

119TH CONGRESS
1ST SESSION

S. _____

To protect the safety of children on the internet.

IN THE SENATE OF THE UNITED STATES

Mrs. BLACKBURN (for herself, Mr. BLUMENTHAL, Mr. THUNE, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect the safety of children on the internet.

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 “Kids Online Safety Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—KIDS ONLINE SAFETY

- Sec. 101. Definitions.
- Sec. 102. Duty of care.
- Sec. 103. Safeguards for minors.
- Sec. 104. Disclosure.
- Sec. 105. Transparency.

- Sec. 106. Market research.
- Sec. 107. Age verification study and report.
- Sec. 108. Guidance.
- Sec. 109. Enforcement.
- Sec. 110. Kids online safety council.
- Sec. 111. Effective date.
- Sec. 112. Rules of construction and other matters.

TITLE II—FILTER BUBBLE TRANSPARENCY

- Sec. 201. Definitions.
- Sec. 202. Requirement to allow users to see unmanipulated content on internet platforms.

TITLE III—RELATIONSHIP TO STATE LAWS; SEVERABILITY

- Sec. 301. Relationship to State laws.
- Sec. 302. Severability.

1 **TITLE I—KIDS ONLINE SAFETY**

2 **SEC. 101. DEFINITIONS.**

3 In this title:

4 (1) CHILD.—The term “child” means an indi-
5 vidual who is under the age of 13.

6 (2) COMPULSIVE USAGE.—The term “compul-
7 sive usage” means a persistent and repetitive use of
8 a covered platform that significantly impacts one or
9 more major life activities of an individual, including
10 socializing, sleeping, eating, learning, reading, con-
11 centrating, communicating, or working.

12 (3) COVERED PLATFORM.—

13 (A) IN GENERAL.—The term “covered
14 platform” means an online platform, online
15 video game, messaging application, or video
16 streaming service that connects to the internet

1 and that is used, or is reasonably likely to be
2 used, by a minor.

3 (B) EXCEPTIONS.—The term “covered
4 platform” does not include—

5 (i) an entity acting in its capacity as
6 a provider of—

7 (I) a common carrier service sub-
8 ject to the Communications Act of
9 1934 (47 U.S.C. 151 et seq.) and all
10 Acts amendatory thereof and supple-
11 mentary thereto;

12 (II) a broadband internet access
13 service (as such term is defined for
14 purposes of section 8.1(b) of title 47,
15 Code of Federal Regulations, or any
16 successor regulation);

17 (III) an email service;

18 (IV) a teleconferencing or video
19 conferencing service that allows recep-
20 tion and transmission of audio or
21 video signals for real-time communica-
22 tion, provided that—

23 (aa) the service is not an on-
24 line platform; and

1 (bb) the real-time commu-
2 nication is initiated by using a
3 unique link or identifier to facili-
4 tate access; or

5 (V) a wireless messaging service,
6 including such a service provided
7 through short messaging service or
8 multimedia messaging service proto-
9 cols, that is not a component of, or
10 linked to, an online platform and
11 where the predominant or exclusive
12 function is direct messaging consisting
13 of the transmission of text, photos or
14 videos that are sent by electronic
15 means, where messages are trans-
16 mitted from the sender to a recipient,
17 and are not posted within an online
18 platform or publicly;

19 (ii) an organization not organized to
20 carry on business for its own profit or that
21 of its members;

22 (iii) any public or private—

23 (I) early childhood education pro-
24 gram or preschool that provides for
25 the care, development, and education

1 of infants, toddlers, or young children
2 who are not yet enrolled in kinder-
3 garten;

4 (II) elementary school (as defined
5 in section 8101 of the Elementary and
6 Secondary Education Act of 1965 (20
7 U.S.C. 7801)) or secondary school (as
8 so defined);

9 (III) school providing career and
10 technical education (as defined in sec-
11 tion 3 of the Carl D. Perkins Career
12 and Technical Education Act of 2006
13 (20 U.S.C. 2302));

14 (IV) school providing adult edu-
15 cation and literacy activities (as de-
16 fined in section 203 of the Adult Edu-
17 cation and Family Literacy Act (29
18 U.S.C. 3272)); or

19 (V) institution of higher edu-
20 cation (as defined in section 101, and
21 subparagraphs (A) and (B) of section
22 102(a)(1), of the Higher Education
23 Act of 1965 (20 U.S.C. 1001,
24 1002(a)(1)));

1 (iv) a library (as defined in section
2 213 of the Library Services and Tech-
3 nology Act (20 U.S.C. 9122));

4 (v) a news or sports coverage website
5 or app where—

6 (I) the inclusion of video content
7 on the website or app is related to the
8 website or app’s own gathering, re-
9 porting, or publishing of news content
10 or sports coverage; and

11 (II) the website or app is not
12 otherwise an online platform;

13 (vi) a product or service that pri-
14 marily functions as business-to-business
15 software, such as a cloud storage, file shar-
16 ing, or file collaboration service;

17 (vii) a virtual private network or simi-
18 lar service that exists predominantly to
19 route internet traffic between locations; or

20 (viii) a government entity with a .gov
21 internet domain (as described in section
22 2215 of the Homeland Security Act of
23 2002 (6 U.S.C. 665)).

24 (4) DESIGN FEATURE.—The term “design fea-
25 ture” means any feature or component of a covered

1 platform that will encourage or increase the fre-
2 quency, time spent, or activity of minors on the cov-
3 ered platform. Design features include but are not
4 limited to—

5 (A) infinite scrolling or auto play;

6 (B) rewards or incentives based on the fre-
7 quency, time spent, or activity of minors on the
8 covered platform;

9 (C) notifications and push alerts;

10 (D) badges or other visual award symbols
11 based on the frequency, time spent, or activity
12 of minors on the covered platform;

13 (E) personalized design features;

14 (F) in-game purchases; or

15 (G) appearance altering filters.

16 (5) GEOLOCATION.—The term “geolocation”
17 has the meaning given the term “geolocation infor-
18 mation” in section 1302 of the Children’s Online
19 Privacy Protection Act of 1998 (15 U.S.C. 6501), as
20 added by section 201(a).

21 (6) KNOW OR KNOWS.—The term “know” or
22 “knows” means to have actual knowledge or knowl-
23 edge fairly implied on the basis of objective cir-
24 cumstances.

25 (7) MICROTRANSACTION.—

1 (A) IN GENERAL.—The term “microtrans-
2 action” means a purchase made in an online
3 video game (including a purchase made using a
4 virtual currency that is purchasable or redeem-
5 able using cash or credit or that is included as
6 part of a paid subscription service).

7 (B) INCLUSIONS.—Such term includes a
8 purchase involving surprise mechanics, new
9 characters, or in-game items.

10 (C) EXCLUSIONS.—Such term does not in-
11 clude—

12 (i) a purchase made in an online video
13 game using a virtual currency that is
14 earned through gameplay and is not other-
15 wise purchasable or redeemable using cash
16 or credit or included as part of a paid sub-
17 scription service; or

18 (ii) a purchase of additional levels
19 within the game or an overall expansion of
20 the game.

21 (8) MINOR.—The term “minor” means an indi-
22 vidual who is under the age of 17.

23 (9) NARCOTIC DRUG.—The term “narcotic
24 drug” has the meaning given such term in section

1 102 of the Controlled Substances Act (21 U.S.C.
2 802).

3 (10) ONLINE PLATFORM.—

4 (A) IN GENERAL.—The term “online plat-
5 form” means any public-facing website, online
6 service, online application, or mobile application
7 that predominantly provides a community
8 forum for user generated content, such as shar-
9 ing videos, images, games, audio files, or other
10 content, including a social media service, social
11 network, or virtual reality environment.

12 (B) INCIDENTAL CHAT FUNCTIONS.—A
13 website, online service, online application, or
14 mobile application is not an online platform
15 solely on the basis that it includes a chat, com-
16 ment, or other interactive function that is inci-
17 dental to its predominant purpose.

18 (11) ONLINE VIDEO GAME.—The term “online
19 video game” means a video game, including an edu-
20 cational video game, that connects to the internet
21 and that allows a user to—

22 (A) create and upload content other than
23 content that is incidental to gameplay, such as
24 character or level designs created by the user,

1 preselected phrases, or short interactions with
2 other users;

3 (B) engage in microtransactions within the
4 game; or

5 (C) communicate with other users.

6 (12) PARENT.—The term “parent” includes a
7 legal guardian.

8 (13) PERSONAL DATA.—The term “personal
9 data” has the same meaning as the term “personal
10 information” as defined in section 1302 of the Chil-
11 dren’s Online Privacy Protection Act (15 U.S.C.
12 6501).

13 (14) PERSONALIZED DESIGN FEATURE.—The
14 term “personalized design feature” means a fully or
15 partially automated system, including a rec-
16 ommendation system, that is based on the collection
17 of personal data of users and that encourages or in-
18 creases the frequency, time spent, or activity of mi-
19 nors on the covered platform.

20 (15) PERSONALIZED RECOMMENDATION SYS-
21 TEM.—The term “personalized recommendation sys-
22 tem” means a fully or partially automated system
23 used to suggest, promote, or rank content, including
24 other users, hashtags, or posts, based on the per-
25 sonal data of users. A recommendation system that

1 suggests, promotes, or ranks content based solely on
2 the user’s language, city or town, or age shall not
3 be considered a personalized recommendation sys-
4 tem.

5 (16) SEXUAL EXPLOITATION AND ABUSE.—The
6 term “sexual exploitation and abuse” means any of
7 the following:

8 (A) Coercion and enticement, as described
9 in section 2422 of title 18, United States Code.

10 (B) Child sexual abuse material, as de-
11 scribed in sections 2251, 2252, 2252A, and
12 2260 of title 18, United States Code.

13 (C) Trafficking for the production of im-
14 ages, as described in section 2251A of title 18,
15 United States Code.

16 (D) Sex trafficking of children, as de-
17 scribed in section 1591 of title 18, United
18 States Code.

19 (17) STATE.—The term “State” means each
20 State of the United States, the District of Columbia,
21 each commonwealth, territory, or possession of the
22 United States, and each federally recognized Indian
23 Tribe.

24 (18) USER.—The term “user” means, with re-
25 spect to a covered platform, an individual who reg-

1 isters an account or creates a profile on the covered
2 platform.

3 **SEC. 102. DUTY OF CARE.**

4 (a) PREVENTION OF HARM TO MINORS.—A covered
5 platform shall exercise reasonable care in the creation and
6 implementation of any design feature to prevent and miti-
7 gate the following harms to minors where a reasonable and
8 prudent person would agree that such harms were reason-
9 ably foreseeable by the covered platform and would agree
10 that the design feature is a contributing factor to such
11 harms:

12 (1) Eating disorders, substance use disorders,
13 and suicidal behaviors.

14 (2) Depressive disorders and anxiety disorders
15 when such conditions have objectively verifiable and
16 clinically diagnosable symptoms and are related to
17 compulsive usage.

18 (3) Patterns of use that indicate compulsive
19 usage.

20 (4) Physical violence or online harassment ac-
21 tivity that is so severe, pervasive, or objectively of-
22 fensive that it impacts a major life activity of a
23 minor.

24 (5) Sexual exploitation and abuse of minors.

1 (6) Distribution, sale, or use of narcotic drugs,
2 tobacco products, cannabis products, gambling, or
3 alcohol.

4 (7) Financial harms caused by unfair or decep-
5 tive acts or practices (as defined in section 5(a)(4)
6 of the Federal Trade Commission Act (15 U.S.C.
7 45(a)(4)).

8 (b) RULES OF CONSTRUCTION.—

9 (1) Nothing in subsection (a) shall be construed
10 to require a covered platform to prevent or preclude
11 any minor from—

12 (A) deliberately and independently search-
13 ing for, or specifically requesting, content; or

14 (B) accessing resources and information
15 regarding the prevention or mitigation of the
16 harms described in subsection (a).

17 (2) Nothing in this section shall be construed to
18 allow a government entity to enforce subsection (a)
19 based upon the viewpoint of users expressed by or
20 through any speech, expression, or information pro-
21 tected by the First Amendment to the Constitution
22 of the United States.

23 **SEC. 103. SAFEGUARDS FOR MINORS.**

24 (a) SAFEGUARDS FOR MINORS.—

1 (1) SAFEGUARDS.—A covered platform shall
2 provide a user or visitor that the covered platform
3 knows is a minor with readily-accessible and easy-to-
4 use safeguards to, as applicable—

5 (A) limit the ability of other users or visi-
6 tors to communicate with the minor;

7 (B) prevent other users or visitors, wheth-
8 er registered or not, from viewing the minor’s
9 personal data collected by or shared on the cov-
10 ered platform, in particular restricting public
11 access to personal data;

12 (C) limit by default design features that
13 encourage or increase the frequency, time
14 spent, or activity of minors on the covered plat-
15 form, such as infinite scrolling, auto playing,
16 rewards for time spent on the platform, notifi-
17 cations, and other design features that result in
18 compulsive usage of the covered platform by the
19 minor;

20 (D) control personalized recommendation
21 systems, including the ability for a minor to
22 have—

23 (i) a prominently displayed option to
24 opt out of such personalized recommenda-
25 tion systems, while still allowing the dis-

1 play of content based on a chronological
2 format; and

3 (ii) a prominently displayed option to
4 limit types or categories of recommenda-
5 tions from such systems; and

6 (E) restrict the sharing of the geolocation
7 of the minor and provide notice regarding the
8 tracking of the minor's geolocation.

9 (2) OPTION.—A covered platform shall provide
10 a user that the covered platform knows is a minor
11 with a readily-accessible and easy-to-use option to
12 limit the amount of time spent by the minor on the
13 covered platform.

14 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
15 NORS.—A covered platform shall provide that, in the
16 case of a user or visitor that the platform knows is
17 a minor, the default setting for any safeguard de-
18 scribed under paragraph (1) shall be the option
19 available on the platform that provides the most pro-
20 tective level of control that is offered by the platform
21 over privacy and safety for that user or visitor, un-
22 less otherwise enabled by the parent of the minor.

23 (b) PARENTAL TOOLS.—

24 (1) TOOLS.—A covered platform shall provide
25 readily-accessible and easy-to-use parental tools for

1 parents to support a user that the platform knows
2 is a minor with respect to the use of the platform
3 by that user.

4 (2) REQUIREMENTS.—The parental tools pro-
5 vided by a covered platform under paragraph (1)
6 shall include—

7 (A) the ability to manage a minor’s privacy
8 and account settings, including the safeguards
9 and options established under subsection (a), in
10 a manner that allows parents to—

11 (i) view the privacy and account set-
12 tings; and

13 (ii) in the case of a user that the plat-
14 form knows is a child, change and control
15 the privacy and account settings;

16 (B) the ability to restrict purchases and fi-
17 nancial transactions by the minor, where appli-
18 cable; and

19 (C) the ability to view metrics of total time
20 spent on the covered platform and restrict time
21 spent on the covered platform by the minor.

22 (3) NOTICE TO MINORS.—A covered platform
23 shall provide clear and conspicuous notice to a user
24 when the tools described in this subsection are in ef-
25 fect and what settings or controls have been applied.

1 (4) DEFAULT TOOLS.—A covered platform shall
2 provide that, in the case of a user that the platform
3 knows is a child, the tools required under paragraph
4 (1) shall be enabled by default.

5 (5) APPLICATION TO EXISTING ACCOUNTS.—If,
6 prior to the effective date of this subsection, a cov-
7 ered platform provided a parent of a user that the
8 platform knows is a child with notice and the ability
9 to enable the parental tools described under this
10 subsection in a manner that would otherwise comply
11 with this subsection, and the parent opted out of en-
12 abling such tools, the covered platform is not re-
13 quired to enable such tools with respect to such user
14 by default when this subsection takes effect.

15 (c) REPORTING MECHANISM.—

16 (1) REPORTING TOOLS.—A covered platform
17 shall provide—

18 (A) a readily-accessible and easy-to-use
19 means for users and visitors to submit reports
20 to the covered platform of harms to a minor on
21 the covered platform;

22 (B) an electronic point of contact specific
23 to matters involving harms to a minor; and

24 (C) confirmation of the receipt of such a
25 report and, within the applicable time period

1 described in paragraph (2), a substantive re-
2 sponse to the individual that submitted the re-
3 port.

4 (2) TIMING.—A covered platform shall establish
5 an internal process to receive and substantively re-
6 spond to such reports in a reasonable and timely
7 manner, but in no case later than—

8 (A) 10 days after the receipt of a report,
9 if, for the most recent calendar year, the plat-
10 form averaged more than 10,000,000 active
11 users on a monthly basis in the United States;

12 (B) 21 days after the receipt of a report,
13 if, for the most recent calendar year, the plat-
14 form averaged less than 10,000,000 active
15 users on a monthly basis in the United States;
16 and

17 (C) notwithstanding subparagraphs (A)
18 and (B), if the report involves an imminent
19 threat to the safety of a minor, as promptly as
20 needed to address the reported threat to safety.

21 (d) ADVERTISING OF ILLEGAL PRODUCTS.—A cov-
22 ered platform shall not facilitate the advertising of nar-
23 cotic drugs, cannabis products, tobacco products, gam-
24 bling, or alcohol to an individual that the covered platform
25 knows is a minor.

1 (e) RULES OF APPLICATION.—

2 (1) ACCESSIBILITY.—With respect to safe-
3 guards and parental tools described under sub-
4 sections (a) and (b), a covered platform shall pro-
5 vide—

6 (A) information and control options in a
7 clear and conspicuous manner that takes into
8 consideration the differing ages, capacities, and
9 developmental needs of the minors most likely
10 to access the covered platform and does not en-
11 courage minors or parents to weaken or disable
12 safeguards or parental tools;

13 (B) readily-accessible and easy-to-use con-
14 trols to enable or disable safeguards or parental
15 tools, as appropriate; and

16 (C) information and control options in the
17 same language, form, and manner as the cov-
18 ered platform provides the product or service
19 used by minors and their parents.

20 (2) DARK PATTERNS PROHIBITION.—It shall be
21 unlawful for any covered platform to design, embed,
22 modify, or manipulate a user interface of a covered
23 platform with the purpose or substantial effect of
24 obscuring, subverting or impairing user autonomy,

1 decision-making, or choice with respect to safe-
2 guards or parental tools required under this section.

3 (3) TIMING CONSIDERATIONS.—

4 (A) NO INTERRUPTION TO GAMEPLAY.—

5 Subsections (a)(1)(C) and (b)(3) shall not re-
6 quire an online video game to interrupt the nat-
7 ural sequence of game play, such as progressing
8 through game levels or finishing a competition.

9 (B) APPLICATION OF CHANGES TO OFF-
10 LINE DEVICES OR ACCOUNTS.—If a user’s de-
11 vice or user account does not have access to the
12 internet at the time of a change to parental
13 tools, a covered platform shall apply changes
14 the next time the device or user is connected to
15 the internet.

16 (f) DEVICE OR CONSOLE CONTROLS.—

17 (1) IN GENERAL.—Nothing in this section shall
18 be construed to prohibit a covered platform from in-
19 tegrating its products or service with, or duplicate
20 controls or tools provided by, third-party systems,
21 including operating systems or gaming consoles, to
22 meet the requirements imposed under subsections
23 (a) and (b) relating to safeguards for minors and
24 parental tools, provided that—

1 (A) the controls or tools meet such require-
2 ments; and

3 (B) the minor or parent is provided suffi-
4 cient notice of the integration and use of the
5 parental tools.

6 (2) PRESERVATION OF PROTECTIONS.—In the
7 event of a conflict between the controls or tools of
8 a third-party system, including operating systems or
9 gaming consoles, and a covered platform, the cov-
10 ered platform is not required to override the controls
11 or tools of a third-party system if it would under-
12 mine the protections for minors from the safeguards
13 or parental tools imposed under subsections (a) and
14 (b).

15 (g) EXCEPTION.—A covered platform shall provide
16 the safeguards and parental tools described in subsections
17 (a) and (b) to an educational agency or institution (as de-
18 fined in section 444 of the General Education Provisions
19 Act (20 U.S.C. 1232g(a)(3)), rather than to the user or
20 visitor, when the covered platform is acting on behalf of
21 the educational agency or institution subject to a written
22 contract that complies with the requirements of the Chil-
23 dren’s Online Privacy Protection Act (15 U.S.C. 6501 et
24 seq.) and the Family Educational Rights and Privacy Act
25 of 1974 (20 U.S.C. 1232g).

1 (h) RULES OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to—

3 (1) prevent a covered platform from taking rea-
4 sonable measures to—

5 (A) block, detect, or prevent the distribu-
6 tion of unlawful, obscene, or other harmful ma-
7 terial to minors as described in section 102(a);
8 or

9 (B) block or filter spam, prevent criminal
10 activity, or protect the security of a platform or
11 service;

12 (2) require the disclosure of the browsing be-
13 havior, search history, messages, contact list, or
14 other content or metadata of the communications of
15 a minor;

16 (3) prevent a covered platform from using a
17 personalized recommendation system to display con-
18 tent to a minor if the system only uses information
19 on—

20 (A) the language spoken by the minor;

21 (B) the city the minor is located in; or

22 (C) the minor's age;

23 (4) prevent an online video game from dis-
24 closing a username or other user identification for

1 the purpose of competitive gameplay or to allow for
2 the reporting of users;

3 (5) prevent a covered platform from contracting
4 or entering into an agreement with a third party en-
5 tity, whose primary or exclusive function is to pro-
6 vide the safeguards or parental tools required under
7 subsections (a) and (b) or to offer similar or strong-
8 er protective capabilities for minors, to assist with
9 meeting the requirements imposed under subsections
10 (a) and (b); or

11 (6) prevent a parent or user from authorizing
12 a third party entity described in subparagraph (5) to
13 implement such safeguards or parental tools or pro-
14 vide similar or stronger protective capabilities for
15 minors, at the choice of the parent or user.

16 **SEC. 104. DISCLOSURE.**

17 (a) NOTICE.—

18 (1) REGISTRATION OR PURCHASE.—Prior to
19 registration or purchase of a covered platform by an
20 individual that the platform knows is a minor, the
21 platform shall provide clear, conspicuous, and easy-
22 to-understand—

23 (A) notice of the policies and practices of
24 the covered platform with respect to safeguards
25 for minors;

1 (B) information about how to access the
2 safeguards and parental tools required under
3 section 103; and

4 (C) notice about how to access the infor-
5 mation on personalized recommendation sys-
6 tems required under subsection (b).

7 (2) NOTIFICATION.—

8 (A) NOTICE AND ACKNOWLEDGMENT.—In
9 the case of an individual that a covered plat-
10 form knows is a child, the platform shall pro-
11 vide information about the parental tools and
12 safeguards required under section 103 to a par-
13 ent of the child and obtain verifiable consent
14 (as defined in section 1302 of the Children’s
15 Online Privacy Protection Act of 1998 (15
16 U.S.C. 6501)).

17 (B) REASONABLE EFFORT.—A covered
18 platform shall be deemed to have satisfied the
19 requirement described in subparagraph (A) if
20 the covered platform is in compliance with the
21 requirements of the Children’s Online Privacy
22 Protection Act of 1998 (15 U.S.C. 6501 et
23 seq.) to use reasonable efforts (taking into con-
24 sideration available technology) to provide a
25 parent with the information described in sub-

1 paragraph (A) and to obtain verifiable consent
2 as required.

3 (3) CONSOLIDATED NOTICES.—For purposes of
4 this title, a covered platform may consolidate the
5 process for providing information under this sub-
6 section and obtaining verifiable consent or the con-
7 sent of the minor involved (as applicable) as re-
8 quired under this subsection with the obligations of
9 the covered platform to provide relevant notice and
10 obtain verifiable consent under the Children’s Online
11 Privacy Protection Act of 1998 (15 U.S.C. 6501 et
12 seq.).

13 (4) GUIDANCE.—The Federal Trade Commis-
14 sion may issue guidance to assist covered platforms
15 in complying with the specific notice requirements of
16 this subsection.

17 (b) PERSONALIZED RECOMMENDATION SYSTEM.—A
18 covered platform that operates a personalized rec-
19 ommendation system shall set out in its terms and condi-
20 tions, in a clear, conspicuous, and easy-to-understand
21 manner—

22 (1) an overview of how each personalized rec-
23 ommendation system is used by the covered platform
24 to provide information to minors, including how such
25 systems use the personal data of minors; and

1 (2) information about options for minors or
2 their parents to opt out of or control the personal-
3 ized recommendation system (as applicable).

4 (c) ADVERTISING AND MARKETING INFORMATION
5 AND LABELS.—

6 (1) INFORMATION AND LABELS.—A covered
7 platform shall provide clear, conspicuous, and easy-
8 to-understand labels and information, which can be
9 provided through a link to another web page or dis-
10 closure, to minors on advertisements regarding—

11 (A) the name of the product, service, or
12 brand and the subject matter of an advertise-
13 ment; and

14 (B) whether particular media displayed to
15 the minor is an advertisement or marketing ma-
16 terial, including disclosure of endorsements of
17 products, services, or brands made for commer-
18 cial consideration by other users of the plat-
19 form.

20 (2) GUIDANCE.—The Federal Trade Commis-
21 sion may issue guidance to assist covered platforms
22 in complying with the requirements of this sub-
23 section, including guidance about the minimum level
24 of information and labels for the disclosures required
25 under paragraph (1).

1 (d) RESOURCES FOR PARENTS AND MINORS.—A cov-
2 ered platform shall provide to minors and parents clear,
3 conspicuous, easy-to-understand, and comprehensive infor-
4 mation in a prominent location, which may include a link
5 to a web page, regarding—

6 (1) the policies and practices of the covered
7 platform with respect to safeguards for minors; and

8 (2) how to access the safeguards and parental
9 tools required under section 103.

10 (e) RESOURCES IN ADDITIONAL LANGUAGES.—A
11 covered platform shall ensure, to the extent practicable,
12 that the disclosures required by this section are made
13 available in the same language, form, and manner as the
14 covered platform provides any product or service used by
15 minors and their parents.

16 **SEC. 105. TRANSPARENCY.**

17 (a) IN GENERAL.—Subject to subsection (b), not less
18 frequently than once a year, a covered platform shall issue
19 a public report that addresses the matters in subsection
20 (c) based on an independent, third-party audit of the cov-
21 ered platform with a reasonable level of assurance.

22 (b) SCOPE OF APPLICATION.—The requirements of
23 this section shall apply to a covered platform if—

1 (1) for the most recent calendar year, the plat-
2 form averaged more than 10,000,000 active users on
3 a monthly basis in the United States; and

4 (2) the platform predominantly provides a com-
5 munity forum for user-generated content and discus-
6 sion, including sharing videos, images, games, audio
7 files, discussion in a virtual setting, or other content,
8 such as acting as a social media platform, virtual re-
9 ality environment, or a social network service.

10 (c) CONTENT.—

11 (1) TRANSPARENCY.—The public reports re-
12 quired of a covered platform under this section shall
13 include—

14 (A) an assessment of the extent to which
15 the platform is likely to be accessed by minors;

16 (B) a description of the commercial inter-
17 ests of the covered platform being used by mi-
18 nors;

19 (C) an accounting, based on the data held
20 by the covered platform, of—

21 (i) the number of users using the cov-
22 ered platform that the platform knows to
23 be minors in the United States;

24 (ii) the median and mean amounts of
25 time spent on the platform by users known

1 to be minors in the United States who
2 have accessed the platform during the re-
3 porting year on a daily, weekly, and
4 monthly basis; and

5 (iii) the amount of content being
6 accessed by users that the platform knows
7 to be minors in the United States that is
8 in English, and the top 5 non-English lan-
9 guages used by users accessing the plat-
10 form in the United States;

11 (D) an accounting of total reports received
12 through the reporting mechanism described in
13 section 103, disaggregated by language, includ-
14 ing English and the top 5 non-English lan-
15 guages used by users accessing the platform
16 from the United States (as identified under
17 subparagraph (C)(iii)); and

18 (E) an assessment of the safeguards and
19 parental tools under section 103, representa-
20 tions regarding the use of the personal data of
21 minors, and other matters regarding compliance
22 with this title.

23 (2) EVALUATION.—The public reports required
24 under this section shall include—

1 (A) an assessment based on aggregate data
2 on the exercise of safeguards and parental tools
3 described in section 103, and other competent
4 and reliable empirical evidence;

5 (B) a description of whether and how the
6 covered platform uses design features that in-
7 crease, sustain, or extend the use of a product
8 or service by a minor;

9 (C) a description of whether, how, and for
10 what purpose the platform collects or processes
11 categories of personal data, including how per-
12 sonal data is used to operate personalized rec-
13 ommendation systems related to minors;

14 (D) an evaluation of the efficacy of safe-
15 guards for minors and parental tools under sec-
16 tion 103, and any issues in delivering such safe-
17 guards and parental tools; and

18 (E) an assessment of differences, with re-
19 spect to the matters described in subparagraphs
20 (A) through (D), across different English and
21 non-English languages and efficacy of safe-
22 guards in those languages.

23 (3) MITIGATION.—The public reports required
24 of a covered platform under this section shall in-
25 clude, for English and the top 5 non-English lan-

1 guages used by users accessing the platform from
2 the United States (as identified under paragraph
3 (2)(C)(iii))—

4 (A) a description of the safeguards and pa-
5 rental tools available to minors and parents on
6 the covered platform;

7 (B) a description of the prevention and
8 mitigation measures a covered platform may
9 take, if any, in response to the assessments con-
10 ducted under paragraph (2), including steps
11 take to provide the most protective level of con-
12 trol over safety by default;

13 (C) a description of the processes used for
14 the creation and implementation of any design
15 feature that will be used by minors;

16 (D) a description and assessment of han-
17 dling reports under the requirement of section
18 103(c), including the rate of response, timeli-
19 ness, and substantiveness of responses; and

20 (E) the status of implementing prevention
21 and mitigation measures identified in prior as-
22 sessments.

23 (d) REASONABLE INSPECTION.—In conducting an in-
24 spection of the reasonably foreseeable risk of harm to mi-

1 nors under this section, an independent, third-party audi-
2 tor shall—

3 (1) take into consideration the function of per-
4 sonalized recommendation systems;

5 (2) consult parents and youth experts, including
6 youth and families with relevant past or current ex-
7 perience, public health and mental health nonprofit
8 organizations, health and development organizations,
9 and civil society with respect to the prevention of
10 harms to minors;

11 (3) conduct research based on experiences of
12 minors that use the covered platform, including re-
13 ports under section 103(c) and information provided
14 by law enforcement;

15 (4) take account of research, including research
16 regarding design features, marketing, or product in-
17 tegrity, industry best practices, or outside research;

18 (5) take into consideration indicia or inferences
19 of age of users, in addition to any self-declared in-
20 formation about the age of users; and

21 (6) take into consideration differences in risk of
22 reasonably foreseeable harms and effectiveness of
23 safeguards across English and non-English lan-
24 guages.

1 (e) COOPERATION WITH INDEPENDENT, THIRD-
2 PARTY AUDIT.—To facilitate the report required by sub-
3 section (c), a covered platform shall—

4 (1) provide or otherwise make available to the
5 independent third-party conducting the audit all in-
6 formation and material in its possession, custody, or
7 control that is relevant to the audit;

8 (2) provide or otherwise make available to the
9 independent third-party conducting the audit access
10 to all network, systems, and assets relevant to the
11 audit; and

12 (3) disclose all relevant facts to the independent
13 third-party conducting the audit, and not misrep-
14 sent in any manner, expressly or by implication, any
15 relevant fact.

16 (f) PRIVACY SAFEGUARDS.—

17 (1) IN GENERAL.—In issuing the public reports
18 required under this section, a covered platform shall
19 take steps to safeguard the privacy of its users, in-
20 cluding ensuring that data is presented in a de-iden-
21 tified, aggregated format such that it is not reason-
22 ably linkable to any user.

23 (2) RULE OF CONSTRUCTION.—This section
24 shall not be construed to require the disclosure of in-
25 formation that will lead to material vulnerabilities

1 for the privacy of users or the security of a covered
2 platform's service or create a significant risk of the
3 violation of Federal or State law.

4 (3) DEFINITION OF DE-IDENTIFIED.—As used
5 in this subsection, the term “de-identified” means
6 data that does not identify and is not linked or rea-
7 sonably linkable to a device that is linked or reason-
8 ably linkable to an individual, regardless of whether
9 the information is aggregated

10 (g) LOCATION.—The public reports required under
11 this section should be posted by a covered platform on an
12 easy to find location on a publicly-available website.

13 **SEC. 106. MARKET RESEARCH.**

14 (a) PROHIBITION OF RESEARCH ON CHILDREN.—A
15 covered platform shall not, in the case of a user or visitor
16 that the covered platform knows is a child, conduct market
17 or product-focused research on such child.

18 (b) MARKET RESEARCH ON MINORS.—A covered
19 platform may not, in the case of a user or visitor that
20 the online platform knows is a minor, conduct market or
21 product-focused research on such minor, unless the cov-
22 ered platform obtains verifiable parental consent (as de-
23 fined in section 1302 of the Children's Online Privacy Pro-
24 tection Act of 1998 (15 U.S.C. 6501)) prior to conducting
25 such research on such minor.

1 **SEC. 107. AGE VERIFICATION STUDY AND REPORT.**

2 (a) STUDY.—The Secretary of Commerce, in coordi-
3 nation with the Federal Communications Commission and
4 the Federal Trade Commission, shall conduct a study eval-
5 uating the most technologically feasible methods and op-
6 tions for developing systems to verify age at the device
7 or operating system level.

8 (b) CONTENTS.—Such study shall consider —

9 (1) the benefits of creating a device or oper-
10 ating system level age verification system;

11 (2) what information may need to be collected
12 to create this type of age verification system;

13 (3) the accuracy of such systems and their im-
14 pact or steps to improve accessibility, including for
15 individuals with disabilities;

16 (4) how such a system or systems could verify
17 age while mitigating risks to user privacy and data
18 security and safeguarding minors' personal data,
19 emphasizing minimizing the amount of data col-
20 lected and processed by covered platforms and age
21 verification providers for such a system;

22 (5) the technical feasibility, including the need
23 for potential hardware and software changes, includ-
24 ing for devices currently in commerce and owned by
25 consumers; and

1 (6) the impact of different age verification sys-
2 tems on competition, particularly the risk of dif-
3 ferent age verification systems creating barriers to
4 entry for small companies.

5 (c) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the agencies described in sub-
7 section (a) shall submit a report containing the results of
8 the study conducted under such subsection to the Com-
9 mittee on Commerce, Science, and Transportation of the
10 Senate and the Committee on Energy and Commerce of
11 the House of Representatives.

12 **SEC. 108. GUIDANCE.**

13 (a) IN GENERAL.—Not later than 18 months after
14 the date of enactment of this Act, the Federal Trade Com-
15 mission shall issue guidance to—

16 (1) provide information and examples for cov-
17 ered platforms and auditors regarding the following,
18 with consideration given to differences across
19 English and non-English languages—

20 (A) identifying design features that en-
21 courage or increase the frequency, time spent,
22 or activity of minors on the covered platform;

23 (B) safeguarding minors against the pos-
24 sible misuse of parental tools;

1 (C) best practices in providing minors and
2 parents the most protective level of control over
3 privacy and safety;

4 (D) using indicia or inferences of age of
5 users for assessing use of the covered platform
6 by minors;

7 (E) methods for evaluating the efficacy of
8 safeguards set forth in this title; and

9 (F) providing additional parental tool op-
10 tions that allow parents to address the harms
11 described in section 102(a); and

12 (2) outline conduct that does not have the pur-
13 pose or substantial effect of subverting or impairing
14 user autonomy, decision-making, or choice, or of
15 causing, increasing, or encouraging compulsive usage
16 for a minor, such as—

17 (A) de minimis user interface changes de-
18 rived from testing consumer preferences, includ-
19 ing different styles, layouts, or text, where such
20 changes are not done with the purpose of weak-
21 ening or disabling safeguards or parental tools;

22 (B) algorithms or data outputs outside the
23 control of a covered platform; and

24 (C) establishing default settings that pro-
25 vide enhanced privacy protection to users or

1 otherwise enhance their autonomy and decision-
2 making ability.

3 (b) GUIDANCE ON KNOWLEDGE STANDARD.—Not
4 later than 18 months after the date of enactment of this
5 Act, the Federal Trade Commission shall issue guidance
6 to provide information, including best practices and exam-
7 ples, for covered platforms to understand how the Com-
8 mission would determine whether a covered platform “had
9 knowledge fairly implied on the basis of objective cir-
10 cumstances” for purposes of this title.

11 (c) LIMITATION ON FEDERAL TRADE COMMISSION
12 GUIDANCE.—

13 (1) EFFECT OF GUIDANCE.—No guidance
14 issued by the Federal Trade Commission with re-
15 spect to this title shall—

16 (A) confer any rights on any person, State,
17 or locality; or

18 (B) operate to bind the Federal Trade
19 Commission or any court, person, State, or lo-
20 cality to the approach recommended in such
21 guidance.

22 (2) USE IN ENFORCEMENT ACTIONS.—In any
23 enforcement action brought pursuant to this title,
24 the Federal Trade Commission or a State attorney
25 general, as applicable—

1 (A) shall allege a violation of a provision of
2 this title; and

3 (B) may not base such enforcement action
4 on, or execute a consent order based on, prac-
5 tices that are alleged to be inconsistent with
6 guidance issued by the Federal Trade Commis-
7 sion with respect to this title, unless the prac-
8 tices are alleged to violate a provision of this
9 title.

10 For purposes of enforcing this title, State attorneys
11 general shall take into account any guidance issued
12 by the Commission under subsection (b).

13 **SEC. 109. ENFORCEMENT.**

14 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
15 SION.—

16 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
17 TICES.—A violation of this title shall be treated as
18 a violation of a rule defining an unfair or deceptive
19 act or practice prescribed under section 18(a)(1)(B)
20 of the Federal Trade Commission Act (15 U.S.C.
21 57a(a)(1)(B)).

22 (2) POWERS OF THE COMMISSION.—

23 (A) IN GENERAL.—The Federal Trade
24 Commission (referred to in this section as the
25 “Commission”) shall enforce this title in the

1 same manner, by the same means, and with the
2 same jurisdiction, powers, and duties as though
3 all applicable terms and provisions of the Fed-
4 eral Trade Commission Act (15 U.S.C. 41 et
5 seq.) were incorporated into and made a part of
6 this title.

7 (B) PRIVILEGES AND IMMUNITIES.—Any
8 person that violates this title shall be subject to
9 the penalties, and entitled to the privileges and
10 immunities, provided in the Federal Trade
11 Commission Act (15 U.S.C. 41 et seq.).

12 (3) AUTHORITY PRESERVED.—Nothing in this
13 title shall be construed to limit the authority of the
14 Commission under any other provision of law.

15 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
16 ERAL.—

17 (1) IN GENERAL.—

18 (A) CIVIL ACTIONS.—In any case in which
19 the attorney general of a State has reason to
20 believe that a covered platform has violated or
21 is violating section 103, 104, or 105, the State,
22 as *parens patriae*, may bring a civil action on
23 behalf of the residents of the State in a district
24 court of the United States or a State court of
25 appropriate jurisdiction to—

1 (i) enjoin any practice that violates
2 section 103, 104, or 105;

3 (ii) enforce compliance with section
4 103, 104, or 105;

5 (iii) on behalf of residents of the
6 State, obtain damages, restitution, or other
7 compensation, each of which shall be dis-
8 tributed in accordance with State law; or

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

11 (B) NOTICE.—

12 (i) IN GENERAL.—Before filing an ac-
13 tion under subparagraph (A), the attorney
14 general of the State involved shall provide
15 to the Commission—

16 (I) written notice of that action;
17 and

18 (II) a copy of the complaint for
19 that action.

20 (ii) EXEMPTION.—

21 (I) IN GENERAL.—Clause (i)
22 shall not apply with respect to the fil-
23 ing of an action by an attorney gen-
24 eral of a State under this paragraph
25 if the attorney general of the State

1 determines that it is not feasible to
2 provide the notice described in that
3 clause before the filing of the action.

4 (II) NOTIFICATION.—In an ac-
5 tion described in subclause (I), the at-
6 torney general of a State shall provide
7 notice and a copy of the complaint to
8 the Commission at the same time as
9 the attorney general files the action.

10 (2) INTERVENTION.—

11 (A) IN GENERAL.—On receiving notice
12 under paragraph (1)(B), the Commission shall
13 have the right to intervene in the action that is
14 the subject of the notice.

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

18 (i) to remove the action to the appro-
19 priate United States district court;

20 (ii) to be heard with respect to any
21 matter that arises in that action; and

22 (iii) to file a petition for appeal.

23 (3) CONSTRUCTION.—For purposes of bringing
24 any civil action under paragraph (1), nothing in this
25 title shall be construed to prevent an attorney gen-

1 eral of a State from exercising the powers conferred
2 on the attorney general by the laws of that State
3 to—

4 (A) conduct investigations;

5 (B) administer oaths or affirmations; or

6 (C) compel the attendance of witnesses or
7 the production of documentary and other evi-
8 dence.

9 (4) ACTIONS BY THE COMMISSION.—In any
10 case in which an action is instituted by or on behalf
11 of the Commission for violation of this title, no State
12 may, during the pendency of that action, institute a
13 separate action under paragraph (1) against any de-
14 fendant named in the complaint in the action insti-
15 tuted by or on behalf of the Commission for that
16 violation.

17 (5) VENUE; SERVICE OF PROCESS.—

18 (A) VENUE.—Any action brought under
19 paragraph (1) may be brought in—

20 (i) the district court of the United
21 States that meets applicable requirements
22 relating to venue under section 1391 of
23 title 28, United States Code; or

24 (ii) a State court of competent juris-
25 diction.

1 (B) SERVICE OF PROCESS.—In an action
2 brought under paragraph (1) in a district court
3 of the United States, process may be served
4 wherever defendant—

5 (i) is an inhabitant; or

6 (ii) may be found.

7 (6) LIMITATION.—A violation of section 102
8 shall not form the basis of liability in any action
9 brought by the attorney general of a State under a
10 State law.

11 **SEC. 110. KIDS ONLINE SAFETY COUNCIL.**

12 (a) ESTABLISHMENT.—There is established a Kids
13 Online Safety Council (in this section referred to as the
14 “Council”).

15 (b) DUTIES.—The duties of the Council shall be to
16 provide reports to Congress with recommendations and
17 advice on matters related to the safety of minors online.
18 The matters to be addressed by the Council shall in-
19 clude—

20 (1) identifying emerging or current risks of
21 harms to minors associated with online platforms;

22 (2) recommending measures and methods for
23 assessing, preventing, and mitigating harms to mi-
24 nors online;

1 (3) recommending methods and themes for con-
2 ducting research regarding online harms to minors,
3 including in English and non-English languages; and

4 (4) recommending best practices and clear, con-
5 sensus-based technical standards for transparency
6 reports and audits, as required under this title, in-
7 cluding methods, criteria, and scope to promote
8 overall accountability.

9 (c) NUMBER AND APPOINTMENT OF MEMBERS.—

10 The Council shall be comprised of 11 members, of whom—

11 (1) 3 members shall be appointed by the Presi-
12 dent, including—

13 (A) the Secretary of Commerce or a des-
14 ignee of the Secretary; and

15 (B) the Secretary of Health and Human
16 Services or a designee of the Secretary;

17 (2) 2 members shall be appointed by the Speak-
18 er of the House of Representatives;

19 (3) 2 members shall be appointed by the Minor-
20 ity Leader of the House of Representatives;

21 (4) 2 members shall be appointed by the Major-
22 ity Leader of the Senate; and

23 (5) 2 members shall be appointed by the Minor-
24 ity Leader of the Senate.

1 (d) TIMING OF APPOINTMENTS.—Each of the ap-
2 pointments under subsection (c) shall be made not later
3 than 180 days after the date of the enactment of this Act.

4 (e) TERMS; VACANCIES.—Each member of the Coun-
5 cil shall be appointed for the life of the Council, and a
6 vacancy in the Council shall be filled in the manner in
7 which the original appointment was made.

8 (f) CHAIRPERSON; VICE CHAIRPERSON.—The Coun-
9 cil, once it has been fully appointed, shall select its own
10 Chair and Vice Chair.

11 (g) PARTICIPATION.—The Council shall consist of 1
12 member from each of the following:

13 (1) academic experts with specific expertise in
14 the prevention of online harms to minors;

15 (2) researchers with specific expertise in social
16 media studies;

17 (3) parents with demonstrated experience in
18 child online safety;

19 (4) youth representatives with demonstrated ex-
20 perience in child online safety;

21 (5) educators with demonstrated experience in
22 child online safety;

23 (6) representatives of online platforms;

24 (7) representatives of online video games;

1 (8) State attorneys general or their designees
2 acting in State or local government;

3 (9) representatives of communities of socially
4 disadvantaged individuals (as defined in section 8 of
5 the Small Business Act (15 U.S.C. 637)).

6 (h) REPORTS.—

7 (1) INTERIM REPORT.—Not later than 1 year
8 after the date of the initial meeting of the Council,
9 the Council shall submit to Congress an interim re-
10 port that includes a detailed summary of the work
11 of the Council and any preliminary findings of the
12 Council.

13 (2) FINAL REPORT.—Not later than 3 years
14 after the date of the initial meeting of the Council,
15 the Council shall submit to Congress a final report
16 that includes—

17 (A) a detailed statement of the findings
18 and conclusions of the Council;

19 (B) dissenting opinions of any member of
20 the Council who does not support the findings
21 and conclusions referred to in subparagraph
22 (A); and

23 (C) any recommendations for legislative
24 and administrative actions to address online

1 safety for children and prevent harms to mi-
2 nors.

3 (i) **TERMINATION.**—The Council shall terminate not
4 later than 30 days after the submission of the final report
5 required under subsection (h)(2).

6 (j) **NON-APPLICABILITY OF FACA.**—The Kids Online
7 Safety Council shall not be subject to chapter 10 of title
8 5, United States Code (commonly referred to as the “Fed-
9 eral Advisory Committee Act”).

10 **SEC. 111. EFFECTIVE DATE.**

11 Except as otherwise provided in this title, this title
12 shall take effect on the date that is 18 months after the
13 date of enactment of this Act.

14 **SEC. 112. RULES OF CONSTRUCTION AND OTHER MATTERS.**

15 (a) **RELATIONSHIP TO OTHER LAWS.**—Nothing in
16 this title shall be construed to—

17 (1) preempt section 444 of the General Edu-
18 cation Provisions Act (20 U.S.C. 1232g, commonly
19 known as the “Family Educational Rights and Pri-
20 vacy Act of 1974”) or other Federal or State laws
21 governing student privacy;

22 (2) preempt the Children’s Online Privacy Pro-
23 tection Act of 1998 (15 U.S.C. 6501 et seq.) or any
24 rule or regulation promulgated under such Act;

1 (3) authorize any action that would conflict
2 with section 18(h) of the Federal Trade Commission
3 Act (15 U.S.C. 57a(h)); or

4 (4) expand, limit the scope, or alter the mean-
5 ing of section 230 of the Communications Act of
6 1934 (commonly known as “section 230 of the Com-
7 munications Decency Act of 1996”) (47 U.S.C.
8 230).

9 (b) DETERMINATION OF “FAIRLY IMPLIED ON THE
10 BASIS OF OBJECTIVE CIRCUMSTANCES”.—For purposes
11 of enforcing this title, in making a determination as to
12 whether covered platform has knowledge fairly implied on
13 the basis of objective circumstances that a specific user
14 is a minor, the Federal Trade Commission or a State at-
15 torney general shall rely on competent and reliable evi-
16 dence, taking into account the totality of the cir-
17 cumstances, including whether a reasonable and prudent
18 person under the circumstances would have known that
19 the user is a minor.

20 (c) PROTECTIONS FOR PRIVACY.—Nothing in this
21 title, including a determination described in subsection
22 (b), shall be construed to require—

23 (1) the affirmative collection of any personal
24 data with respect to the age of users that a covered

1 platform is not already collecting in the normal
2 course of business; or

3 (2) a covered platform to implement an age
4 gating or age verification functionality.

5 (d) COMPLIANCE.—Nothing in this title shall be con-
6 strued to restrict a covered platform’s ability to—

7 (1) cooperate with law enforcement agencies re-
8 garding activity that the covered platform reasonably
9 and in good faith believes may violate Federal,
10 State, or local laws, rules, or regulations;

11 (2) comply with a lawful civil, criminal, or regu-
12 latory inquiry, subpoena, or summons by Federal,
13 State, local, or other government authorities;

14 (3) investigate, establish, exercise, respond to,
15 or defend against legal claims;

16 (4) prevent, detect, protect against, or respond
17 to any security incident, identity theft, fraud, har-
18 assment, malicious or deceptive activity, or any ille-
19 gal activities; or

20 (5) investigate or report those responsible for
21 any action described in paragraph (4).

22 (e) APPLICATION TO VIDEO STREAMING SERVICES.—

23 A video streaming service shall be deemed to be in compli-
24 ance with this title if it predominantly consists of news,
25 sports, entertainment, or other video programming con-

1 tent that is preselected by the provider and not user-gen-
2 erated, and—

3 (1) any chat, comment, or interactive
4 functionality is provided incidental to, directly re-
5 lated to, or dependent on provision of such content;

6 (2) if such video streaming service requires ac-
7 count owner registration and is not predominantly
8 news or sports, the service includes the capability—

9 (A) to limit a minor's access to the service,
10 which may utilize a system of age-rating;

11 (B) to limit the automatic playing of on-
12 demand content selected by a personalized rec-
13 ommendation system for an individual that the
14 service knows is a minor;

15 (C) for a parent to manage a minor's pri-
16 vacy and account settings, and restrict pur-
17 chases and financial transactions by a minor,
18 where applicable;

19 (D) to provide an electronic point of con-
20 tact specific to matters described in this para-
21 graph;

22 (E) to offer a clear, conspicuous, and easy-
23 to-understand notice of its policies and prac-
24 tices with respect to the capabilities described
25 in this paragraph; and

1 (F) when providing on-demand content, to
2 employ measures that safeguard against serving
3 advertising for narcotic drugs, cannabis prod-
4 ucts, tobacco products, gambling, or alcohol di-
5 rectly to the account or profile of an individual
6 that the service knows is a minor.

7 **TITLE II—FILTER BUBBLE**
8 **TRANSPARENCY**

9 **SEC. 201. DEFINITIONS.**

10 In this title:

11 (1) **ALGORITHMIC RANKING SYSTEM.**—The
12 term “algorithmic ranking system” means a com-
13 putational process, including one derived from algo-
14 rithmic decision-making, machine learning, statis-
15 tical analysis, or other data processing or artificial
16 intelligence techniques, used to determine the selec-
17 tion, order, relative prioritization, or relative promi-
18 nence of content from a set of information that is
19 provided to a user on an online platform, including
20 the ranking of search results, the provision of con-
21 tent recommendations, the display of social media
22 posts, or any other method of automated content se-
23 lection.

24 (2) **APPROXIMATE GEOLOCATION INFORMA-**
25 **TION.**—The term “approximate geolocation informa-

1 tion” means information that identifies the location
2 of an individual, but with a precision of less than 5
3 miles.

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

6 (4) CONNECTED DEVICE.—The term “con-
7 nected device” means an electronic device that—

8 (A) is capable of connecting to the inter-
9 net, either directly or indirectly through a net-
10 work, to communicate information at the direc-
11 tion of an individual;

12 (B) has computer processing capabilities
13 for collecting, sending, receiving, or analyzing
14 data; and

15 (C) is primarily designed for or marketed
16 to consumers.

17 (5) INPUT-TRANSPARENT ALGORITHM.—

18 (A) IN GENERAL.—The term “input-trans-
19 parent algorithm” means an algorithmic rank-
20 ing system that does not use the user-specific
21 data of a user to determine the selection, order,
22 relative prioritization, or relative prominence of
23 information that is furnished to such user on
24 an online platform, unless the user-specific data

1 is expressly provided to the platform by the
2 user for such purpose.

3 (B) DATA EXPRESSLY PROVIDED TO THE
4 PLATFORM.—For purposes of subparagraph
5 (A), user-specific data that is provided by a
6 user for the express purpose of determining the
7 selection, order, relative prioritization, or rel-
8 ative prominence of information that is fur-
9 nished to such user on an online platform—

10 (i) includes user-supplied search
11 terms, filters, speech patterns (if provided
12 for the purpose of enabling the platform to
13 accept spoken input or selecting the lan-
14 guage in which the user interacts with the
15 platform), saved preferences, the resump-
16 tion of a previous search, and the current
17 precise geolocation information that is sup-
18 plied by the user;

19 (ii) includes the user's current approx-
20 imate geolocation information;

21 (iii) includes data submitted to the
22 platform by the user that expresses the
23 user's desire to receive particular informa-
24 tion, such as the social media profiles the
25 user follows, the video channels the user

1 subscribes to, or other content or sources
2 of content on the platform the user has se-
3 lected;

4 (iv) does not include the history of the
5 connected device of the user, including the
6 history of web searches and browsing, pre-
7 vious geographical locations, physical activ-
8 ity, device interaction, and financial trans-
9 actions of the user; and

10 (v) does not include inferences about
11 the user or the connected device of the
12 user, without regard to whether such infer-
13 ences are based on data described in clause
14 (i) or (iii).

15 (6) ONLINE PLATFORM.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), the term “online platform” means
18 any public-facing website, online service, online
19 application, or mobile application that predomi-
20 nantly provides a community forum for user-
21 generated content, such as sharing videos, im-
22 ages, games, audio files, or other content, in-
23 cluding a social media service, social network,
24 or virtual reality environment.

25 (B) SCOPE.—

1 (i) INCIDENTAL CHAT FUNCTIONS.—A
2 website, online service, online application,
3 or mobile application is not an online plat-
4 form solely on the basis that it includes a
5 chat, comment, or other interactive func-
6 tion that is incidental to its predominant
7 purpose.

8 (ii) REVIEW SITES.—A website, online
9 service, online application, or mobile appli-
10 cation that has the predominant purpose of
11 providing travel reviews is not an online
12 platform.

13 (7) OPAQUE ALGORITHM.—The term “opaque
14 algorithm”—

15 (A) means an algorithmic ranking system
16 that determines the selection, order, relative
17 prioritization, or relative prominence of infor-
18 mation that is furnished to such user on an on-
19 line platform based, in whole or part, on user-
20 specific data that was not expressly provided by
21 the user to the platform for such purpose; and

22 (B) does not include an algorithmic rank-
23 ing system used by an online platform if—

24 (i) the only user-specific data (includ-
25 ing inferences about the user) that the sys-

1 tem uses is information relating to the age
2 of the user; and

3 (ii) such information is only used to
4 restrict the access of a user to content on
5 the basis that the individual is not old
6 enough to access such content.

7 (8) **PRECISE GEOLOCATION INFORMATION.**—
8 The term “precise geolocation information” means
9 geolocation information that identifies the location of
10 an individual to within a range of 5 miles or less.

11 (9) **USER-SPECIFIC DATA.**—The term “user-
12 specific data” means information relating to an indi-
13 vidual or a specific connected device that would not
14 necessarily be true of every individual or device.

15 **SEC. 202. REQUIREMENT TO ALLOW USERS TO SEE**
16 **UNMANIPULATED CONTENT ON INTERNET**
17 **PLATFORMS.**

18 (a) **IN GENERAL.**—Beginning on the date that is 1
19 year after the date of enactment of this Act, it shall be
20 unlawful for any person to operate an online platform that
21 uses an opaque algorithm unless the person complies with
22 the requirements of subsection (b).

23 (b) **OPAQUE ALGORITHM REQUIREMENTS.**—

24 (1) **IN GENERAL.**—The requirements of this
25 subsection with respect to a person that operates an

1 online platform that uses an opaque algorithm are
2 the following:

3 (A) The person provides users of the plat-
4 form with the following notices:

5 (i) Notice that the platform uses an
6 opaque algorithm that uses user-specific
7 data to select the content the user sees.
8 Such notice shall be presented in a clear
9 and conspicuous manner on the platform
10 whenever the user interacts with an opaque
11 algorithm for the first time, and may be a
12 one-time notice that can be dismissed by
13 the user.

14 (ii) Notice, to be included in the terms
15 and conditions of the online platform, in a
16 clear, accessible, and easily comprehensible
17 manner that is to be updated whenever the
18 online platform makes a material change,
19 of—

20 (I) the most salient features, in-
21 puts, and parameters used by the al-
22 gorithm;

23 (II) how any user-specific data
24 used by the algorithm is collected or

1 inferred about a user of the platform,
2 and the categories of such data;

3 (III) any options that the online
4 platform makes available for a user of
5 the platform to opt out or exercise op-
6 tions under subparagraph (B), modify
7 the profile of the user or to influence
8 the features, inputs, or parameters
9 used by the algorithm; and

10 (IV) any quantities, such as time
11 spent using a product or specific
12 measures of engagement or social
13 interaction, that the algorithm is de-
14 signed to optimize, as well as a gen-
15 eral description of the relative impor-
16 tance of each quantity for such rank-
17 ing.

18 (B) The online platform enables users to
19 easily switch between the opaque algorithm and
20 an input-transparent algorithm in their use of
21 the platform.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 subsection shall be construed to require an online
24 platform to disclose any information, including data
25 or algorithms—

1 (A) relating to a trade secret or other pro-
2 tected intellectual property;

3 (B) that is confidential business informa-
4 tion; or

5 (C) that is privileged.

6 (3) PROHIBITION ON DIFFERENTIAL PRIC-
7 ING.—An online platform shall not deny, charge dif-
8 ferent prices or rates for, or condition the provision
9 of a service or product to a user based on the user’s
10 election to use an input-transparent algorithm in
11 their use of the platform, as provided under para-
12 graph (1)(B).

13 (4) SPECIAL RULE.—Notwithstanding para-
14 graphs (1) and (2), an online platform shall provide
15 the notice and opt-out described in paragraphs (1)
16 and (2) to the educational agency or institution (as
17 defined in section 444(a)(3) of the General Edu-
18 cation Provisions Act (20 U.S.C. 1232g(a)(3)), rath-
19 er than to the user, when the online platform is act-
20 ing on behalf of an educational agency or institution
21 (as so defined), subject to a written contract that
22 complies with the requirements of the Children’s On-
23 line Privacy Protection Act of 1998 (15 U.S.C.
24 1232g(a)(3)) and section 444 of the General Edu-
25 cation Provisions Act (20 U.S.C. 1232g) (commonly

1 known as the “Family Educational Rights and Pri-
2 vacy Act of 1974”).

3 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-
4 SION.—

5 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
6 TICES.—A violation of this section by an operator of
7 an online platform shall be treated as a violation of
8 a rule defining an unfair or deceptive act or practice
9 prescribed under section 18(a)(1)(B) of the Federal
10 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

11 (2) POWERS OF COMMISSION.—

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

20 (B) PRIVILEGES AND IMMUNITIES.—Any
21 person who violates this section shall be subject
22 to the penalties and entitled to the privileges
23 and immunities provided in the Federal Trade
24 Commission Act (15 U.S.C. 41 et seq.).

1 (C) AUTHORITY PRESERVED.—Nothing in
2 this section shall be construed to limit the au-
3 thority of the Commission under any other pro-
4 vision of law.

5 (d) RULE OF CONSTRUCTION TO PRESERVE PERSON-
6 ALIZED BLOCKS.—Nothing in this section shall be con-
7 strued to limit or prohibit an online platform’s ability to,
8 at the direction of an individual user or group of users,
9 restrict another user from searching for, finding, access-
10 ing, or interacting with such user’s or group’s account,
11 content, data, or online community.

12 **TITLE III—RELATIONSHIP TO**
13 **STATE LAWS; SEVERABILITY**

14 **SEC. 301. RELATIONSHIP TO STATE LAWS.**

15 The provisions of this Act shall preempt any State
16 law, rule, or regulation only to the extent that such State
17 law, rule, or regulation conflicts with a provision of this
18 Act. Nothing in this Act shall be construed to prohibit a
19 State from enacting a law, rule, or regulation that pro-
20 vides greater protection to minors than the protection pro-
21 vided by the provisions of this Act.

22 **SEC. 302. SEVERABILITY.**

23 If any provision of this Act, or an amendment made
24 by this Act, is determined to be unenforceable or invalid,

- 1 the remaining provisions of this Act and the amendments
- 2 made by this Act shall not be affected.