALIFIED DATA AND IN-**  
3 **FORMATION.**

4 (a) **ESTABLISHMENT.**—Not later than 1 year after  
5 the date of enactment of this Act, the NSF and the Com-  
6 mission shall jointly establish a research program to re-  
7 view research applications for approval as qualified re-  
8 search projects.

9 (b) **RESEARCH PROGRAM REQUIREMENTS.**—The re-  
10 search program established by the NSF and the Commis-  
11 sion under this section shall—

12 (1) provide that the NSF shall—

13 (A) establish a process to solicit research  
14 applications in order to identify qualified re-  
15 search projects;

16 (B) review research applications for sci-  
17 entific merit;

18 (C) ensure research applications identify  
19 proposed qualified researchers;

20 (D) publish guidelines and criteria to be  
21 used by the NSF in determining how it will re-  
22 view research applications seeking approval to  
23 be a qualified research project;

24 (E) identify, in consultation with the Com-  
25 mission, what data and information in a plat-  
26 form's possession will be qualified data and in-

1 formation for the purposes of carrying out a  
2 qualified research project;

3 (F) ensure that approved research applica-  
4 tions do not request data described in section  
5 2(6)(B); and

6 (G) prescribe and publish guidelines and  
7 criteria, in consultation with the Commission,  
8 used to determine how the NSF and Commis-  
9 sion will identify qualified data and information  
10 necessary to conduct a qualified research  
11 project;

12 (2) provide that the Commission shall—

13 (A) review research applications for pri-  
14 vacy and cybersecurity risks;

15 (B) establish appropriate privacy and cy-  
16 bersecurity safeguards that a platform must im-  
17 plement in the provision of, and with which  
18 qualified researchers must comply to access,  
19 qualified data and information that a platform  
20 is required to share with qualified researchers  
21 pursuant to a qualified research project, and  
22 such safeguards—

23 (i) must account for the relative sensi-  
24 tivity of the qualified data and information

1                   involved and be sufficient to protect such  
2                   data and information; and

3                   (ii) may include alternative protec-  
4                   tions, as appropriate and in consideration  
5                   of the aims of the qualified research  
6                   project, including—

7                   (I) encryption of the data in  
8                   transit and when not in use;

9                   (II) delivery of the data in a for-  
10                  mat that employs methods to prevent  
11                  qualified researchers from identifying  
12                  individuals in the dataset;

13                  (III) data access logs; and

14                  (IV) keystroke logs;

15                  (C) in the case of each qualified research  
16                  project, consider whether to require the plat-  
17                  form to provide a secure physical or virtual en-  
18                  vironment to facilitate delivery of the qualified  
19                  data and information;

20                  (D) establish appropriate privacy and cy-  
21                  bersecurity safeguards that a qualified re-  
22                  searcher must implement when receiving, stor-  
23                  ing, or analyzing qualified data and information  
24                  or generating new data using such qualified  
25                  data and information, including inferential data



1 based on such qualified data and information,  
2 and such safeguards may include a requirement  
3 that a qualified researcher delete qualified data  
4 and information after completion of a qualified  
5 research project, however any such safeguard  
6 must provide the qualified researcher the ability  
7 to retain enough information about the quali-  
8 fied data and information to allow the re-  
9 searcher or their peers to recreate the qualified  
10 research project upon request to, and approval  
11 from, the NSF and Commission pursuant to  
12 this section;

13 (E) publish a list of criteria for deter-  
14 mining the privacy and cybersecurity safe-  
15 guards required for qualified data and informa-  
16 tion related to a qualified research project;

17 (F) provide platforms with the opportunity  
18 to provide comment about the privacy and cy-  
19 bersecurity safeguards required for a qualified  
20 research project;

21 (G) provide researchers with the oppor-  
22 tunity to provide comment about the privacy  
23 and cybersecurity safeguards required for a  
24 qualified research project;

1 (H) establish a process to ensure that  
2 qualified researchers will be able to comply with  
3 any such privacy and cybersecurity safeguards;  
4 and

5 (I) publish a list of criteria for determining  
6 whether qualified researchers will be able to  
7 comply with any such privacy and cybersecurity  
8 safeguards;

9 (3) provide that a research application may not  
10 be denied on grounds of the race, color, age, sex, na-  
11 tional origin, political affiliation, or disability of the  
12 researcher;

13 (4) provide that a research application shall not  
14 be approved as a qualified research project unless  
15 it—

16 (A) has been approved by an institutional  
17 review board;

18 (B) has been deemed exempt from institu-  
19 tional review board review; or

20 (C) is excluded from the criteria for insti-  
21 tutional review board review;

22 (5) provide a platform the opportunity to com-  
23 ment on and appeal the approval of a qualified re-  
24 search project for which the platform is required to

1 provide qualified data and information to the NSF  
2 and Commission on the grounds that—

3 (A) the platform cannot provide the quali-  
4 fied data and information;

5 (B) providing access to the qualified data  
6 and information would lead to significant  
7 vulnerabilities in the security of the platform's  
8 service or user privacy; or

9 (C) the privacy and cybersecurity safe-  
10 guards established by the Commission are not  
11 sufficient to protect the qualified data and in-  
12 formation; and

13 (6) require that any analysis by a qualified re-  
14 searcher derived from a qualified research project  
15 that the qualified researcher intends to publish un-  
16 dergo prepublication review by the Commission to  
17 ensure that the analysis does not expose personal in-  
18 formation, or trade secrets.

19 (c) QUALIFIED RESEARCHER CAPACITY.—A qualified  
20 research project may not proceed unless the proposed  
21 qualified researchers can demonstrate that they have the  
22 capacity to comply with the privacy and cybersecurity  
23 safeguards established for the qualified research project.

24 (d) AIM OF PROJECT.—A research application shall  
25 not be approved as a qualified research project unless it

1 is in the public interest, aims to study activity on a plat-  
2 form, and is used for noncommercial purposes.

3 (e) NO JUDICIAL REVIEW.—A determination by the  
4 Commission and the NSF under this section regarding  
5 whether a research application will be deemed a qualified  
6 research project shall not be subject to judicial review.

7 (f) NO GOVERNMENT ACCESS.—If a platform pro-  
8 vides qualified data and information to a qualified re-  
9 searcher, no government entity may seek access to such  
10 qualified data and information from the qualified re-  
11 searcher.

12 (g) RESEARCHER CONSORTIA.—The Commission and  
13 NSF shall establish procedures and necessary safeguards  
14 under this section that allow for consortia of researchers  
15 to apply to seek data for the purpose of conducting a se-  
16 ries of qualified research projects.

17 **SEC. 4. OBLIGATIONS AND IMMUNITY FOR PLATFORMS.**

18 (a) PROVISION OF QUALIFIED DATA AND INFORMA-  
19 TION.—A platform shall provide access to qualified data  
20 and information relating to a qualified research project to  
21 a qualified researcher under the terms and privacy and  
22 cybersecurity safeguards dictated by the Commission for  
23 the purpose of carrying out the qualified research project.

24 (b) CONTINUED ACCESS TO QUALIFIED DATA AND  
25 INFORMATION.—

1           (1) IN GENERAL.—A platform may not restrict  
2 or terminate a qualified researcher’s access to quali-  
3 fied data and information for an ongoing qualified  
4 research project unless the platform has a reason-  
5 able belief that the qualified researcher is not acting  
6 in accordance with the cybersecurity and privacy  
7 safeguards required for the qualified research  
8 project.

9           (2) NOTICE AND REVIEW OF CHANGE TO AC-  
10 CESS.—If a platform restricts or terminates a quali-  
11 fied researcher’s access to qualified data and infor-  
12 mation for an ongoing qualified research project—

13                 (A) the platform shall, within a reasonable  
14 time (as established by the Commission), in-  
15 form the Commission in writing that the plat-  
16 form has restricted or terminated the qualified  
17 researcher’s access to the qualified data and in-  
18 formation; and

19                 (B) the Commission shall promptly review  
20 the platform’s decision and determine whether  
21 the qualified researcher has violated the privacy  
22 and cybersecurity safeguards established for the  
23 qualified research project.

24           (c) NOTICE TO PLATFORM USERS.—The Commission  
25 shall issue regulations requiring that platforms, through

1 posting of notices or other appropriate means, keep users  
2 informed of their privacy protections and the information  
3 that the platform is required to share with qualified re-  
4 searchers under this Act.

5 (d) SAFE HARBOR.—No cause of action under State  
6 or Federal law arising solely from the release of qualified  
7 data and information to qualified researchers in further-  
8 ance of a qualified research project may be brought  
9 against any platform that complies with the Act.

10 (e) RIGHT OF REVIEW.—If a platform fails to provide  
11 all of the qualified data and information required under  
12 the terms of a qualified research project to the qualified  
13 researcher conducting the project, the qualified researcher  
14 or the researcher’s affiliated university or nonprofit orga-  
15 nization may bring an action in district court for injunc-  
16 tive relief or petition the Commission to bring an enforce-  
17 ment action against the platform.

18 (f) SECURITY.—Nothing in this Act shall be con-  
19 strued to restrict a platform’s ability to:

20 (1) Take immediate steps to protect an interest  
21 that is essential for the life or physical safety of a  
22 natural person.

23 (2) Respond to security incidents, identity theft,  
24 fraud, harassment, malicious or deceptive activities,  
25 or illegal activity, preserve the integrity of security

1 of systems, or investigate or report those responsible  
2 for such actions.

3 **SEC. 5. OBLIGATIONS AND IMMUNITY FOR QUALIFIED RE-**  
4 **SEARCHERS.**

5 (a) SCOPE OF PERMITTED USE OF QUALIFIED DATA  
6 AND INFORMATION.—Each qualified researcher who ac-  
7 cesses qualified data and information shall use the quali-  
8 fied data and information—

9 (1) only for the purposes of conducting research  
10 authorized under the terms of the qualified research  
11 project involved; and

12 (2) in accordance with the privacy and cyberse-  
13 curity safeguards prescribed by the Commission for  
14 the qualified research project.

15 (b) PROTECTION OF PERSONAL INFORMATION.—A  
16 qualified researcher that is provided access to qualified  
17 data and information for purposes of a qualified research  
18 project may not—

19 (1) attempt to reidentify, disclose, publish, or  
20 use for commercial purpose personal information de-  
21 rived from such qualified data and information; or

22 (2) disclose such qualified data and information  
23 to a third party for any reason.

24 (c) EFFECT OF VIOLATION OF INFORMATION AND  
25 PRIVACY STANDARDS.—Qualified researchers who inten-

1 tionally, recklessly, or negligently violate the privacy and  
2 cybersecurity safeguards prescribed by the Commission for  
3 a qualified research project may be subject to both civil  
4 and criminal enforcement, under applicable Federal,  
5 State, and local laws. The Commission may refer any such  
6 violation to the Department of Justice or the appropriate  
7 State law enforcement agency.

8 **SEC. 6. REPORTING.**

9 Not later than 24 months after the date of enactment  
10 of this Act, and annually thereafter, the NSF and the  
11 Commission shall submit to the Congress a joint report  
12 regarding the operation of this Act, which shall include  
13 a detailed statement of all qualified research projects, in-  
14 cluding with respect to each such project:

15 (1) The identity of any authorized qualified re-  
16 searcher and the institution the researcher is affili-  
17 ated with.

18 (2) The platforms required to provide qualified  
19 data and information to qualified researchers.

20 (3) The categories of qualified data and infor-  
21 mation each platform was required to provide.

22 (4) The terms of the privacy and cybersecurity  
23 safeguards prescribed by the Commission to ensure  
24 the security of the qualified data and information.



1           (5) Any recommendations for improvements to  
2           the operation of this Act in order to facilitate its aim  
3           of providing enhanced platform transparency.

4 **SEC. 7. ENFORCEMENT.**

5           (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—

6           (1) IN GENERAL.—A platform’s failure to com-  
7           ply with subsection (a) or (b) of section 4, or a  
8           qualified researcher’s failure to comply with sub-  
9           section (a) or (b) of section 5, shall be treated as a  
10          violation of a rule defining an unfair or deceptive act  
11          or practice prescribed under section 18(a)(1)(B) of  
12          the Federal Trade Commission Act (15 U.S.C.  
13          57a(a)(1)(B)).

14          (2) POWERS OF THE COMMISSION.—

15           (A) IN GENERAL.—The Commission shall  
16           enforce the provisions of this Act specified in  
17           paragraph (1) in the same manner, by the same  
18           means, and with the same jurisdiction, powers,  
19           and duties as though all applicable terms and  
20           provisions of the Federal Trade Commission  
21           Act (15 U.S.C. 41 et seq.) were incorporated  
22           into and made a part of this section.

23           (B) PRIVILEGES AND IMMUNITIES.—Any  
24           person that violates the provisions of this Act  
25           specified in paragraph (1) shall be subject to

1           the penalties, and entitled to the privileges and  
2           immunities, provided in the Federal Trade  
3           Commission Act (15 U.S.C. 41 et seq.).

4           (b) REGULATIONS.—The Commission shall have the  
5           authority to promulgate, in the manner prescribed by 5  
6           U.S.C. 553, such rules and regulations as it may deem  
7           necessary to carry out its responsibilities under this Act.

8           (c) CIVIL ENFORCEMENT AUTHORITY.—Whenever  
9           the Commission shall have reason to believe that a plat-  
10          form or qualified researcher has been or is in violation  
11          of any provision of this Act, the Commission may com-  
12          mence a civil action in a district court of the United States  
13          for an injunction against the platform or qualified re-  
14          searcher. Remedies in an injunctive action brought by the  
15          Commission are limited to an order enjoining, restraining,  
16          or preventing any act or practice that constitutes a viola-  
17          tion of this Act and imposing a civil penalty of up to  
18          \$10,000 for each violation, which shall accrue to the  
19          United States and may be recovered in a civil action  
20          brought by the Attorney General of the United States.  
21          Such penalty shall be in addition to other penalties as may  
22          be prescribed by law.

23          (d) ATTORNEY'S FEES AND OTHER COSTS.—In the  
24          event any enforcement action is appealed, the prevailing  
25          party in the action may, in the discretion of the court,

1 recover the costs of the action including reasonable inves-  
 2 tigative costs and attorneys’ fees.

3 **SEC. 8. AMENDMENT TO THE COMMUNICATIONS DECENCY**

4 **ACT.**

5 Section 230(c)(1) of the Communications Act of 1934  
 6 (47 U.S.C. 230(c)(1)) is amended—

7 (1) by striking “No provider or user” and in-  
 8 serting the following:

9 “(A) IN GENERAL.—Except as provided in  
 10 subparagraph (B), no provider or user”;

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

12 “(B) DATA ACCESS AND TRANSPARENCY  
 13 COMPLIANCE.—

14 “(i) DEFINITIONS.—In this subpara-  
 15 graph, the terms ‘platform’, ‘qualified data  
 16 and information’, ‘qualified researcher’,  
 17 and ‘qualified research project’ have the  
 18 meanings given those terms in section 2 of  
 19 the Platform Accountability and Trans-  
 20 parency Act.

21 “(ii) EXCEPTION TO IMMUNITY.—  
 22 Subparagraph (A) shall not apply with re-  
 23 spect to a claim against a provider of an  
 24 interactive computer service in a civil ac-  
 25 tion if—

1           “(I) the provider is a platform  
2           that has been determined by a final  
3           order of the Federal Trade Commis-  
4           sion or a Federal court to have failed  
5           to provide qualified data and informa-  
6           tion pursuant to a qualified research  
7           project, in violation of section 6(a) of  
8           the Platform Accountability and  
9           Transparency Act; and

10           “(II) this failure to comply was a  
11           direct and substantial contributor to  
12           the harm alleged by the claimant that  
13           is the basis for the claim to relief.”.

14 **SEC. 9. ESTABLISHING A SAFE HARBOR FOR RESEARCH ON**  
15 **SOCIAL MEDIA PLATFORMS.**

16           (a) IN GENERAL.—No civil claim will lie, nor will any  
17           criminal liability accrue, against any person for collecting  
18           covered information as part of a news-gathering or re-  
19           search project on a platform, so long as—

20           (1) the information is collected through a cov-  
21           ered method of digital investigation;

22           (2) the purpose of the project is to inform the  
23           general public about matters of public concern;

24           (3) with respect to information that is collected  
25           through a covered method of digital investigation—

1 (A) the information is not used except to  
2 inform the general public about matters of pub-  
3 lic concern; and

4 (B) the person takes reasonable measures  
5 to protect the privacy of the platform’s users;

6 (4) with respect to the creation and use of a re-  
7 search account, the person takes reasonable meas-  
8 ures to avoid misleading the platform’s users; and

9 (5) the project does not materially burden the  
10 technical operation of the platform.

11 (b) REGULATIONS.—No later than 1 year after the  
12 date of the enactment of this Act, the Commission shall  
13 promulgate regulations under section 553 of title 5—

14 (1) defining “covered method of digital inves-  
15 tigation,” which phrase, as defined, must encom-  
16 pass—

17 (A) the collection of data from a platform’s  
18 user-facing interface through automated means;

19 (B) the collection of data donated by a  
20 user, including through a browser extension or  
21 plug-in, where the donation is in connection  
22 with the project and with the user’s explicit  
23 consent; and

24 (C) the creation or use of research ac-  
25 counts;

1           (2) defining “covered information,” which  
2 phrase, as defined, must encompass—

3           (A) publicly available information, except  
4 that such term should not exclude data merely  
5 because an individual must log into an account  
6 in order to see it;

7           (B) information about ads shown on the  
8 platform, including the ads themselves, the ad-  
9 vertiser’s name and disclosure string, and infor-  
10 mation the platform provides to users about  
11 how an ad was targeted; and

12           (C) any other category of information the  
13 collection of which the Commission determines,  
14 consistent with paragraph (3), will not unduly  
15 burden user privacy;

16           (3) defining “reasonable measures to protect  
17 the privacy of the platform’s users” under sub-  
18 section (a)(3), including by specifying the measures  
19 that must be taken to—

20           (A) avoid the collection and retention of  
21 non-public information that would readily iden-  
22 tify a user without that user’s consent;

23           (B) prevent the theft and accidental disclo-  
24 sure of any data collected;

1 (C) ensure that the data at issue is not  
2 used for any purpose other than to inform the  
3 general public about matters of public concern;  
4 and

5 (D) restrict the publication or other disclo-  
6 sure of any data that would readily identify a  
7 user without the user’s consent, except when  
8 such user is—

9 (i) an advertiser and the data con-  
10 cerns an advertisement; or

11 (ii) a public official, candidate for  
12 public office, or public figure;

13 (4) defining “reasonable measures to avoid mis-  
14 leading the platform’s users” under subsection  
15 (a)(4); and

16 (5) defining “materially burden the technical  
17 operation of a platform” under subsection (a)(5).

18 (c) AMENDMENT OF REGULATIONS.—The Commis-  
19 sion may, as necessary, in consultation with relevant  
20 stakeholders, amend regulations promulgated pursuant to  
21 subsection (b) to the extent such amendment will accom-  
22 plish the purposes of this section.

23 (d) REPORTING.—In December of each calendar year  
24 beginning with calendar year 2023, the Commission shall  
25 require each operator of any platform to submit an annual

1 report to the Commission that addresses whether the  
2 measures prescribed under subsections (b)(3) and (b)(4)  
3 of this section are adequately protecting the platform’s  
4 users.

5 (e) DEFINITION OF RESEARCH ACCOUNT.—For pur-  
6 poses of this section, the term “research account” means  
7 an account on a platform that is created and used solely  
8 for the purposes of a news-gathering or research project  
9 that meets the requirements of subsection (a) and for no  
10 longer than is necessary to complete such project.

11 **SEC. 10. RULEMAKING AUTHORITY.**

12 (a) ADDITIONAL REPORTING REQUIREMENTS.—

13 (1) IN GENERAL.—In consultation with the  
14 NSF, the Commission may, in accordance with sec-  
15 tion 553 of title 5, United States Code, and subject  
16 to subsection (g), issue regulations that require plat-  
17 forms to make available to qualified researchers  
18 data, metrics, or other information that the Commis-  
19 sion determines will facilitate independent research  
20 in the public interest into activity on platforms.

21 (2) FACTORS.—In exercising its authority  
22 under this subsection, the Commission shall consider  
23 the extent to which disclosures under this subsection  
24 may facilitate collaboration amongst qualified re-  
25 searchers and alleviate burdens on platforms and



1 qualified researchers as compared to qualified re-  
2 search projects conducted pursuant to section 3.

3 (3) FORM AND FREQUENCY; RETENTION OF IN-  
4 FORMATION.—The Commission shall specify in the  
5 regulations the required form and frequency of re-  
6 porting or disclosures, as well as how long informa-  
7 tion should be retained and made available. It may  
8 require the information be provided in a form that  
9 is accessible for analysis by qualified researchers,  
10 such as through an application programming inter-  
11 face.

12 (4) CONSULTATION.—The Commission shall  
13 further consult with the National Institutes of  
14 Health and other relevant government agencies, as  
15 appropriate, in exercising its authority under this  
16 subsection.

17 (5) APPLICABILITY OF PRIOR SECTIONS.—The  
18 Commission shall establish privacy and cybersecurity  
19 safeguards applicable to platforms and qualified re-  
20 searchers for data made available to qualified re-  
21 searchers under this section in the manner described  
22 in section 3 for data made available under that sec-  
23 tion. The obligations and immunities for platforms  
24 and qualified researchers described in sections 4 and  
25 5 shall apply to data disclosed to qualified research-

1       ers under this section, and the provisions of section  
2       7 may be invoked to enforce this section.

3       (b) TRANSPARENCY OF CERTAIN CONTENT AND  
4 USER ACCOUNTS.—

5           (1) IN GENERAL.—Not later than 1 year after  
6       the date of enactment of this Act, the Commission  
7       shall, in accordance with section 553 of title 5,  
8       United States Code, and subject to subsection (g),  
9       issue regulations to require platforms to make avail-  
10      able to the public on an ongoing basis, in a specific  
11      section of their online interface, through a search-  
12      able and reliable tool that allows multicriteria que-  
13      ries and through application programming inter-  
14      faces, a repository containing information regarding  
15      reasonably public content on the platform that—

16                   (A) has been highly disseminated; or

17                   (B) was originated or spread by major  
18      public accounts.

19           (2) DISCLOSURE OF PUBLIC CONTENT  
20      SAMPLINGS.—The regulations issued under para-  
21      graph (1) shall further require platforms to disclose  
22      on an ongoing basis statistically representative  
23      samplings of reasonably public content, including, at  
24      a minimum, a sampling that is weighted by the  
25      number of impressions the content receives.

1           (3) REQUIRED INFORMATION.—The informa-  
2           tion required to be disclosed about content described  
3           in paragraphs (1) and (2) shall include, as appro-  
4           priate—

5                   (A) the user-generated content itself, in-  
6                   cluding any text, images, videos, links, and key-  
7                   words;

8                   (B) platform-generated content displayed  
9                   in connection with the user-generated content,  
10                  including any dates, labels, disclaimers, or  
11                  metrics;

12                  (C) metrics about the extent of dissemina-  
13                  tion of or engagement with the content, includ-  
14                  ing the number of impressions, reach, and en-  
15                  gagements;

16                  (D) information about the extent to which  
17                  the content was recommended, amplified, or re-  
18                  stricted by platform algorithms or policies;

19                  (E) reasonably public information about  
20                  the user accounts responsible for the content;  
21                  and

22                  (F) public uniform resource locators that  
23                  uniquely link to the content and identify related  
24                  materials such as the parent content, replying  
25                  content, and cross-posted content.

1           (4) HIGHLY DISSEMINATED CONTENT.—As part  
2 of the regulations issued under paragraph (1), the  
3 Commission shall define “highly disseminated” ac-  
4 cording to metrics that the Commission deems ap-  
5 propriate (which may include engagement, views,  
6 reach, impressions, or other metrics), provided that  
7 a piece of content must have been viewed by at least  
8 10,000 unique users to qualify.

9           (5) MAJOR PUBLIC ACCOUNTS.—As part of the  
10 regulations issued under paragraph (1), the Com-  
11 mission shall define “major public accounts” as it  
12 deems appropriate, provided that, at a minimum,  
13 “major public accounts” are restricted to reasonably  
14 public accounts whose content is followed by at least  
15 25,000 users or otherwise regularly reaches at least  
16 25,000 users per month.

17           (6) TREATMENT OF CONTENT THAT HAS BEEN  
18 REMOVED.—The regulations described in paragraph  
19 (1) shall provide guidance regarding disclosure of  
20 content that is removed by the user or platform sub-  
21 sequent to its dissemination.

22           (7) FREQUENCY.—To the extent practicable,  
23 the Commission shall require this information to be  
24 updated so as to provide a real-time understanding  
25 of the content described in paragraphs (1) and (2).

1 (c) TRANSPARENCY OF ADVERTISING.—

2 (1) IN GENERAL.—Not later than 1 year after  
3 the date of enactment of this Act, the Commission  
4 shall, in accordance with section 553 of title 5,  
5 United States Code, and subject to subsection (g),  
6 issue regulations to require platforms to disclose on  
7 an ongoing basis information regarding advertising  
8 on the platform. These regulations shall require  
9 platforms to compile and disclose publicly in a spe-  
10 cific section of their online interface, through a  
11 searchable and reliable tool that allows multicriteria  
12 queries and through application programming inter-  
13 faces, a repository containing the information re-  
14 ferred to in paragraph (2), for the entire period dur-  
15 ing which they present an advertisement and until  
16 one year after the advertisement was presented for  
17 the last time on their online interfaces. Platforms  
18 shall ensure that the repository does not contain any  
19 personal data of the recipients of the service to  
20 whom the advertisement was or could have been pre-  
21 sented.

22 (2) INFORMATION REQUIRED.—The information  
23 required to be included in the repository required  
24 under paragraph (1) shall include at least all of the  
25 following information:

1 (A) The content of the advertisement, in-  
2 cluding the name of the product, service or  
3 brand and the subject matter of the advertise-  
4 ment.

5 (B) The natural or legal person on whose  
6 behalf the advertisement is presented.

7 (C) The natural or legal person who paid  
8 for the advertisement, if that person is different  
9 from the person referred to in subparagraph  
10 (B).

11 (D) The period during which the advertise-  
12 ment was presented.

13 (E) Whether the advertisement was in-  
14 tended to be presented specifically to one or  
15 more particular groups of recipients of the serv-  
16 ice and if so, the main parameters used for that  
17 purpose including where applicable the main pa-  
18 rameters used to exclude one or more of such  
19 particular groups.

20 (F) The total number of recipients of the  
21 service reached and, where applicable, aggregate  
22 numbers broken down by group or groups of re-  
23 cipients that the advertisement specifically tar-  
24 geted.

1 (G) Information about the extent to which  
2 the advertisement was recommended, amplified,  
3 or restricted by platform algorithms or policies.

4 (3) TREATMENT OF REMOVED ADS.—The regu-  
5 lations described in paragraph (1) shall provide  
6 guidance regarding disclosure of ads that are re-  
7 moved by the user or platform subsequent to its dis-  
8 semination.

9 (4) FREQUENCY.—To the extent practicable,  
10 the Commission shall require this information to be  
11 updated so as to provide a real-time understanding  
12 of the content described in paragraph (2).

13 (d) TRANSPARENCY OF ALGORITHMS AND COMPANY  
14 METRICS AND DATA.—

15 (1) IN GENERAL.—Not later than 1 year after  
16 enactment of this Act, the Commission shall, in ac-  
17 cordance with section 553 of title 5, United States  
18 Code, and subject to subsection (g), issue regula-  
19 tions to require platforms to report publicly on their  
20 use of recommender or ranking algorithms and  
21 metrics.

22 (2) REQUIRED INFORMATION.—The reporting  
23 required under paragraph (1) shall be at least semi-  
24 annual and include, as appropriate—

1 (A) a description of all consumer-facing  
2 product features that made use of recommender  
3 or ranking algorithms during the reporting pe-  
4 riod;

5 (B) a summary of signals used as inputs  
6 to the described recommender or ranking algo-  
7 rithms, including an explanation of which rely  
8 on user data, an explanation of the types of  
9 user data relied upon, and ranked based on the  
10 significance of their impact on the algorithms'  
11 outputs;

12 (C) a summary of the processes or pre-  
13 dictions used by the platform to assess the sig-  
14 nals incorporated into the recommender or  
15 ranking algorithm and to score or rank content  
16 (such as predictions of future user engage-  
17 ment), ranked based on the significance of their  
18 impact on the algorithms' outputs;

19 (D) a summary of the optimization objec-  
20 tives of the described recommender or ranking  
21 algorithms;

22 (E) a summary of metrics calculated by  
23 the platform to assess product changes or new  
24 features, or as a basis to assess performance or  
25 calculate employee or executive compensation,



1 with an assessment of their relative importance  
2 in company decision making;

3 (F) significant changes during the report-  
4 ing period from the last report; and

5 (G) other information about the rec-  
6 ommender or ranking algorithms that the Com-  
7 mission deems appropriate.

8 (3) IMPLEMENTATION.—In implementing this  
9 section, the Commission shall ensure that the report-  
10 ing is useful and actionable while ensuring that plat-  
11 forms are not required to disclose trade secrets.

12 (e) TRANSPARENCY OF CONTENT MODERATION AND  
13 VIOLATING CONTENT.—

14 (1) IN GENERAL.—Not later than 1 year after  
15 the date of enactment of this Act, the Commission  
16 shall, in accordance with section 553 of title 5,  
17 United States Code, and subject to subsection (g),  
18 issue regulations to require platforms to report on  
19 an ongoing basis information regarding content  
20 moderation and content violating platform policies.

21 (2) REQUIRED INFORMATION.—The informa-  
22 tion required to be disclosed under paragraph (1)  
23 shall include, as appropriate—

1 (A) statistics regarding the amount of con-  
2 tent that the platform determined violated its  
3 policies, broken down by—

4 (i) the violated policy;

5 (ii) the action taken in response to the  
6 violation;

7 (iii) the methods the platform used to  
8 identify the violating content (such as arti-  
9 ficial intelligence, user report, human mod-  
10 erator review, or other means);

11 (iv) the extent to which the content  
12 was recommended, amplified, or restricted  
13 by platform algorithms or policies; and

14 (v) geographic and demographic fac-  
15 tors as the Commission deems appropriate;

16 (B) statistics regarding the number of  
17 times violating content was viewed by users and  
18 the number of users who viewed it;

19 (C) estimates by the platform about the  
20 prevalence of violating content (including as  
21 measured by the number of impressions of vio-  
22 lating content), broken down by—

23 (i) the violated policy;

24 (ii) geographic and demographic fac-  
25 tors; and

1 (iii) other factors the Commission  
2 deems appropriate; and

3 (D) the number of orders received from  
4 governmental authorities, categorized by the  
5 type of illegal content concerned, and the aver-  
6 age time needed for taking the action specified  
7 in those orders.

8 (f) DATA DICTIONARIES.—Not later than 1 year  
9 after the date of enactment of this Act, the Commission  
10 shall, in accordance with section 553 of title 5, United  
11 States Code, and subject to subsection (g), issue regula-  
12 tions to require platforms to disclose, and update periodi-  
13 cally, data dictionaries to inform and facilitate researcher  
14 data access requests. Such data dictionaries shall include  
15 descriptions of significant datasets in the platform’s pos-  
16 session relating to content on, or users of, the platform,  
17 enforcement of content policy, or advertising, as necessary  
18 or appropriate to inform and facilitate researcher data ac-  
19 cess requests.

20 (g) PRIVACY, CONFIDENTIALITY, AND PLATFORM IN-  
21 TEGRITY.—The Commission shall ensure that any report-  
22 ing or disclosures required pursuant to this section do not  
23 infringe upon reasonable expectations of personal privacy  
24 of users of platforms or of other persons, or require dis-  
25 semination of trade secrets. If necessary, the Commission

1 may require withholding of information otherwise required  
2 to be disclosed to meet this requirement. The Commission  
3 shall further consider the effect of disclosures on risks to  
4 platform integrity or the susceptibility of the platform to  
5 manipulation or inauthentic behavior, and may limit or re-  
6 duce the information required to be disclosed if necessary  
7 to address a substantial such risk.

8 (h) VARIATION.—In implementing this section, the  
9 Commission may vary the requirements it imposes on plat-  
10 forms based on the size of the platform and scope of its  
11 services.

12 (i) DEFINITIONS.—In this section:

13 (1) ENGAGEMENT.—The term “engagement”  
14 means, with respect to content on a platform, the  
15 number of times a user interacts with the content,  
16 whether through comments, indications of approval  
17 or disapproval (such as likes or dislikes), reshares,  
18 or any other form of active interaction.

19 (2) IMPRESSION.—The term “impression”  
20 means, with respect to content on a platform, the  
21 display or delivery of the content to a user, regard-  
22 less of whether the user engages with the content.

23 (3) PREVALENCE OF VIOLATING CONTENT.—  
24 The term “prevalence of violating content” means a  
25 platform’s estimate of the number of impressions of

1 violating content among its users, regardless of  
2 whether the platform ever identifies that particular  
3 content as violating.

4 (4) REACH.—The term “reach” means, with re-  
5 spect to content on a platform, the number of users  
6 to whom the content is displayed or delivered during  
7 a particular period, regardless of how many times it  
8 is delivered to them.

9 (5) REAL-TIME UNDERSTANDING.—The term  
10 “real-time understanding” means an understanding  
11 of content on a platform that is up to date within  
12 less than 24 hours.

13 (6) REASONABLY PUBLIC.—The term “reason-  
14 ably public” means information that the author  
15 made available in a manner and under such cir-  
16 cumstances such that the author does not retain a  
17 reasonable expectation of privacy in the information.  
18 The fact that a user may need to register or create  
19 an account with a platform to view information does  
20 not preclude it from being deemed reasonably public.

21 (7) RECOMMENDER OR RANKING ALGORITHM.—  
22 The term “recommender or ranking algorithm”  
23 means a fully or partially automated system used by  
24 a platform to suggest in its online interface specific  
25 information to recipients of the service offered by

1 the platform, or to prioritize that information, in-  
2 cluding as a result of a search initiated by the re-  
3 cipient of the service or otherwise determining the  
4 relative order or prominence of information dis-  
5 played. This includes any computational process, in-  
6 cluding one derived from machine learning or other  
7 artificial intelligence techniques, that processes per-  
8 sonal information or other data for the purpose of  
9 determining the order or manner that a set of infor-  
10 mation is provided, recommended to, or withheld  
11 from a user of a platform, including the provision of  
12 commercial content, the display of social media  
13 posts, recommendations of user or group accounts to  
14 follow or associate with, or any other method of con-  
15 tent selection, amplification, or restriction.

16 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to the NSF  
18 and the Commission such sums as are necessary to carry  
19 out this Act for fiscal year 2022 and each succeeding fiscal  
20 year.

21 **SEC. 12. SEVERABILITY.**

22 If any provision of this Act, or the application of such  
23 provision to any person or circumstance, is held to be un-  
24 constitutional, the remainder of this Act, and the applica-

1 tion of the remaining provisions of this Act, to any person  
2 or circumstance, shall not be affected.

○