AMENDMENT NO.______  Calendar No.______

Purpose: In the nature of a substitute.


S. 1628

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

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. MARKEY (for himself and Ms. LUMMIS)

Viz:

1 Strike all after the enacting clause and insert the following:

2

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Online collection, use, and disclosure of personal information of children and minors.
Sec. 4. Fair Information Practices Principles.
Sec. 5. Digital Marketing Bill of Rights for Minors.
Sec. 6. Targeted marketing to children or minors.
Sec. 7. Removal of content.
Sec. 8. Privacy dashboard for connected devices for children and minors.
Sec. 9. Rule for treatment of users of websites, services, and applications directed to children or minors.
Sec. 10. Study of mobile and online application oversight.
Sec. 11. Youth Privacy and Marketing Division.
Sec. 12. Enforcement and applicability.

1 SEC. 2. DEFINITIONS.

2 (a) IN GENERAL.—In this Act:

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

4 (2) STANDARDS.—The term “standards” means benchmarks, guidelines, best practices, methodologies, procedures, and processes.

8 (b) OTHER DEFINITIONS.—The definitions set forth in section 1302 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501), as amended by section 3(a) of this Act, shall apply in this Act, except to the extent the Commission provides otherwise by regulations issued under section 553 of title 5, United States Code.

14 SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF PERSONAL INFORMATION OF CHILDREN AND MINORS.

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

20 (1) by amending paragraph (2) to read as follows:

22 “(2) OPERATOR.—The term ‘operator’—
“(A) means any person—

“(i) who, for commercial purposes, in
interstate or foreign commerce operates or
provides a website on the internet, an on-
one service, an online application, a mobile
application, or a connected device; and

“(ii) who—

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

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

“(III) allows users of that
website, service, application, or con-
ected device to publicly disclose per-
sonal information (in which case, the
operator is deemed to have collected
the information); and
“(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).”;

(2) in paragraph (4)—

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

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

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

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

(B) in subparagraph (B)—

(i) by inserting “or minor” after “child” each place the term appears;
(ii) by inserting "or minors" after "children"; and

(iii) by striking "website or online service" and inserting "website, online service, online application, mobile application, or connected device";

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

"(F) geolocation information;

"(G) information generated from the measurement or technological processing of an individual’s biological, physical, or physiological characteristics, including—

"(i) fingerprints;

"(ii) voice prints;

"(iii) iris or retina imagery scans;

"(iv) facial imagery or templates;

"(v) deoxyribonucleic acid (DNA) information; or

"(vi) gait;

"(H) information reasonably associated with or attributed to a child or minor;

"(I) information (including an internet protocol address) that permits the identification of—
"(i) an individual; or

"(ii) any device used by an individual to directly or indirectly access the internet or an online service, online application, mobile application, or connected device; or

"(J) information concerning a child or minor or the parents of that child or minor (including any unique or substantially unique identifier, such as a customer number) that an operator collects online from the child or minor and combines with an identifier described in this paragraph."

(4) by amending paragraph (9) to read as follows:

"(9) VERIFIABLE CONSENT.—The term 'verifiable consent' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that, in the case of a child, a parent of the child, or, in the case of a minor, the minor—

"(A) receives specific notice of the personal information collection, use, and disclosure practices of the operator; and
“(B) before the personal information of the
child or minor is collected, freely and unambig-
uously authorizes—

“(i) the collection, use, and disclosure,
as applicable, of that personal information;
and
“(ii) any subsequent use of that per-
sonal information.”;

(5) by striking paragraph (10) and redesign-
ating paragraphs (11) and (12) as paragraphs (10)
and (11), respectively; and

(6) by adding at the end the following:

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

“(13) ONLINE APPLICATION.—The term ‘online
application’—

“(A) means an internet-connected software
program; and
“(B) includes a service or application of-
ered via a connected device.

“(14) ONLINE SERVICE.—

“(A) IN GENERAL.—The term ‘online serv-
ice’ means a mass-market retail service by wire
or radio that provides the capability to transmit
data and receive data from all or substantially
all Internet endpoints, including any capabilities
that are incidental to and enable the operation
of a communications service, but excluding dial-
up Internet service.

“(B) SCOPE.—Such term includes—

“(i) any service that the Federal Com-
munications Commission finds to be pro-
viding a functionally equivalent service to a
service described in subparagraph (A); and

“(ii) a service or application offered
via a connected device.

“(15) DIRECTED TO CHILDREN OR MINORS.—

“(A) IN GENERAL.—The terms ‘directed to
children’, ‘directed to minors’, and ‘directed to
children or minors’ mean, with respect to a
website, online service, online application, mo-
obile application, or connected device, that the
website, online service, online application, mo-
obile application, or connected device, or a por-
tion thereof, is targeted to children or minors,
as the case may be, as demonstrated by—
“(i) the subject matter of the website, online service, online application, mobile application, or connected device;
“(ii) the visual content of the website, online service, online application, mobile application, or connected device;
“(iii) the use of animated characters or child-oriented activities for children, or the use of minor-oriented characters or minor-oriented activities for minors, and related incentives on the website, online service, online application, mobile application, or connected device;
“(iv) the music or other audio content on the website, online service, online application, mobile application, or connected device;
“(v) the age of models on the website, online service, online application, mobile application, or connected device;
“(vi) the presence, on the website, online service, online application, mobile application, or connected device, of—
“(I) child celebrities;
"(II) celebrities who appeal to children;

"(III) teen celebrities; or

"(IV) celebrities who appeal to minors;

"(vii) the language used on the website, online service, online application, mobile application, or connected device;

"(viii) advertising content used on, or used to advertise, the website, online service, online application, mobile application, or connected device; or

"(ix) reliable empirical evidence relating to—

"(I) the composition of the audience of the website, online service, online application, mobile application, or connected device; and

"(II) the intended audience of the website, online service, online application, mobile application, or connected device.

"(B) RULES OF CONSTRUCTION.—

"(i) SERVICES DEEMED DIRECTED TO CHILDREN OR MINORS.—For the purposes
of this title, a website, online service, online application, mobile application, or connected device, or a portion thereof, shall be deemed to be directed to children or minors if it collects personal information directly from users of any other website, online service, online application, mobile application, or connected device that is—

“(I) directed to children or minors under the criteria described in subparagraph (A); or

“(II) used or reasonably likely to be used by children or minors.

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

“(I) IN GENERAL.—A website, online service, online application, mobile application, or connected device that is directed to children or minors under the criteria described in subparagraph (A), but that does not target children or minors as the primary audience of the website, online service, online application, mobile application, or connected device shall not be
deemed to be directed to children or minors for purposes of this title if the website, online service, online application, mobile application, or connected device—

"(aa) does not collect personal information from any user of the website, online service, online application, mobile application, or connected device before verifying age information of the user; and

"(bb) does not, without first complying with any relevant notice and consent provision under this title, collect, use, or disclose personal information of any user who identifies themselves to the website, online service, online application, mobile application, or connected device as an individual who is age 16 or younger.

"(II) USE OF CERTAIN TOOLS.—

For purposes of this title, a website, online service, online application, mo-
bile application, or connected device, shall not be deemed directed to children or minors solely because the website, online service, online application, mobile application, or connected device refers or links to any other website, online service, online application, mobile application, or connected device directed to children or minors by using information location tools, including—

"(aa) a directory;

"(bb) an index;

"(cc) a reference;

"(dd) a pointer; or

"(ee) a hypertext link.

"(16) MOBILE APPLICATION.—The term 'mobile application'—

"(A) means a software program that runs on the operating system of—

"(i) a cellular telephone;

"(ii) a tablet computer; or

"(iii) a similar portable computing device that transmits data over a wireless connection; and
“(B) includes a service or application offered via a connected device.

“(17) GEOLOCATION INFORMATION.—The term ‘geolocation information’ means information sufficient to identify a street name and name of a city or town.

“(18) MINOR.—The term ‘minor’ means an individual over the age of 12 and under the age of 17.

“(19) TARGETED MARKETING.—The term ‘targeted marketing’ means advertising or any other effort to market a product or service that is directed to a specific individual or device—

“(A) based on—

“(i) the personal information of—

“(I) the individual; or

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

“(ii) psychological profiling of an individual or group of individuals; or

“(iii) a unique identifier of the device; or
“(B) as a result of use by the individual, access by any device of the individual, or use by a group of individuals who are similar to the specific individual, of more than a single—

“(i) website;
“(ii) online service;
“(iii) online application;
“(iv) mobile application;
“(v) connected device; or
“(vi) operating system.

“(20) REASONABLY LIKELY TO BE USED.—The Commission may promulgate rules under section 553 of title 5, United States Code, or issue guidance to establish factors that should be considered in applying the term ‘reasonably likely to be used’ for the purposes of this title.

“(21) REASONABLY LIKELY TO BE A CHILD OR MINOR.—The Commission may promulgate rules under section 553 of title 5, United States Code, or issue guidance to establish factors that should be considered in applying the term ‘reasonably likely to be a child or minor’ for the purposes of this title.”.

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

(1) by striking the heading and inserting the following: “ONLINE COLLECTION, USE, AND DISCLOSURE OF PERSONAL INFORMATION OF CHILDREN AND MINORS.”;

(2) in subsection (a)—

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

“(1) IN GENERAL.—It is unlawful for an operator of a website, online service, online application, mobile application, or connected device that is directed to children or minors or is used or reasonably likely to be used by children or minors in a manner that involves the collection of personal information, to collect personal information from a child or minor in a manner that violates the regulations prescribed under subsection (b).”; and

(B) in paragraph (2)—

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

(ii) by striking “subsection (b)(1)(B)(iii) to the parent of a child” and inserting “subsection (b)(1)(A)(iii) to the
parent of a child or under subsection
(b)(1)(A)(iv) to a minor”; and
(3) in subsection (b)—
(A) by amending paragraph (1) to read as
follows:
“(1) REGULATIONS.—
“(A) IN GENERAL.—Not later than 1 year
after the date of enactment of the Children and
Teens’ Online Privacy Protection Act, the Com-
mission shall promulgate, under section 553 of
title 5, United States Code, regulations to re-
quire an operator of a website, online service,
online application, mobile application, or con-
ected device that is directed to children or mi-
nors or is used or is reasonably likely to be used
by children or minors in a manner that involves
the collection of their personal information—
“(i) to provide clear and conspicuous
notice in clear and plain language of—
“(I) the types of personal infor-
mation the operator collects;
“(II) how the operator uses the
information;
“(III) whether and why the oper-
ator discloses the information; and
“(IV) the procedures or mechanisms the operator uses to ensure that personal information is not collected from children or minors except in accordance with the regulations promulgated under this paragraph;

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

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

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

“(II) the opportunity at any time to delete personal information collected from the child and refuse further use or collection of personal information from the child; and

“(III) a means that is reasonable under the circumstances for the parent to obtain any personal information collected from the child, if such infor-
mation is available to the operator at
the time the parent makes the re-
quest;
“(iv) to provide to a minor who has
provided personal information to the oper-
ator, upon request by and proper identi-
fication of the minor—
“(I) a description of the specific
types of personal information collected
from the minor by the operator;
“(II) the opportunity at any time
to delete personal information col-
clected from the minor and refuse fur-
ther use or collection of personal in-
formation from the minor; and
“(III) a means that is reasonable
under the circumstances for the minor
to obtain any personal information
collected from the minor, if such in-
formation is available to the operator
at the time the minor makes the re-
quest;
“(v) to prevent the collection from a
child or minor of more personal informa-
tion that is reasonably required to use the
website, online service, online application, mobile application, or connected device;
and

“(vi) to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children and minors.

“(B) UPDATES.—The Commission shall review and update the regulations promulgated under subparagraph (A) as necessary.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “verifiable parental consent” and inserting “verifiable consent”;

(ii) in subparagraph (A)—

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

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

(III) by inserting “or minor or to contact another child or minor” after “to recontact the child”; 

(iii) in subparagraph (B)—
21

(I) by striking “parent or child” and inserting “parent or minor”; and
(II) by striking “parental consent” each place the term appears and inserting “verifiable consent”;
(iv) in subparagraph (C)—
(I) in the matter preceding clause (i), by inserting “or minor” after “child” each place the term appears;
(II) in clause (i)—
(aa) by inserting “or minor” after “child” each place the term appears; and
(bb) by inserting “or minor, as applicable,” after “parent” each place the term appears; and
(III) in clause (ii)—
(aa) by inserting “or minor, as applicable,” after “parent”; and
(bb) by inserting “or minor” after “child” each place the term appears; and
(v) in subparagraph (D)—
22

(I) in the matter preceding clause

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

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

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

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

(bb) by inserting “or minor”
after “child”; and

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

“(3) CONTINUATION OF SERVICE.—The regula-
tions shall prohibit an operator from discontinuing
service provided to a child or minor on the basis of
a request by the parent of the child or by the minor,
under the regulations prescribed under clauses
(iii)(II) and (iv)(II), respectively, of paragraph
(1)(A) to delete personal information collected from
the child or minor, to the extent that the operator
is capable of providing such service without such in-
formation.”.
(c) SAFE HARBORS.—Section 1304 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6503) is amended—

(1) in subsection (b)(1), by inserting “and minors” after “children”; and

(2) by adding at the end the following:

“(d) PUBLICATION.—

“(1) IN GENERAL.—The Commission shall publish on the internet website of the Commission any report or documentation required by regulation to be submitted to the Commission to carry out this section.

“(2) RESTRICTIONS ON PUBLICATION.—The restrictions described in subsection (f) of section 6 of the Federal Trade Commission Act (15 U.S.C. 46(f)) applicable to the publication of information obtained by the Commission through investigations conducted under such section shall apply in same manner to the publication under this subsection of information obtained by the Commission from a report or documentation described in paragraph (1).”.

(d) ADMINISTRATION AND APPLICABILITY OF ACT.—

Section 1306 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6505) is amended—

(1) in subsection (b)—
(A) in paragraph (1), by striking "in the case of" and all that follows through "the Board of Directors of the Federal Deposit Insurance Corporation;" and inserting the following: "by the appropriate Federal banking agency, with respect to any insured depository institution (as those terms are defined in section 3 of that Act (12 U.S.C. 1813));"; and

(B) by striking paragraph (2) and redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively; and

(2) by adding at the end the following new subsection:

"(f) TELECOMMUNICATIONS CARRIERS AND CABLE OPERATORS.—

"(1) ENFORCEMENT BY COMMISSION.—Notwithstanding sections 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46), or any jurisdictional limitation of the Commission, the Commission shall also enforce this Act and the regulations promulgated under this Act, in the same manner provided in subsection (d), with respect to common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and Acts amendatory thereof and supplementary thereto.
“(2) RELATIONSHIP TO OTHER LAW.—To the extent that section 222, 338(i), or 631 of the Communications Act of 1934 (47 U.S.C. 222, 338(i), 551) is inconsistent with this title, this title controls.”

6 SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.

(a) IN GENERAL.—The Fair Information Practices Principles described in this section are the following:

(1) COLLECTION LIMITATION PRINCIPLE.—Except as provided in paragraph (3), personal information should be collected from a child or minor only when collection of the personal information is—

(A) consistent with the context of a particular transaction or service or the relationship of the child or minor with the operator, including collection necessary to fulfill a transaction or provide a service requested by the child or minor; or

(B) required or specifically authorized by law.

(2) DATA QUALITY PRINCIPLE.—The personal information of a child or minor should be accurate, complete, and kept up-to-date to the extent necessary to fulfill the purposes described in subparagraphs (A) through (D) of paragraph (3).
(3) PURPOSE SPECIFICATION PRINCIPLE.—The purposes for which personal information is collected and used should be specified to the parent of a child or to a minor not later than at the time of the collection of the information. The subsequent use or disclosure of the information should be limited to—

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

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

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

(D) other purposes—

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

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

(4) **RETENTION LIMITATION PRINCIPLE.**—

(A) **IN GENERAL.**—The personal information of a child or minor should not be retained for longer than is necessary to fulfill a transaction or provide a service requested by the child or minor or such other purposes specified in subparagraphs (A) through (D) of paragraph (3).

(B) **DATA DISPOSAL.**—The operator should implement a reasonable and appropriate data disposal policy based on the nature and sensitivity of personal information described in subparagraph (A).

(5) **SECURITY SAFEGUARDS PRINCIPLE.**—The personal information of a child or minor should be protected by reasonable and appropriate security safeguards against risks such as loss or unauthorized access, destruction, use, modification, or disclosure.

(6) **TRANSPARENCY PRINCIPLE.**—

(A) **GENERAL PRINCIPLE.**—The operator should be transparent about developments,
practices, and policies with respect to the personal information of a child or minor.

(B) Provision of Information.—The operator should provide to each parent of a child, or to each minor, using the website, online service, online application, mobile application, or connected device of the operator with a clear and prominent means—

(i) to identify and contact the operator, by, at a minimum, disclosing, clearly and prominently, the identity of the operator and—

(I) in the case of an operator who is an individual, the address of the principal residence of the operator and an email address or online contact form and telephone number for the operator; or

(II) in the case of any other operator, the address of the principal place of business of the operator and an email address or online contact form and telephone number for the operator;
(ii) to determine whether the operator possesses any personal information of the child or minor, the nature of any such information, and the purposes for which the information was collected and is being retained;

(iii) to obtain any personal information of the child or minor that is in the possession of the operator from the operator, or from a person specified by the operator, within a reasonable time after making a request, at a charge (if any) that is not excessive, in a reasonable manner, and in a form that is readily intelligible to the child or minor;

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

(v) to determine if the child or minor has established the inaccuracy of personal information in a challenge under clause (iv) in order to have such information erased, corrected, completed, or otherwise amended; and
(vi) to determine the method by which
the operator obtains data relevant to the
child or minor.

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

(7) INDIVIDUAL PARTICIPATION PRINCIPLE.—
The operator should—

(A) obtain consent from a parent of a child
or from a minor before using or disclosing the
personal information of the child or minor for
any purpose other than the purposes described
in subparagraph (A) of paragraph (3); and

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

(8) RACIAL AND SOCIOECONOMIC PROFILING.—
The personal information of a child or minor shall
not be used to direct content to the child or minor,
or a group of individuals similar to the child or minor, on the basis of race, socioeconomic factors, or any proxy thereof.

(b) RULE OF CONSTRUCTION.—Nothing in this section, including compliance with the Fair Information Principles, shall be construed to permit an operator to avoid compliance with other requirements set forth in this Act or the Children’s Online Privacy Protection Act (15 U.S.C. 6501 et seq.).

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

(a) ACTS PROHIBITED.—

(1) PROHIBITION.—

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

(i) the user is reasonably likely to be a minor; or

(ii) the website, online service, online application, mobile application, or connected device is directed to minors.

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

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

(b) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Commission shall promulgate, under section 553 of title 5, United States Code, regulations to implement this section, including regulations further defining the Fair Information Practices Principles described in section 4.

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

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

(a) **ACTS PROHIBITED.**—

(1) **CHILDREN.**—It shall be unlawful for an operator of a website, online service, online application, mobile application, or connected device to collect, use, disclose to third parties, or compile personal in-
formation of a user for purposes of targeted marketing (or to allow another person to collect, use, disclose, or compile such information for such purpose) if—

(A) such use, disclosure, or compiling of personal information involves or is reasonably likely to involve collection of personal information from a child; or

(B) the website, online service, online application, mobile application, or connected device is directed to children.

(2) MINORS.—

(A) PROHIBITION.—Except as provided in subparagraph (B), it shall be unlawful for an operator of a website, online service, online application, mobile application, or connected device to collect, use, disclose to third parties, or compile personal information of a user for purposes of targeted marketing (or to allow another person to collect, use, disclose, or compile such information for such purpose) if—

(i) the user is or is reasonably likely to be a minor; or
(ii) the website, online service, online
application, mobile application, or con-
ected device is directed to minors.

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

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

(b) REGULATIONS.—

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

(2) UPDATES.—The Commission shall review
and update the regulations promulgated under para-
graph (1) as necessary.

SEC. 7. REMOVAL OF CONTENT.

(a) ACTS PROHIBITED.—It is unlawful for an oper-
ator to make, or enable a child or minor to make, publicly
available through a website, online service, online applica-
tion, mobile application, or connected device content or in-
formation that contains or displays personal information
of children or minors in a manner that violates subsection (b).

(b) REQUIREMENT.—

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

(A) implement mechanisms that permit a user of the website, online service, online application, mobile application, or connected device of the operator (and, in the case of a user that is a child, a parent of that user) to erase or otherwise eliminate content or information that is—

(i) submitted to the website, online service, online application, mobile application, or connected device by that user;

(ii) publicly available through the website, online service, online application, mobile application, or connected device; and

(iii) contains or displays personal information of children or minors; and

(B) take appropriate steps to—

(i) make users and parents of users who are children aware of the mechanisms described in subparagraph (A); and
(ii) provide notice to users and parents of users who are children that the mechanisms described in subparagraph (A) do not necessarily provide comprehensive removal of the content or information submitted by users.

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

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

(B) was submitted to the website, online service, online application, mobile application, or connected device of the operator by any person other than the user who is attempting to erase or otherwise eliminate the content or information, including content or information submitted by the user that was republished or resubmitted by another person.

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

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

SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES
FOR CHILDREN AND MINORS.

(a) IN GENERAL.—A manufacturer of a connected
device directed to children or minors shall prominently dis-
play in an easy-to-access electronic format associated with
the connected device or on the packaging for the connected
device a standardized and easy-to-understand privacy
dashboard, detailing whether, what, and how personal in-
formation of a child or minor is—

(1) collected from the connected device;

(2) transmitted from the connected device;

(3) retained on the connected device;

(4) retained by the manufacturer or an affili-
ated third party;

(5) used by the manufacturer or an affiliated
third party; and

(6) protected.

(b) FEATURES.—A privacy dashboard under sub-
section (a) shall inform a consumer of—
(1) the extent to which the connected device meets the highest cybersecurity and data security standards, including if and how to obtain security patches;

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

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

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

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

(4) the location of privacy policies;

(5) the type of personal information the connected device may collect;

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

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

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

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

(2) UPDATES.—The Commission shall review and update the regulations promulgated under paragraph (1) as necessary.

(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the date that is 180 days after the promulgation of regulations under subsection (c).

SEC. 9. RULE FOR TREATMENT OF USERS OF WEBSITES, SERVICES, AND APPLICATIONS DIRECTED TO CHILDREN OR MINORS.

For the purposes of this Act, an operator of a website, online service, online application, mobile application, or connected device that is directed to children or minors shall treat each user of that website, online service, online application, mobile application, or connected device as a child or minor, except as permitted by the Commission pursuant to a regulation promulgated under this Act, and except to the extent the website, online service, online application, mobile application, or connected device is deemed directed to mixed audiences.
SEC. 10. STUDY OF MOBILE AND ONLINE APPLICATION OVERSIGHT.

Not later than 3 years after the date of enactment of this Act, the Commission shall submit to each committee of the Senate and each committee of the House of Representatives that has jurisdiction over the Commission a report on the processes of platforms that offer mobile and online applications for ensuring that, of those applications that are directed to children or minors, the applications operate in accordance with—

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

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

SEC. 11. YOUTH PRIVACY AND MARKETING DIVISION.

(a) ESTABLISHMENT.—There is established within the Commission a division to be known as the Youth Privacy and Marketing Division.

(b) DIRECTOR.—The Youth Privacy and Marketing Division shall be headed by a Director.

(c) DUTIES.—The Youth Privacy and Marketing Division established under subsection (a) shall be responsible for assisting the Commission to address, as it relates to this Act and the amendments made by this Act—
(1) the privacy of children and minors; and

(2) marketing directed at children and minors.

(d) STAFF.—The Director of the Youth Privacy and Marketing Division shall hire adequate staff to carry out the duties under subsection (e), including individuals who are experts in data protection, digital advertising, data analytics, and youth development.

(e) REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Director of the Youth and Privacy Marketing Division shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

(1) a description of the work of the Youth Privacy and Marketing Division on emerging concerns relating to youth privacy and marketing practices; and

(2) an assessment of how effectively the Commission has, during the period for which the report is submitted, addressed youth privacy and marketing practices.

SEC. 12. ENFORCEMENT AND APPLICABILITY.

(a) ENFORCEMENT BY THE COMMISSION.—
(1) IN GENERAL.—Except as otherwise provided, this Act and the regulations prescribed under this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

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

(3) ACTIONS BY THE COMMISSION.—

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

(B) VIOLATIONS.—Notwithstanding sec-
tion 5(m) of the Federal Trade Commission Act
(15 U.S.C. 45(m)), a civil penalty recovered for
a violation of this Act or a regulation prescribed
under this Act may be in excess of the amounts
provided for in that section as the court finds
appropriate to deter violations of this Act and
regulations prescribed under this Act.

(b) ENFORCEMENT BY CERTAIN OTHER AGEN-
CIES.—Notwithstanding subsection (a), compliance with
the requirements imposed under this Act shall be enforced
as follows:

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

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

(3) Under part A of subtitle VII of title 49,
United States Code, by the Secretary of Transpor-
tation, with respect to any air carrier or foreign air
carrier subject to such part.
(4) Under the Packers and Stockyards Act,
1921 (7 U.S.C. 181 et seq.) (except as provided in
section 406 of that Act (7 U.S.C. 226, 227)) by the
Secretary of Agriculture, with respect to any activi-
ties subject to that Act.
(5) Under the Farm Credit Act of 1971 (12
U.S.C. 2001 et seq.) by the Farm Credit Adminis-
tration, with respect to any Federal land bank, Fed-
ceral land bank association, Federal intermediate
credit bank, or production credit association.
(c) ENFORCEMENT BY STATE ATTORNEYS GEN-
eral.—
(1) IN GENERAL.—
(A) CIVIL ACTIONS.—In any case in which
the attorney general of a State has reason to
believe that an interest of the residents of that
State has been or is threatened or adversely af-
fected by the engagement of any person in a
practice that violates this Act or a regulation
prescribed under this Act, the State, as parens
patriae, may bring a civil action on behalf of
the residents of the State in a district court of
the United States of appropriate jurisdiction
to—

(i) enjoin that practice;
(ii) enforce compliance with this Act
or such regulation;
(iii) obtain damages, restitution, or
other compensation on behalf of residents
of the State; or
(iv) obtain such other relief as the
court may consider to be appropriate.

(B) NOTICE.—

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

(I) written notice of that action;
and

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

(ii) EXEMPTION.—

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

(II) Notification.—In an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(2) Intervention.—

(A) In General.—On receiving notice under paragraph (1)(B), the Commission shall have the right to intervene in the action that is the subject of the notice.

(B) Effect of Intervention.—If the Commission intervenes in an action under paragraph (1), it shall have the right—

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

(ii) to file a petition for appeal.

(3) Construction.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred
on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(4) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of this Act or a regulation prescribed under this Act, no State may, during the pendency of that action, institute a separate action under paragraph (1) against any defendant named in the complaint in the action instituted by or on behalf of the Commission for that violation.

(5) VENUE; SERVICE OF PROCESS.—

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

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

(i) is an inhabitant; or
(ii) may be found.

(d) TELECOMMUNICATIONS CARRIERS AND CABLE OPERATORS.—

(1) ENFORCEMENT BY COMMISSION.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Commission, the Commission shall also enforce this Act and regulations promulgated under this Act, in the same manner provided in paragraph (a), with respect to common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and Acts amendatory thereof and supplementary thereto.

(2) RELATIONSHIP TO OTHER LAWS.—To the extent that section 222, 338(i), or 631 of the Communications Act of 1934 (47 U.S.C. 222, 338(i), 551) is inconsistent with this Act, this Act controls.

(e) SAFE HARBORS.—

(1) DEFINITION.—In this subsection—

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

(B) the term “covered operator” means an operator subject to guidelines approved under paragraph (2);
(C) the term "requesting entity" means an entity that submits a safe harbor request to the Commission; and

(D) the term "safe harbor request" means a request to have self-regulatory guidelines described in paragraph (2)(A) approved under that paragraph.

(2) GUIDELINES.—

(A) IN GENERAL.—An operator may satisfy the requirements of regulations issued under an applicable section by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, that, after notice and an opportunity for comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under that applicable section.

(B) EXPEDITED RESPONSE TO REQUESTS.—Not later than 180 days after the date on which a safe harbor request is filed under subparagraph (A), the Commission shall act upon the request set forth in writing the conclusions of the Commission with regard to the request.
(C) APPEALS.—A requesting entity may appeal the final action of the Commission under subparagraph (B), or a failure by the Commission to act in the period described in that paragraph, to a district court of the United States of appropriate jurisdiction, as provided for in section 706 of title 5, United States Code.

(3) INCENTIVES.—

(A) SELF-REGULATORY INCENTIVES.—In prescribing regulations under an applicable section, the Commission shall provide incentives for self-regulation by covered operators to implement the protections afforded children and minors, as applicable, under the regulatory requirements described in those sections.

(B) DEEMED COMPLIANCE.—The incentives under subparagraph (A) shall include provisions for ensuring that a covered operator will be deemed to be in compliance with the requirements of the regulations under an applicable section if that person complies with guidelines approved under paragraph (2).

(4) REGULATIONS.—
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(A) IN GENERAL.—In prescribing regulations relating to safe harbor guidelines under
an applicable section, the Commission shall—

   (i) establish criteria for the approval
   of guidelines that will ensure that a cov-
   ered operator provides substantially the
   same or greater protections for children
   and minors, as applicable, as those con-
   tained in the regulations issued under the
   applicable section; and

   (ii) subject to subsection (B), require
   that any report or documentation required
   to be submitted to the Commission by a
   covered operator or requesting entity will
   be published on the internet website of the
   Commission.

(B) RESTRICTIONS ON PUBLICATION.—

The restrictions described in subsection (f) of
section 6 of the Federal Trade Commission Act
(15 U.S.C. 46(f)) applicable to the publication
of information obtained by the Commission
through investigations conducted under such
section shall apply in same manner to the publi-
cation under this paragraph of information in-
cluded in a report or documentation described
in subparagraph (A).

(5) REPORT BY THE INSPECTOR GENERAL.—

(A) IN GENERAL.—Not later than 2 years
after the date of enactment of this Act, and
once each 2 years thereafter, the Inspector Gen-
eral of the Commission shall submit to the
Commission and each committee of the Senate
and each committee of the House of Represent-
atives that has jurisdiction over the Commission
a report regarding the safe harbor provisions
under this subparagraph, which shall include—

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

(I) operating fairly and effec-
tively; and

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

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

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

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