

BLACKBURN - ANS (as modified)

MUR26421 YC1

S.L.C.

Marsha Blackburn

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 1748

To protect the safety of children on the internet.

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 _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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
17 and that is used, or is reasonably likely to be
18 used, by a minor.

1 (B) EXCEPTIONS.—The term “covered
2 platform” does not include—

3 (i) an entity acting in its capacity as
4 a provider of—

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

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

15 (III) an email service;

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

21 (aa) the service is not an on-
22 line platform; and

23 (bb) the real-time commu-
24 nication is initiated by using a

1 unique link or identifier to facili-
2 tate access; or

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

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

20 (iii) any public or private—

21 (I) early childhood education pro-
22 gram or preschool that provides for
23 the care, development, and education
24 of infants, toddlers, or young children

1 who are not yet enrolled in kinder-
2 garten;

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

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

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

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

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 (ix) a website or app that primarily
25 functions to offer goods, including food, for

1 sale and enables their order, purchase, de-
2 livery, exchange, or return designed to fur-
3 ther that primary function; or

4 (x) a website or app that primarily
5 functions to provide career development
6 opportunities, such as professional net-
7 working, job skills and learning certifi-
8 cations, or job posting and application
9 services.

10 (4) DESIGN FEATURE.—The term “design fea-
11 ture” means any feature or component of a covered
12 platform that will encourage or increase the fre-
13 quency, time spent, or activity of minors on the cov-
14 ered platform. Design features include but are not
15 limited to—

16 (A) infinite scrolling or auto play;

17 (B) rewards or incentives based on the fre-
18 quency, time spent, or activity of minors on the
19 covered platform;

20 (C) notifications and push alerts;

21 (D) badges or other visual award symbols
22 based on the frequency, time spent, or activity
23 of minors on the covered platform;

24 (E) personalized design features;

25 (F) in-game purchases; or

1 (G) appearance altering filters.

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

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

11 (7) MICROTRANSACTION.—

12 (A) IN GENERAL.—The term “microtrans-
13 action” means a purchase made in an online
14 video game (including a purchase made using a
15 virtual currency that is purchasable or redeem-
16 able using cash or credit or that is included as
17 part of a paid subscription service).

18 (B) INCLUSIONS.—Such term includes a
19 purchase involving surprise mechanics, new
20 characters, or in-game items.

21 (C) EXCLUSIONS.—Such term does not in-
22 clude—

23 (i) a purchase made in an online video
24 game using a virtual currency that is
25 earned through gameplay and is not other-

1 wise purchasable or redeemable using cash
2 or credit or included as part of a paid sub-
3 scription service; or

4 (ii) a purchase of additional levels
5 within the game or an overall expansion of
6 the game.

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

9 (9) NARCOTIC DRUG.—The term “narcotic
10 drug” has the meaning given such term in section
11 102 of the Controlled Substances Act (21 U.S.C.
12 802).

13 (10) ONLINE PLATFORM.—

14 (A) IN GENERAL.—The term “online plat-
15 form” means any public-facing website, online
16 service, online application, or mobile application
17 that predominantly provides a community
18 forum for user-generated content, such as shar-
19 ing videos, images, games, audio files, or other
20 content, including a social media service, social
21 network, or virtual reality environment.

22 (B) INCIDENTAL CHAT FUNCTIONS.—A
23 website, online service, online application, or
24 mobile application is not an online platform
25 solely on the basis that it includes a chat, com-

1 ment, customer review, or other interactive
2 function that is incidental to its predominant
3 purpose.

4 (11) ONLINE VIDEO GAME.—The term “online
5 video game” means a video game, including an edu-
6 cational video game, that connects to the internet
7 and that allows a user to—

8 (A) create and upload content other than
9 content that is incidental to gameplay, such as
10 character or level designs created by the user,
11 preselected phrases, or short interactions with
12 other users;

13 (B) engage in microtransactions within the
14 game; or

15 (C) communicate with other users.

16 (12) PARENT.—The term “parent” includes a
17 legal guardian.

18 (13) PERSONAL DATA.—The term “personal
19 data” has the same meaning as the term “personal
20 information” as defined in section 1302 of the Chil-
21 dren’s Online Privacy Protection Act (15 U.S.C.
22 6501).

23 (14) PERSONALIZED DESIGN FEATURE.—The
24 term “personalized design feature” means a fully or
25 partially automated system, including a rec-

1 ommendation system, that is based on the collection
2 of personal data of users and that encourages or in-
3 creases the frequency, time spent, or activity of mi-
4 nors on the covered platform.

5 (15) PERSONALIZED RECOMMENDATION SYS-
6 TEM.—The term “personalized recommendation sys-
7 tem” means a fully or partially automated system
8 used to suggest, promote, or rank content, including
9 other users, hashtags, or posts, based on the per-
10 sonal data of users. A recommendation system that
11 suggests, promotes, or ranks content based solely on
12 the user’s language, city or town, or age shall not
13 be considered a personalized recommendation sys-
14 tem.

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

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

20 (B) Child sexual abuse material, as de-
21 scribed in sections 2251, 2252, 2252A, and
22 2260 of title 18, United States Code.

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

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

4 (17) STATE.—The term “State” means each
5 State of the United States, the District of Columbia,
6 each commonwealth, territory, or possession of the
7 United States, and each federally recognized Indian
8 Tribe.

9 (18) USER.—The term “user” means, with re-
10 spect to a covered platform, an individual who reg-
11 isters an account or creates a profile on the covered
12 platform.

13 **SEC. 102. DUTY OF CARE.**

14 (a) PREVENTION OF HARM TO MINORS.—A covered
15 platform shall exercise reasonable care in the creation and
16 implementation of any design feature to prevent and miti-
17 gate the following harms to minors where a reasonable and
18 prudent person would agree that such harms were reason-
19 ably foreseeable by the covered platform and would agree
20 that the design feature is a contributing factor to such
21 harms:

22 (1) Eating disorders, substance use disorders,
23 and suicidal behaviors.

24 (2) Depressive disorders and anxiety disorders
25 when such conditions have objectively verifiable and

1 clinically diagnosable symptoms and are related to
2 compulsive usage.

3 (3) Patterns of use that indicate compulsive
4 usage.

5 (4) Physical violence or online harassment ac-
6 tivity that is so severe, pervasive, or objectively of-
7 fensive that it impacts a major life activity of a
8 minor.

9 (5) Sexual exploitation and abuse of minors.

10 (6) Distribution, sale, or use of narcotic drugs,
11 tobacco products, cannabis products, gambling, or
12 alcohol.

13 (7) Financial harms caused by unfair or decep-
14 tive acts or practices (as defined in section 5(a)(4)
15 of the Federal Trade Commission Act (15 U.S.C.
16 45(a)(4))).

17 (b) RULES OF CONSTRUCTION.—

18 (1) Nothing in subsection (a) shall be construed
19 to require a covered platform to prevent or preclude
20 any minor from—

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

23 (B) accessing resources and information
24 regarding the prevention or mitigation of the
25 harms described in subsection (a).

1 (2) Nothing in this section shall be construed to
2 allow a government entity to enforce subsection (a)
3 based upon the viewpoint of users expressed by or
4 through any speech, expression, or information pro-
5 tected by the First Amendment to the Constitution
6 of the United States.

7 **SEC. 103. SAFEGUARDS FOR MINORS.**

8 (a) SAFEGUARDS FOR MINORS.—

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

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

15 (B) prevent other users or visitors, wheth-
16 er registered or not, from viewing the minor's
17 personal data collected by or shared on the cov-
18 ered platform, in particular restricting public
19 access to personal data;

20 (C) limit by default design features that
21 encourage or increase the frequency, time
22 spent, or activity of minors on the covered plat-
23 form, such as infinite scrolling, auto playing,
24 rewards for time spent on the platform, notifi-
25 cations, and other design features that result in

1 compulsive usage of the covered platform by the
2 minor;

3 (D) control personalized recommendation
4 systems, including the ability for a minor to
5 have—

6 (i) a prominently displayed option to
7 opt out of such personalized recommenda-
8 tion systems; and

9 (ii) a prominently displayed option to
10 limit types or categories of recommenda-
11 tions from such systems; and

12 (E) restrict the sharing of the geolocation
13 of the minor and provide notice regarding the
14 tracking of the minor's geolocation.

15 (2) OPTION.—A covered platform shall provide
16 a user that the covered platform knows is a minor
17 with a readily accessible and easy-to-use option to
18 limit the amount of time spent by the minor on the
19 covered platform.

20 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
21 NORS.—A covered platform shall provide that, in the
22 case of a user or visitor that the platform knows is
23 a minor, the default setting for any safeguard de-
24 scribed under paragraph (1) shall be the option
25 available on the platform that provides the most pro-

1 tective level of control that is offered by the platform
2 over privacy and safety for that user or visitor, un-
3 less otherwise enabled by the parent of the minor.

4 (b) PARENTAL TOOLS.—

5 (1) TOOLS.—A covered platform shall provide
6 readily accessible and easy-to-use parental tools for
7 parents to support a user that the platform knows
8 is a minor with respect to the use of the platform
9 by that user.

10 (2) REQUIREMENTS.—The parental tools pro-
11 vided by a covered platform under paragraph (1)
12 shall include—

13 (A) the ability to manage a minor’s privacy
14 and account settings, including the safeguards
15 and options established under subsection (a), in
16 a manner that allows parents to—

17 (i) view the privacy and account set-
18 tings; and

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

22 (B) the ability to restrict purchases and fi-
23 nancial transactions by the minor, where appli-
24 cable; and

1 (C) the ability to view metrics of total time
2 spent on the covered platform and restrict time
3 spent on the covered platform by the minor.

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

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

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

22 (c) REPORTING MECHANISM.—

23 (1) REPORTING TOOLS.—A covered platform
24 shall provide—

1 (A) a readily accessible and easy-to-use
2 means for users and visitors to submit reports
3 to the covered platform of harms to a minor on
4 the covered platform;

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

7 (C) confirmation of the receipt of such a
8 report and, within the applicable time period
9 described in paragraph (2), a substantive re-
10 sponse to the individual that submitted the re-
11 port.

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

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

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

1 (C) notwithstanding subparagraphs (A)
2 and (B), if the report involves an imminent
3 threat to the safety of a minor, as promptly as
4 needed to address the reported threat to safety.

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

10 (e) RULES OF APPLICATION.—

11 (1) ACCESSIBILITY.—With respect to safe-
12 guards and parental tools described under sub-
13 sections (a) and (b), a covered platform shall pro-
14 vide—

15 (A) information and control options in a
16 clear and conspicuous manner that takes into
17 consideration the differing ages, capacities, and
18 developmental needs of the minors most likely
19 to access the covered platform and does not en-
20 courage minors or parents to weaken or disable
21 safeguards or parental tools;

22 (B) readily accessible and easy-to-use con-
23 trols to enable or disable safeguards or parental
24 tools, as appropriate; and

1 (C) information and control options in the
2 same language, form, and manner as the cov-
3 ered platform provides the product or service
4 used by minors and their parents.

5 (2) DARK PATTERNS PROHIBITION.—It shall be
6 unlawful for any covered platform to design, embed,
7 modify, or manipulate a user interface of a covered
8 platform with the purpose or substantial effect of
9 obscuring, subverting or impairing user autonomy,
10 decision-making, or choice with respect to safe-
11 guards or parental tools required under this section.

12 (3) TIMING CONSIDERATIONS.—

13 (A) NO INTERRUPTION TO GAMEPLAY.—
14 Subsections (a)(1)(C) and (b)(3) shall not re-
15 quire an online video game to interrupt the nat-
16 ural sequence of gameplay, such as progressing
17 through game levels or finishing a competition.

18 (B) APPLICATION OF CHANGES TO OFF-
19 LINE DEVICES OR ACCOUNTS.—If a user's de-
20 vice or user account does not have access to the
21 internet at the time of a change to parental
22 tools, a covered platform shall apply changes
23 the next time the device or user is connected to
24 the internet.

25 (f) DEVICE OR CONSOLE CONTROLS.—

1 (1) IN GENERAL.—Nothing in this section shall
2 be construed to prohibit a covered platform from in-
3 tegrating its products or service with, or duplicate
4 controls or tools provided by, third-party systems,
5 including operating systems or gaming consoles, to
6 meet the requirements imposed under subsections
7 (a) and (b) relating to safeguards for minors and
8 parental tools, provided that—

9 (A) the controls or tools meet such require-
10 ments; and

11 (B) the minor and parent are provided suf-
12 ficient notice of the integration and use of the
13 parental tools.

14 (2) PRESERVATION OF PROTECTIONS.—In the
15 event of a conflict between the controls or tools of
16 a third-party system, including operating systems or
17 gaming consoles, and a covered platform, the cov-
18 ered platform is not required to override the controls
19 or tools of a third-party system if it would under-
20 mine the protections for minors from the safeguards
21 or parental tools imposed under subsections (a) and
22 (b).

23 (g) EXCEPTION.—A covered platform shall provide
24 the safeguards and parental tools described in subsections
25 (a) and (b) to an educational agency or institution (as de-

1 fined in section 444 of the General Education Provisions
2 Act (20 U.S.C. 1232g(a)(3))), rather than to the user or
3 visitor, when the covered platform is acting on behalf of
4 the educational agency or institution subject to a written
5 contract that complies with the requirements of the Chil-
6 dren's Online Privacy Protection Act (15 U.S.C. 6501 et
7 seq.) and the Family Educational Rights and Privacy Act
8 of 1974 (20 U.S.C. 1232g).

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

11 (1) prevent a covered platform from taking rea-
12 sonable measures to—

13 (A) block, detect, or prevent the distribu-
14 tion of unlawful, obscene, or other harmful ma-
15 terial to minors as described in section 102(a);
16 or

17 (B) block or filter spam, prevent criminal
18 activity, or protect the security of a platform or
19 service;

20 (2) require the disclosure of the browsing be-
21 havior, search history, messages, contact list, or
22 other content or metadata of the communications of
23 a minor;

24 (3) prevent a covered platform from using a
25 personalized recommendation system to display con-

1 tent to a minor if the system only uses information
2 on—

3 (A) the language spoken by the minor;

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

5 (C) the minor's age;

6 (4) prevent an online video game from dis-
7 closing a username or other user identification for
8 the purpose of competitive gameplay or to allow for
9 the reporting of users;

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

18 (6) prevent a parent or user from authorizing
19 a third-party entity described in subparagraph (5) to
20 implement such safeguards or parental tools or pro-
21 vide similar or stronger protective capabilities for
22 minors, at the choice of the parent or user.

23 **SEC. 104. DISCLOSURE.**

24 (a) NOTICE.—

1 (1) REGISTRATION OR PURCHASE.—Prior to
2 registration or purchase of a covered platform by an
3 individual that the platform knows is a minor, the
4 platform shall provide clear, conspicuous, and easy-
5 to-understand—

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

9 (B) information about how to access the
10 safeguards and parental tools required under
11 section 103; and

12 (C) notice about how to access the infor-
13 mation on personalized recommendation sys-
14 tems required under subsection (b).

15 (2) NOTIFICATION.—

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

1 (B) REASONABLE EFFORT.—A covered
2 platform shall be deemed to have satisfied the
3 requirement described in subparagraph (A) if
4 the covered platform is in compliance with the
5 requirements of the Children’s Online Privacy
6 Protection Act of 1998 (15 U.S.C. 6501 et
7 seq.) to use reasonable efforts (taking into con-
8 sideration available technology) to provide a
9 parent with the information described in sub-
10 paragraph (A) and to obtain verifiable consent
11 as required.

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

22 (4) GUIDANCE.—The Federal Trade Commis-
23 sion may issue guidance to assist covered platforms
24 in complying with the specific notice requirements of
25 this subsection.

1 (b) PERSONALIZED RECOMMENDATION SYSTEM.—A
2 covered platform that operates a personalized rec-
3 ommendation system shall set out in its terms and condi-
4 tions, in a clear, conspicuous, and easy-to-understand
5 manner—

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

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

13 (c) ADVERTISING AND MARKETING INFORMATION
14 AND LABELS.—

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

20 (A) the name of the product, service, or
21 brand and the subject matter of an advertise-
22 ment; and

23 (B) whether particular media displayed to
24 the minor is an advertisement or marketing ma-
25 terial, including disclosure of endorsements of

1 products, services, or brands made for commer-
2 cial consideration by other users of the plat-
3 form.

4 (2) GUIDANCE.—The Federal Trade Commis-
5 sion may issue guidance to assist covered platforms
6 in complying with the requirements of this sub-
7 section, including guidance about the minimum level
8 of information and labels for the disclosures required
9 under paragraph (1).

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

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

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

19 (e) RESOURCES IN ADDITIONAL LANGUAGES.—A
20 covered platform shall ensure, to the extent practicable,
21 that the disclosures required by this section are made
22 available in the same language, form, and manner as the
23 covered platform provides any product or service used by
24 minors and their parents.

1 **SEC. 105. TRANSPARENCY.**

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

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

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

12 (2) the platform predominantly provides a com-
13 munity forum for user-generated content and discus-
14 sion, including sharing videos, images, games, audio
15 files, discussion in a virtual setting, or other content,
16 such as acting as a social media platform, virtual re-
17 ality environment, or a social network service.

18 (c) CONTENT.—

19 (1) TRANSPARENCY.—The public reports re-
20 quired of a covered platform under this section shall
21 include—

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

24 (B) a description of the commercial inter-
25 ests of the covered platform being used by mi-
26 nors;

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

3 (i) the number of users using the cov-
4 ered platform that the platform knows to
5 be minors in the United States;

6 (ii) the median and mean amounts of
7 time spent on the platform by users known
8 to be minors in the United States who
9 have accessed the platform during the re-
10 porting year on a daily, weekly, and
11 monthly basis; and

12 (iii) the amount of content being
13 accessed by users that the platform knows
14 to be minors in the United States that is
15 in English, and the top 5 non-English lan-
16 guages used by users accessing the plat-
17 form in the United States;

18 (D) an accounting of total reports received
19 through the reporting mechanism described in
20 section 103, disaggregated by language, includ-
21 ing English and the top 5 non-English lan-
22 guages used by users accessing the platform
23 from the United States (as identified under
24 subparagraph (C)(iii)); and

1 (E) an assessment of the safeguards and
2 parental tools under section 103, representa-
3 tions regarding the use of the personal data of
4 minors, and other matters regarding compliance
5 with this title.

6 (2) EVALUATION.—The public reports required
7 under this section shall include—

8 (A) an assessment based on aggregate data
9 on the exercise of safeguards and parental tools
10 described in section 103, and other competent
11 and reliable empirical evidence;

12 (B) a description of whether and how the
13 covered platform uses design features that in-
14 crease, sustain, or extend the use of a product
15 or service by a minor;

16 (C) a description of whether, how, and for
17 what purpose the platform collects or processes
18 categories of personal data, including how per-
19 sonal data is used to operate personalized rec-
20 ommendation systems related to minors;

21 (D) an evaluation of the efficacy of safe-
22 guards for minors and parental tools under sec-
23 tion 103, and any issues in delivering such safe-
24 guards and parental tools; and

1 (E) an assessment of differences, with re-
2 spect to the matters described in subparagraphs
3 (A) through (D), across different English and
4 non-English languages and efficacy of safe-
5 guards in those languages.

6 (3) MITIGATION.—The public reports required
7 of a covered platform under this section shall in-
8 clude, for English and the top 5 non-English lan-
9 guages used by users accessing the platform from
10 the United States (as identified under paragraph
11 (2)(C)(iii))—

12 (A) a description of the safeguards and pa-
13 rental tools available to minors and parents on
14 the covered platform;

15 (B) a description of the prevention and
16 mitigation measures a covered platform may
17 take, if any, in response to the assessments con-
18 ducted under paragraph (2), including steps
19 take to provide the most protective level of con-
20 trol over safety by default;

21 (C) a description of the processes used for
22 the creation and implementation of any design
23 feature that will be used by minors;

24 (D) a description and assessment of han-
25 dling reports under the requirement of section

1 103(c), including the rate of response, timeli-
2 ness, and substantiveness of responses; and
3 (E) the status of implementing prevention
4 and mitigation measures identified in prior as-
5 essments.

6 (d) REASONABLE INSPECTION.—In conducting an in-
7 spection of the reasonably foreseeable risk of harm to mi-
8 nors (as described in section 102(a)) under this section,
9 an independent, third-party auditor shall—

10 (1) take into consideration the function of per-
11 sonalized recommendation systems;

12 (2) consult parents and youth experts, including
13 youth and families with relevant past or current ex-
14 perience, public health and mental health nonprofit
15 organizations, health and development organizations,
16 and civil society with respect to the prevention of
17 harms to minors;

18 (3) conduct research based on experiences of
19 minors that use the covered platform, including re-
20 ports under section 103(c) and information provided
21 by law enforcement;

22 (4) take account of research, including research
23 regarding design features, marketing, or product in-
24 tegrity, industry best practices, or outside research;

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

4 (6) take into consideration differences in risk of
5 reasonably foreseeable harms and effectiveness of
6 safeguards across English and non-English lan-
7 guages.

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

11 (1) provide or otherwise make available to the
12 independent third-party conducting the audit all in-
13 formation and material in its possession, custody, or
14 control that is relevant to the audit;

15 (2) provide or otherwise make available to the
16 independent third-party conducting the audit access
17 to all network, systems, and assets relevant to the
18 audit; and

19 (3) disclose all relevant facts to the independent
20 third-party conducting the audit, and not misrep-
21 sent in any manner, expressly or by implication, any
22 relevant fact.

23 (f) PRIVACY SAFEGUARDS.—

24 (1) IN GENERAL.—In issuing the public reports
25 required under this section, a covered platform shall

1 take steps to safeguard the privacy of its users, in-
2 cluding ensuring that data is presented in a de-iden-
3 tified, aggregated format such that it is not reason-
4 ably linkable to any user.

5 (2) RULE OF CONSTRUCTION.—This section
6 shall not be construed to require the disclosure of in-
7 formation that will lead to material vulnerabilities
8 for the privacy of users or the security of a covered
9 platform’s service or create a significant risk of the
10 violation of Federal or State law.

11 (3) DEFINITION OF DE-IDENTIFIED.—As used
12 in this subsection, the term “de-identified” means
13 data that does not identify and is not linked or rea-
14 sonably linkable to a device that is linked or reason-
15 ably linkable to an individual, regardless of whether
16 the information is aggregated.

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

20 **SEC. 106. MARKET RESEARCH.**

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

1 (b) MARKET RESEARCH ON MINORS.—A covered
2 platform may not, in the case of a user or visitor that
3 the online platform knows is a minor, conduct market or
4 product-focused research on such minor, unless the cov-
5 ered platform obtains verifiable parental consent (as de-
6 fined in section 1302 of the Children’s Online Privacy Pro-
7 tection Act of 1998 (15 U.S.C. 6501)) prior to conducting
8 such research on such minor.

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

10 (a) STUDY.—The Secretary of Commerce, in coordi-
11 nation with the Federal Communications Commission and
12 the Federal Trade Commission, shall conduct a study eval-
13 uating the most technologically feasible methods and op-
14 tions for developing systems to verify age at the device
15 or operating system level.

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

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

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

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

24 (4) how such a system or systems could verify
25 age while mitigating risks to user privacy and data

1 security and safeguarding minors' personal data,
2 emphasizing minimizing the amount of data col-
3 lected and processed by covered platforms and age
4 verification providers for such a system;

5 (5) the technical feasibility, including the need
6 for potential hardware and software changes, includ-
7 ing for devices currently in commerce and owned by
8 consumers; and

9 (6) the impact of different age verification sys-
10 tems on competition, particularly the risk of dif-
11 ferent age verification systems creating barriers to
12 entry for small companies.

13 (c) REPORT.—Not later than 1 year after the date
14 of enactment of this Act, the agencies described in sub-
15 section (a) shall submit a report containing the results of
16 the study conducted under such subsection to the Com-
17 mittee on Commerce, Science, and Transportation of the
18 Senate and the Committee on Energy and Commerce of
19 the House of Representatives.

20 **SEC. 108. GUIDANCE.**

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

24 (1) provide information and examples for cov-
25 ered platforms and auditors regarding the following,

1 with consideration given to differences across
2 English and non-English languages—

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

6 (B) safeguarding minors against the pos-
7 sible misuse of parental tools;

8 (C) best practices in providing minors and
9 parents the most protective level of control over
10 privacy and safety;

11 (D) using indicia or inferences of age of
12 users for assessing use of the covered platform
13 by minors;

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

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

19 (2) outline conduct that does not have the pur-
20 pose or substantial effect of subverting or impairing
21 user autonomy, decision-making, or choice, or of
22 causing, increasing, or encouraging compulsive usage
23 for a minor, such as—

24 (A) de minimis user interface changes de-
25 rived from testing consumer preferences, includ-

1 ing different styles, layouts, or text, where such
2 changes are not done with the purpose of weak-
3 ening or disabling safeguards or parental tools;

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

6 (C) establishing default settings that pro-
7 vide enhanced privacy protection to users or
8 otherwise enhance their autonomy and decision-
9 making ability.

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

18 (c) LIMITATION ON FEDERAL TRADE COMMISSION
19 GUIDANCE.—

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

23 (A) confer any rights on any person, State,
24 or locality; or

1 (B) operate to bind the Federal Trade
2 Commission or any court, person, State, or lo-
3 cality to the approach recommended in such
4 guidance.

5 (2) USE IN ENFORCEMENT ACTIONS.—In any
6 enforcement action brought pursuant to this title,
7 the Federal Trade Commission or a State attorney
8 general, as applicable—

9 (A) shall allege a violation of a provision of
10 this title; and

11 (B) may not base such enforcement action
12 on, or execute a consent order based on, prac-
13 tices that are alleged to be inconsistent with
14 guidance issued by the Federal Trade Commis-
15 sion with respect to this title, unless the prac-
16 tices are alleged to violate a provision of this
17 title.

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

21 **SEC. 109. ENFORCEMENT.**

22 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
23 SION.—

24 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
25 TICES.—A violation of this title shall be treated as

1 a violation of a rule defining an unfair or deceptive
2 act or practice prescribed under section 18(a)(1)(B)
3 of the Federal Trade Commission Act (15 U.S.C.
4 57a(a)(1)(B)).

5 (2) POWERS OF THE COMMISSION.—

6 (A) IN GENERAL.—The Federal Trade
7 Commission (referred to in this section as the
8 “Commission”) shall enforce this title in the
9 same manner, by the same means, and with the
10 same jurisdiction, powers, and duties as though
11 all applicable terms and provisions of the Fed-
12 eral Trade Commission Act (15 U.S.C. 41 et
13 seq.) were incorporated into and made a part of
14 this title.

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

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

23 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
24 ERAL.—

25 (1) IN GENERAL.—

1 (A) CIVIL ACTIONS.—In any case in which
2 the attorney general of a State has reason to
3 believe that a covered platform has violated or
4 is violating section 103, 104, or 105, the State,
5 as *parens patriae*, may bring a civil action on
6 behalf of the residents of the State in a district
7 court of the United States or a State court of
8 appropriate jurisdiction to—

9 (i) enjoin any practice that violates
10 section 103, 104, or 105;

11 (ii) enforce compliance with section
12 103, 104, or 105;

13 (iii) on behalf of residents of the
14 State, obtain damages, restitution, or other
15 compensation, each of which shall be dis-
16 tributed in accordance with State law; or

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

19 (B) NOTICE.—

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

24 (I) written notice of that action;

25 and

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

3 (ii) EXEMPTION.—

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

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

18 (2) INTERVENTION.—

19 (A) IN GENERAL.—On receiving notice
20 under paragraph (1)(B), the Commission shall
21 have the right to intervene in the action that is
22 the subject of the notice.

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

- 1 (i) to remove the action to the appro-
2 priate United States district court;
3 (ii) to be heard with respect to any
4 matter that arises in that action; and
5 (iii) to file a petition for appeal.

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

- 12 (A) conduct investigations;
13 (B) administer oaths or affirmations; or
14 (C) compel the attendance of witnesses or
15 the production of documentary and other evi-
16 dence.

17 (4) ACTIONS BY THE COMMISSION.—In any
18 case in which an action is instituted by or on behalf
19 of the Commission for violation of this title, no State
20 may, during the pendency of that action, institute a
21 separate action under paragraph (1) against any de-
22 fendant named in the complaint in the action insti-
23 tuted by or on behalf of the Commission for that
24 violation.

25 (5) VENUE; SERVICE OF PROCESS.—

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

3 (i) the district court of the United
4 States that meets applicable requirements
5 relating to venue under section 1391 of
6 title 28, United States Code; or

7 (ii) a State court of competent juris-
8 diction.

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

13 (i) is an inhabitant; or

14 (ii) may be found.

15 (6) LIMITATION.—A violation of section 102
16 shall not form the basis of liability in any action
17 brought by the attorney general of a State under a
18 State law.

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

20 (a) ESTABLISHMENT.—There is established a Kids
21 Online Safety Council (in this section referred to as the
22 “Council”).

23 (b) DUTIES.—The duties of the Council shall be to
24 provide reports to Congress with recommendations and
25 advice on matters related to the safety of minors online.

1 The matters to be addressed by the Council shall in-
2 clude—

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

5 (2) recommending measures and methods for
6 assessing, preventing, and mitigating harms to mi-
7 nors online;

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

11 (4) recommending best practices and clear, con-
12 sensus-based technical standards for transparency
13 reports and audits, as required under this title, in-
14 cluding methods, criteria, and scope to promote
15 overall accountability.

16 (c) NUMBER AND APPOINTMENT OF MEMBERS.—
17 The Council shall be comprised of 11 members, of whom—

18 (1) 3 members shall be appointed by the Presi-
19 dent, including—

20 (A) the Secretary of Commerce or a des-
21 ignee of the Secretary; and

22 (B) the Secretary of Health and Human
23 Services or a designee of the Secretary;

24 (2) 2 members shall be appointed by the Speak-
25 er of the House of Representatives;

1 (3) 2 members shall be appointed by the Minor-
2 ity Leader of the House of Representatives;

3 (4) 2 members shall be appointed by the Major-
4 ity Leader of the Senate; and

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

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

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

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

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

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

21 (2) researchers with specific expertise in social
22 media studies;

23 (3) parents with demonstrated experience in
24 child online safety;

1 (4) youth representatives with demonstrated ex-
2 perience in child online safety;

3 (5) educators with demonstrated experience in
4 child online safety;

5 (6) representatives of online platforms;

6 (7) representatives of online video games;

7 (8) State attorneys general or their designees
8 acting in State or local government; and

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

12 (h) REPORTS.—

13 (1) INTERIM REPORT.—Not later than 1 year
14 after the date of the initial meeting of the Council,
15 the Council shall submit to Congress an interim re-
16 port that includes a detailed summary of the work
17 of the Council and any preliminary findings of the
18 Council.

19 (2) FINAL REPORT.—Not later than 3 years
20 after the date of the initial meeting of the Council,
21 the Council shall submit to Congress a final report
22 that includes—

23 (A) a detailed statement of the findings
24 and conclusions of the Council;

1 (B) dissenting opinions of any member of
2 the Council who does not support the findings
3 and conclusions referred to in subparagraph
4 (A); and

5 (C) any recommendations for legislative
6 and administrative actions to address online
7 safety for children and prevent harms to mi-
8 nors.

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

12 (j) **NON-APPLICABILITY OF FACA.**—The Kids On-
13 line Safety Council shall not be subject to chapter 10 of
14 title 5, United States Code (commonly referred to as the
15 “Federal Advisory Committee Act”).

16 **SEC. 111. EFFECTIVE DATE.**

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

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

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

23 (1) preempt section 444 of the General Edu-
24 cation Provisions Act (20 U.S.C. 1232g, commonly
25 known as the “Family Educational Rights and Pri-

1 vacy Act of 1974”) or other Federal or State laws
2 governing student privacy;

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

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

9 (4) expand, limit the scope, or alter the mean-
10 ing of section 230 of the Communications Act of
11 1934 (commonly known as “section 230 of the Com-
12 munications Decency Act of 1996”) (47 U.S.C.
13 230).

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

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

4 (1) the affirmative collection of any personal
5 data with respect to the age of users that a covered
6 platform is not already collecting in the normal
7 course of business; or

8 (2) a covered platform to implement an age
9 gating or age verification functionality.

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

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

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

19 (3) investigate, establish, exercise, respond to,
20 or defend against legal claims;

21 (4) prevent, detect, protect against, or respond
22 to any security incident, identity theft, fraud, har-
23 assment, malicious or deceptive activity, or any ille-
24 gal activities; or

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

3 (e) APPLICATION TO VIDEO STREAMING SERVICES.—

4 A video streaming service shall be deemed to be in compli-
5 ance with this title if it predominantly consists of news,
6 sports, entertainment, or other video programming con-
7 tent that is preselected by the provider and not user-gen-
8 erated, and—

9 (1) any chat, comment, or interactive
10 functionality is provided incidental to, directly re-
11 lated to, or dependent on provision of such content;
12 and

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

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

18 (B) to limit the automatic playing of on-
19 demand content selected by a personalized rec-
20 ommendation system for an individual that the
21 service knows is a minor;

22 (C) for a parent to manage a minor's pri-
23 vacy and account settings, and restrict pur-
24 chases and financial transactions by a minor,
25 where applicable;

1 (D) to provide an electronic point of con-
2 tact specific to matters described in this para-
3 graph;

4 (E) to offer a clear, conspicuous, and easy-
5 to-understand notice of its policies and prac-
6 tices with respect to the capabilities described
7 in this paragraph; and

8 (F) when providing on-demand content, to
9 employ measures that safeguard against serving
10 advertising for narcotic drugs, cannabis prod-
11 ucts, tobacco products, gambling, or alcohol di-
12 rectly to the account or profile of an individual
13 that the service knows is a minor.

14 **TITLE II—FILTER BUBBLE**
15 **TRANSPARENCY**

16 **SEC. 201. DEFINITIONS.**

17 In this title:

18 (1) **ALGORITHMIC RANKING SYSTEM.**—The
19 term “algorithmic ranking system” means a com-
20 putational process, including one derived from algo-
21 rithmic decision-making, machine learning, statis-
22 tical analysis, or other data processing or artificial
23 intelligence techniques, used to determine the selec-
24 tion, order, relative prioritization, or relative promi-
25 nence of content from a set of information that is

1 provided to a user on an online platform, including
2 the ranking of search results, the provision of con-
3 tent recommendations, the display of social media
4 posts, or any other method of automated content se-
5 lection.

6 (2) APPROXIMATE GEOLOCATION INFORMA-
7 TION.—The term “approximate geolocation informa-
8 tion” means information that identifies the location
9 of an individual, but with a precision of less than 5
10 miles.

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

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

15 (A) is capable of connecting to the inter-
16 net, either directly or indirectly through a net-
17 work, to communicate information at the direc-
18 tion of an individual;

19 (B) has computer processing capabilities
20 for collecting, sending, receiving, or analyzing
21 data; and

22 (C) is primarily designed for or marketed
23 to consumers.

24 (5) INPUT-TRANSPARENT ALGORITHM.—

1 (A) IN GENERAL.—The term “input-trans-
2 parent algorithm” means an algorithmic rank-
3 ing system that does not use the user-specific
4 data of a user to determine the selection, order,
5 relative prioritization, or relative prominence of
6 information that is furnished to such user on
7 an online platform, unless the user-specific data
8 is expressly provided to the platform by the
9 user for such purpose.

10 (B) DATA EXPRESSLY PROVIDED TO THE
11 PLATFORM.—For purposes of subparagraph
12 (A), user-specific data that is provided by a
13 user for the express purpose of determining the
14 selection, order, relative prioritization, or rel-
15 ative prominence of information that is fur-
16 nished to such user on an online platform—

17 (i) includes user-supplied search
18 terms, filters, speech patterns (if provided
19 for the purpose of enabling the platform to
20 accept spoken input or selecting the lan-
21 guage in which the user interacts with the
22 platform), saved preferences, the resump-
23 tion of a previous search, and the current
24 precise geolocation information that is sup-
25 plied by the user;

1 (ii) includes the user's current approx-
2 imate geolocation information;

3 (iii) includes data submitted to the
4 platform by the user that expresses the
5 user's desire to receive particular informa-
6 tion, such as the social media profiles the
7 user follows, the video channels the user
8 subscribes to, or other content or sources
9 of content on the platform the user has se-
10 lected;

11 (iv) does not include the history of the
12 connected device of the user, including the
13 history of web searches and browsing, pre-
14 vious geographical locations, physical activ-
15 ity, device interaction, and financial trans-
16 actions of the user; and

17 (v) does not include inferences about
18 the user or the connected device of the
19 user, without regard to whether such infer-
20 ences are based on data described in clause
21 (i) or (iii).

22 (6) ONLINE PLATFORM.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the term “online platform” means
25 any public-facing website, online service, online

1 application, or mobile application that predomi-
2 nantly provides a community forum for user-
3 generated content, such as sharing videos, im-
4 ages, games, audio files, or other content, in-
5 cluding a social media service, social network,
6 or virtual reality environment.

7 (B) SCOPE.—

8 (i) INCIDENTAL CHAT FUNCTIONS.—A
9 website, online service, online application,
10 or mobile application is not an online plat-
11 form solely on the basis that it includes a
12 chat, comment, or other interactive func-
13 tion that is incidental to its predominant
14 purpose.

15 (ii) REVIEW SITES.—A website, online
16 service, online application, or mobile appli-
17 cation that has the predominant purpose of
18 providing travel reviews is not an online
19 platform.

20 (7) OPAQUE ALGORITHM.—The term “opaque
21 algorithm”—

22 (A) means an algorithmic ranking system
23 that determines the selection, order, relative
24 prioritization, or relative prominence of infor-
25 mation that is furnished to such user on an on-

1 line platform based, in whole or part, on user-
2 specific data that was not expressly provided by
3 the user to the platform for such purpose; and

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

6 (i) the only user-specific data (includ-
7 ing inferences about the user) that the sys-
8 tem uses is information relating to the age
9 of the user; and

10 (ii) such information is only used to
11 restrict the access of a user to content on
12 the basis that the individual is not old
13 enough to access such content.

14 (8) PRECISE GEOLOCATION INFORMATION.—

15 The term “precise geolocation information” means
16 geolocation information that identifies the location of
17 an individual to within a range of 5 miles or less.

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

1 **SEC. 202. REQUIREMENT TO ALLOW USERS TO SEE**
2 **UNMANIPULATED CONTENT ON INTERNET**
3 **PLATFORMS.**

4 (a) IN GENERAL.—Beginning on the date that is 1
5 year after the date of enactment of this Act, it shall be
6 unlawful for any person to operate an online platform that
7 uses an opaque algorithm unless the person complies with
8 the requirements of subsection (b).

9 (b) OPAQUE ALGORITHM REQUIREMENTS.—

10 (1) IN GENERAL.—The requirements of this
11 subsection with respect to a person that operates an
12 online platform that uses an opaque algorithm are
13 the following:

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

16 (i) Notice that the platform uses an
17 opaque algorithm that uses user-specific
18 data to select the content the user sees.
19 Such notice shall be presented in a clear
20 and conspicuous manner on the platform
21 whenever the user interacts with an opaque
22 algorithm for the first time, and may be a
23 one-time notice that can be dismissed by
24 the user.

25 (ii) Notice, to be included in the terms
26 and conditions of the online platform, in a

1 clear, accessible, and easily comprehensible
2 manner that is to be updated whenever the
3 online platform makes a material change,
4 of—

5 (I) the most salient features, in-
6 puts, and parameters used by the al-
7 gorithm;

8 (II) how any user-specific data
9 used by the algorithm is collected or
10 inferred about a user of the platform,
11 and the categories of such data;

12 (III) any options that the online
13 platform makes available for a user of
14 the platform to opt out or exercise op-
15 tions under subparagraph (B), modify
16 the profile of the user or to influence
17 the features, inputs, or parameters
18 used by the algorithm; and

19 (IV) any quantities, such as time
20 spent using a product or specific
21 measures of engagement or social
22 interaction, that the algorithm is de-
23 signed to optimize, as well as a gen-
24 eral description of the relative impor-

1 tance of each quantity for such rank-
2 ing.

3 (B) The online platform enables users to
4 easily switch between the opaque algorithm and
5 an input-transparent algorithm in their use of
6 the platform.

7 (2) RULE OF CONSTRUCTION.—Nothing in this
8 subsection shall be construed to require an online
9 platform to disclose any information, including data
10 or algorithms—

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

13 (B) that is confidential business informa-
14 tion; or

15 (C) that is privileged.

16 (3) PROHIBITION ON DIFFERENTIAL PRIC-
17 ING.—An online platform shall not deny, charge dif-
18 ferent prices or rates for, or condition the provision
19 of a service or product to a user based on the user's
20 election to use an input-transparent algorithm in
21 their use of the platform, as provided under para-
22 graph (1)(B).

23 (4) SPECIAL RULE.—Notwithstanding para-
24 graphs (1) and (2), an online platform shall provide
25 the notice and opt-out described in paragraphs (1)

1 and (2) to the educational agency or institution (as
2 defined in section 444(a)(3) of the General Edu-
3 cation Provisions Act (20 U.S.C. 1232g(a)(3)), rath-
4 er than to the user, when the online platform is act-
5 ing on behalf of an educational agency or institution
6 (as so defined), subject to a written contract that
7 complies with the requirements of the Children's On-
8 line Privacy Protection Act of 1998 (15 U.S.C.
9 1232g(a)(3)) and section 444 of the General Edu-
10 cation Provisions Act (20 U.S.C. 1232g) (commonly
11 known as the "Family Educational Rights and Pri-
12 vacy Act of 1974").

13 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-
14 SION.—

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

21 (2) POWERS OF COMMISSION.—

22 (A) IN GENERAL.—The Federal Trade
23 Commission shall enforce this section in the
24 same manner, by the same means, and with the
25 same jurisdiction, powers, and duties as though

1 all applicable terms and provisions of the Fed-
2 eral Trade Commission Act (15 U.S.C. 41 et
3 seq.) were incorporated into and made a part of
4 this section.

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

10 (C) AUTHORITY PRESERVED.—Nothing in
11 this section shall be construed to limit the au-
12 thority of the Commission under any other pro-
13 vision of law.

14 (d) RULE OF CONSTRUCTION TO PRESERVE PER-
15 SONALIZED BLOCKS.—Nothing in this section shall be
16 construed to limit or prohibit an online platform’s ability
17 to, at the direction of an individual user or group of users,
18 restrict another user from searching for, finding, access-
19 ing, or interacting with such user’s or group’s account,
20 content, data, or online community.

21 **TITLE III—RELATIONSHIP TO** 22 **STATE LAWS; SEVERABILITY**

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

24 The provisions of this Act shall preempt any State
25 law, rule, requirement, or regulation only to the extent

1 that such State law, rule, requirement, or regulation con-
2 flicts with a provision of this Act, except that nothing in
3 this Act shall be construed to preempt any law, rule, re-
4 quirement, or regulation that provides greater protection
5 to minors than the protection provided by the provisions
6 of this Act.

7 **SEC. 302. SEVERABILITY.**

8 If any provision of this Act, or an amendment made
9 by this Act, is determined to be unenforceable or invalid,
10 the remaining provisions of this Act and the amendments
11 made by this Act shall not be affected.