

S.L.C.
7/2/8

Cruz Substitute

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

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

S. 4749

To amend the Communications Act of 1934 to create a Federal cause of action to address jawboning, 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. CRUZ

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Justice Against
5 Weaponized Bureaucratic Overreach to Networked Ex-
6 pression Act" or the "JAWBONE Act".

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) Private speech intermediaries, such as
10 broadcasters and interactive computer service pro-
11 viders, as well as providers of speech-enabling artifi-

1 cial intelligence, are critical for access to information
2 and individual expression and have a right to inde-
3 pendent editorial judgement.

4 (2) Such entities can also serve as chokepoints
5 convenient for the government to target for censor-
6 ship of disfavored speech and information.

7 (3) Government coercion of such private speech
8 intermediaries and artificial intelligence providers
9 threatens freedom of speech and open inquiry, par-
10 ticularly for users who have no say in, or knowledge
11 of, how their speech or access to information is af-
12 fected.

13 (4) At the same time, not all government com-
14 munication to a private speech platform is coercive.
15 Interactions between the government and websites,
16 for example, may serve lawful enforcement purposes
17 or facilitate legitimate dialogue with the private sec-
18 tor.

19 (5) Members of the public also have an interest
20 under the First Amendment to the Constitution of
21 the United States in hearing what their government
22 has to say. The people of the United States cannot
23 engage with the views of their government unless the
24 government can express those views.

1 (6) It is therefore necessary to limit the ability
2 of the government to create, through coercion, a sys-
3 tem of speech regulation that evades convenient judi-
4 cial redress and, consequently, the First Amend-
5 ment, while maintaining the ability of the govern-
6 ment to inform and persuade.

7 **SEC. 3. FEDERAL CAUSE OF ACTION FOR JAWBONING.**

8 Title VII of the Communications Act of 1934 (47
9 U.S.C. 601 et seq.) is amended by adding at the end the
10 following:

11 **"SEC. 723. PROHIBITION ON FEDERAL AGENCY OR EM-**
12 **PLOYEE JAWBONING.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) AGENCY.—The term ‘agency’ has the
15 meaning given the term in section 3502 of title 44,
16 United States Code.

17 “(2) ARTIFICIAL INTELLIGENCE.—The term
18 ‘artificial intelligence’ has the meaning given the
19 term in section 5002 of the National Artificial Intel-
20 ligence Initiative Act of 2020 (15 U.S.C. 9401).

21 “(3) BROADCASTER.—The term ‘broadcaster’
22 means—

23 “(A) any licensee, operator, or owner of a
24 broadcast station; and

1 “(B) any national broadcast network that
2 provides television or radio programming to one
3 or more broadcast stations, including through
4 ownership of, or contractual network affiliation
5 agreements with, those stations.

6 “(4) COERCE.—

7 “(A) IN GENERAL.—The term ‘coerce’
8 means to take an adverse action, to imply the
9 possibility of taking such action, or to threaten
10 such action.

11 “(B) FACTORS.—In determining whether
12 an action by an agency, officer, or employee
13 satisfies the definition of ‘coerce’ under sub-
14 paragraph (A), a court shall consider the total-
15 ity of the circumstances, including—

16 “(i) the word choice and tone of any
17 relevant communication from the agency,
18 officer, or employee;

19 “(ii) the existence of any Federal reg-
20 ulatory or enforcement authority over the
21 recipient of any relevant communication
22 from the agency, officer, or employee;

23 “(iii) whether any relevant commu-
24 nication from the agency, officer, or em-

1 employee referred to adverse consequences to
2 the recipient;

3 “(iv) whether any relevant commu-
4 nication from the agency, officer, or em-
5 ployee was private or public;

6 “(v) whether any relevant communica-
7 tion from the agency, officer, or employee
8 included an affirmative disclaimer that the
9 communication lacked legal force;

10 “(vi) whether any relevant commu-
11 nication from the agency, officer, or em-
12 ployee included a factual statement without
13 legal force that could be useful to the deci-
14 sion-making of the recipient;

15 “(vii) whether any relevant commu-
16 nication from the agency, officer, or em-
17 ployee was for the purpose of aiding com-
18 pliance with existing law; and

19 “(viii) whether any relevant commu-
20 nication from the agency, officer, or em-
21 ployee led the recipient to act contrary to
22 its own policies.

23 “(5) CONTENT ACTION.—The term ‘content ac-
24 tion’—

1 “(A) with respect to an interactive com-
2 puter service, means—

3 “(i) adding information to, altering
4 information on, or removing information
5 from the interactive computer service, in-
6 cluding with respect to a label appended to
7 information;

8 “(ii) altering the presentation of infor-
9 mation on the interactive computer service,
10 including such presentation by the rec-
11 ommendation system of the interactive
12 computer service;

13 “(iii) limiting interaction by an infor-
14 mation content provider with the inter-
15 active computer service, including termi-
16 nating or suspending an information con-
17 tent provider from the interactive computer
18 service; or

19 “(iv) altering a policy of the inter-
20 active computer service affecting the mod-
21 eration of information;

22 “(B) with respect to artificial intelligence,
23 means—

1 “(i) adding, altering, or removing in-
2 formation generated or provided by the ar-
3 tificial intelligence;

4 “(ii) limiting interaction by an infor-
5 mation content provider with the artificial
6 intelligence; or

7 “(iii) any relevant action described in
8 subparagraph (A); and

9 “(C) with respect to a broadcaster, means
10 adding information or programming to, altering
11 information or programming on, or removing
12 information or programming from a broadcast,
13 including before the programming is finalized or
14 while the programming is in an investigative or
15 production phase of development.

16 “(6) EMPLOYEE.—The term ‘employee’ includes
17 a fellow, contractor, or consultant.

18 “(7) INFORMATION.—The term ‘information’
19 means lawful expression protected by the First
20 Amendment to the Constitution of the United
21 States.

22 “(8) INFORMATION CONTENT PROVIDER.—The
23 term ‘information content provider’ has the meaning
24 given the term in section 230.

1 “(9) INTERACTIVE COMPUTER SERVICE.—The
2 term ‘interactive computer service’ has the meaning
3 given to the term in section 230.

4 “(10) RECOMMENDATION SYSTEM.—The term
5 ‘recommendation system’ means a fully or partially
6 automated system used by an interactive computer
7 service to suggest, promote, or rank information pro-
8 vided by an information content provider.

9 “(b) PROHIBITION.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), it shall be unlawful for an agency, or an
12 officer or employee of the United States under color
13 or pretense of office or employment, to coerce or at-
14 tempt to coerce a broadcaster, a provider of an
15 interactive computer service, or a provider of artifi-
16 cial intelligence within the United States (including
17 the territories of the United States) for the purpose
18 of, or if a reasonable person would understand the
19 coercion or attempted coercion to be for the purpose
20 of, incentivizing the broadcaster or provider to take
21 a content action.

22 “(2) EXCEPTIONS.—

23 “(A) IN GENERAL.—Paragraph (1) shall
24 not apply to—

25 “(i) an action that—

1 “(I) is taken pursuant to a lawful
2 investigation under, or the enforce-
3 ment of, Federal law; and

4 “(II) does not violate the First
5 Amendment to the Constitution of the
6 United States;

7 “(ii) an action or threat to take action
8 authorized by a warrant issued using the
9 procedures described in the Federal Rules
10 of Criminal Procedure (or, in the case of
11 a State court, issued using State warrant
12 procedures) by a court of competent juris-
13 diction; or

14 “(iii) directions from an agency, or an
15 officer or employee of the United States, to
16 a broadcaster, a provider of an interactive
17 computer service, or a provider of artificial
18 intelligence to take an action directly relat-
19 ing to the Federal Government’s own
20 speech.

21 “(B) BURDEN OF ESTABLISHING EXCEP-
22 TION.—An agency, officer, or employee against
23 whom a civil action is brought under subsection
24 (c) shall bear the burden of establishing that an

1 exception under subparagraph (A) of this para-
2 graph applies.

3 “(c) PRIVATE RIGHT OF ACTION.—

4 “(1) IN GENERAL.—A person aggrieved by a
5 violation of subsection (b), including a broadcaster,
6 a provider of an interactive computer service, an in-
7 formation content provider, or a provider of artificial
8 intelligence, may bring a civil action against the ap-
9 plicable agency, officer, or employee in an appro-
10 priate district court of the United States.

11 “(2) SCOPE OF REVIEW.—In a civil action
12 brought under paragraph (1), to the extent nec-
13 essary to the decision and when presented, the court
14 shall decide all relevant questions of law and inter-
15 pret constitutional and statutory provisions.

16 “(3) RELIEF.—In a civil action brought under
17 paragraph (1)—

18 “(A) a person may obtain compensatory
19 damages and the cost of the civil action, includ-
20 ing reasonable attorney fees and other litigation
21 costs reasonably incurred;

22 “(B) except as provided in subparagraph
23 (C), the court may, in addition to any other re-
24 lief available at law, grant equitable relief that

1 may be appropriate or necessary to correct a
2 violation of subsection (b); and

3 “(C) punitive damages may not be award-
4 ed.

5 “(4) PRE-TRIAL MOTION FOR LIMITED DIS-
6 COVERY.—

7 “(A) MOTION.—If a party to a civil action
8 brought under paragraph (1) moves to dismiss
9 the action under rule 12(b)(6) of the Federal
10 Rules of Civil Procedure or moves to dismiss
11 the action for lack of standing, the party that
12 opposes the motion to dismiss may file a pre-
13 trial motion for limited discovery at the discre-
14 tion of the court.

15 “(B) LIMITATIONS ON TIME AND SCOPE.—
16 If the court grants a pre-trial motion for lim-
17 ited discovery filed under subparagraph (A), the
18 court shall enter an order limiting that dis-
19 covery—

20 “(i) to a period of not more than 60
21 days; and

22 “(ii) to evidence that permits the
23 party that did not move to dismiss the ac-
24 tion under subparagraph (A) to respond to
25 the merits of the motion to dismiss.

1 “(C) EXTENSION.—

2 “(i) HEARING.—Upon request, the
3 court may hold a hearing to determine
4 whether to extend discovery, with respect
5 to a motion for limited discovery granted
6 under this paragraph, by not more than 1
7 additional period of not more than 30
8 days.

9 “(ii) DETERMINATION.—The court
10 may extend discovery under clause (i) for
11 good cause shown by the party seeking the
12 extension.

13 “(5) NO IMMUNITY FROM LIABILITY FOR SUB-
14 JECTIVE BELIEF OF UNPROTECTED SPEECH.—No
15 agency, officer, or employee that is a party to a civil
16 action brought under paragraph (1) shall be immune
17 from liability on the basis of a finding that the agen-
18 cy, officer, or employee had a subjective belief that
19 the information that is the subject of the claim in
20 the civil action was not lawful expression protected
21 by the First Amendment to the Constitution of the
22 United States.

23 “(6) MANDATORY DEFENSE AND INDEMNIFICA-
24 TION OF FEDERAL EMPLOYEES.—

1 “(A) DEFENSE.—If a civil action is
2 brought under paragraph (1) against an officer
3 or employee of the United States in the indi-
4 vidual capacity of that officer or employee, the
5 Department of Justice, if the officer or em-
6 ployee so elects, shall represent the officer or
7 employee.

8 “(B) INDEMNIFICATION.—

9 “(i) IN GENERAL.—If a civil action is
10 brought under paragraph (1) against an
11 officer or employee of the United States in
12 the individual capacity of that officer or
13 employee, the Federal Government shall
14 indemnify the officer or employee for any
15 verdict, judgment, or other monetary
16 award rendered against the officer or em-
17 ployee.

18 “(ii) EXCEPTION.—In a civil action
19 described in clause (i), if the court finds
20 that the officer or employee acted in a will-
21 ful and wanton manner in incurring liabil-
22 ity under this section, clause (i) shall not
23 apply and the court shall order the officer
24 or employee to reimburse the Federal Gov-
25 ernment the reasonable costs and reason-

1 able attorney fees expended for the defense
2 of the officer or employee.

3 “(d) ENFORCEMENT BY STATES.—Any attorney gen-
4 eral of a State may bring a civil action in the name of
5 the State, as *parens patriae* on behalf of natural persons
6 residing in the State, in any district court of the United
7 States having jurisdiction of the defendant to secure relief
8 as provided in this section for injury sustained by those
9 natural persons from a violation of subsection (b).”.

10 **SEC. 4. ESTABLISHMENT OF STANDARDS AND GUIDELINES**
11 **FOR LOGGING COVERED COMMUNICATIONS**
12 **WITH BROADCASTERS, PROVIDERS INTER-**
13 **ACTIVE COMPUTER SERVICES, AND PRO-**
14 **VIDERS OF ARTIFICIAL INTELLIGENCE.**

15 The National Institute of Standards and Technology
16 Act (15 U.S.C. 271 et seq.) is amended by adding at the
17 end the following:

18 **“SEC. 37. ESTABLISHMENT OF STANDARDS AND GUIDE-**
19 **LINES FOR LOGGING COVERED COMMUNICA-**
20 **TIONS WITH BROADCASTERS, PROVIDERS**
21 **INTERACTIVE COMPUTER SERVICES, AND**
22 **PROVIDERS OF ARTIFICIAL INTELLIGENCE.**

23 “(a) DEFINITIONS.—In this section:

1 “(1) AGENCY.—The term ‘agency’ has the
2 meaning given such term in section 3502 of title 44,
3 United States Code.

4 “(2) ARTIFICIAL INTELLIGENCE.—The term
5 ‘artificial intelligence’ has the meaning given such
6 term in section 5002 of the National Artificial Intel-
7 ligence Initiative Act of 2020 (15 U.S.C. 9401).

8 “(3) BROADCASTER.—The term ‘broadcaster’
9 has the meaning given such term in section 723 of
10 the Communications Act of 1934.

11 “(4) CHILD SEXUAL ABUSE MATERIAL.—The
12 term ‘child sexual abuse material’ means a visual de-
13 piction defined in section 2256(8) of title 18, United
14 States Code.

15 “(5) COMMUNICATION.—The term ‘communica-
16 tion’ means any transfer, in whole or in part, by
17 wire, oral, or electronic means, of signs, signals,
18 writing, images, sounds, or data of any nature.

19 “(6) COMMUNICATION METADATA.—The term
20 ‘communication metadata’ means structural or de-
21 scriptive information associated with a communica-
22 tion, such as—

23 “(A) the name of the sender and recipient;

1 “(B) the employer or institutional affili-
2 ation of each person identified in subparagraph
3 (A);

4 “(C) contact information for each person
5 identified in subparagraph (A), such as a tele-
6 phone number or email address; and

7 “(D) the date on which the communication
8 was conveyed.

9 “(7) COVERED COMMUNICATION.—The term
10 ‘covered communication’ means the contents of a
11 communication and communication metadata from
12 an officer or employee of the United States under
13 color or pretense of office or employment to a broad-
14 caster, provider of an interactive computer service,
15 or provider of artificial intelligence regarding an act
16 or omission by such broadcaster, service, or artificial
17 intelligence with respect to actual or potential ex-
18 pression on or from the broadcaster, service, or arti-
19 ficial intelligence, including any standards, proc-
20 esses, or policies of such broadcaster or provider
21 governing the broadcast, publication, display, or
22 moderation of expression on or from the broad-
23 caster, service, or artificial intelligence, but exclud-
24 ing the contents of communications and communica-
25 tions metadata—

1 “(A) to the extent it consists of classified
2 information, as defined in section 1 of the Clas-
3 sified Information Procedures Act (Public Law
4 96-456), if such information is so properly clas-
5 sified;

6 “(B) relating to child sexual abuse mate-
7 rial; and

8 “(C) for actions, threats, or directions de-
9 scribed in a subparagraph of section 723(b)(2)
10 of the Communications Act of 1934.

11 “(8) **EXPRESSION.**—The term ‘expression’
12 means any speech, text, images, audio, video, or any
13 other information distributed by an information con-
14 tent provider, an interactive computer service, artifi-
15 cial intelligence, or a broadcaster.

16 “(9) **INFORMATION CONTENT PROVIDER.**—The
17 term ‘information content provider’ has the meaning
18 given to the term in section 230 of the Communica-
19 tions Act of 1934 (47 U.S.C. 230).

20 “(10) **INTERACTIVE COMPUTER SERVICE.**—The
21 term ‘interactive computer service’ means an inter-
22 active computer service as defined in section 230 of
23 the Communications Act of 1934 (47 U.S.C. 230).

24 “(b) **STANDARDS AND GUIDELINES REQUIRED.**—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of the enactment of the Justice Against
3 Weaponized Bureaucratic Overreach to Networked
4 Expression Act, the Director shall, in consultation
5 with the Secretary of Commerce, the Director of the
6 Office of Science and Technology Policy, the Direc-
7 tor of the Office of Management and Budget, and
8 the head of any other agency the Director considers
9 appropriate, develop standards and guidelines to as-
10 sist agencies in carrying out the requirements of sec-
11 tion 701 of the National Science and Technology
12 Policy, Organization, and Priorities Act of 1976, in-
13 cluding the collection, retention, and transmission of
14 covered communications through the portal estab-
15 lished under such section.

16 “(2) ACCOUNTING FOR AND ADAPTING FOR
17 SPECIFIC NEEDS OF AGENCIES.—In developing the
18 standards and guidelines pursuant to paragraph (1),
19 the Director shall account for and, as applicable,
20 adapt such standards and guidelines to the specific
21 needs of each agency.

22 “(c) ELEMENTS.—The standards and guidelines re-
23 quired by subsection (b) shall include recommendations re-
24 garding—

1 “(1) standard taxonomies and labeling of cov-
2 ered communications to be transmitted to the portal
3 described in such subsection;

4 “(2) the collection and logging of communica-
5 tion metadata for each covered communication;

6 “(3) standard formats to ensure interoperability
7 of covered communications transmitted to such por-
8 tal;

9 “(4) data security standards and protocols for
10 the collection and transmission of covered commu-
11 nications to such portal; and

12 “(5) audit, management, and monitoring con-
13 trols for the retention of covered communications by
14 the agency.

15 “(d) BIENNIAL UPDATES TO THE STANDARDS AND
16 GUIDELINES.—Not less than once every 2 years, the Di-
17 rector shall, in consultation with the Secretary of Com-
18 merce, the Director of the Office of Science and Tech-
19 nology Policy, and the Director of the Office of Manage-
20 ment and Budget, review the standards and guidelines
21 issued under subsection (b) and may revise and update
22 such standards and guidelines as necessary.

23 “(e) SUBMISSION TO THE DIRECTOR OF THE OFFICE
24 OF SCIENCE AND TECHNOLOGY POLICY.—The Director
25 shall submit the standards and guidelines developed under

1 subsection (b), and any revisions made under subsection
2 (d), to the Director of the Office of Science and Tech-
3 nology Policy for purposes of carrying out section 701 of
4 the National Science and Technology Policy, Organization,
5 and Priorities Act of 1976.”.

6 **SEC. 5. ESTABLISHMENT OF PORTAL FOR COVERED COM-**
7 **MUNICATIONS WITH BROADCASTERS, PRO-**
8 **VIDERS OF INTERACTIVE COMPUTER SERV-**
9 **ICES, AND PROVIDERS OF ARTIFICIAL INTEL-**
10 **LIGENCE.**

11 The National Science and Technology Policy, Organi-
12 zation, and Priorities Act of 1976 (42 U.S.C. 6611 et seq.)
13 is amended by adding at the end the following:

14 **“TITLE VII—COMMUNICATIONS**
15 **WITH BROADCASTERS, PRO-**
16 **VIDERS OF INTERACTIVE**
17 **COMPUTER SERVICES, AND**
18 **PROVIDERS OF ARTIFICIAL**
19 **INTELLIGENCE**

20 **“SEC. 701. PORTAL FOR COVERED COMMUNICATIONS WITH**
21 **BROADCASTERS, PROVIDERS OF INTER-**
22 **ACTIVE COMPUTER SERVICES, AND PRO-**
23 **VIDERS OF ARTIFICIAL INTELLIGENCE.**

24 **“(a) DEFINITIONS.—In this section:**

1 “(1) AGENCY.—The term ‘agency’ has the
2 meaning given such term in section 3502 of title 44,
3 United States Code.

4 “(2) ARTIFICIAL INTELLIGENCE.—The term
5 ‘artificial intelligence’ has the meaning given such
6 term in section 5002 of the National Artificial Intel-
7 ligence Initiative Act of 2020 (15 U.S.C. 9401).

8 “(3) BROADCASTER.—The term ‘broadcaster’
9 has the meaning given such term in section 723 of
10 the Communications Act of 1934.

11 “(4) COMMUNICATION, COMMUNICATION
12 METADATA, COVERED COMMUNICATION, EMPLOYEE,
13 AND EXPRESSION.—The terms ‘communication’,
14 ‘communication metadata’, ‘covered communication’,
15 ‘employee’, and ‘expression’ have the meanings given
16 such terms in section 37 of the National Institute of
17 Standards and Technology Act.

18 “(5) CONTENT ACTION.—The term ‘content ac-
19 tion’ has the meaning given such term in section
20 723 of the Communications Act of 1934.

21 “(6) INFORMATION CONTENT PROVIDER AND
22 INTERACTIVE COMPUTER SERVICE.—The terms ‘in-
23 formation content provider’ and ‘interactive com-
24 puter service’ have the meanings given such terms in

1 section 230 of the Communications Act of 1934 (47
2 U.S.C. 230).

3 “(7) PORTAL.—The term ‘portal’ means the
4 covered communications portal established by the
5 Director of the Office of Science and Technology
6 Policy pursuant to subsection (c).

7 “(b) ADOPTION OF NATIONAL INSTITUTE OF STAND-
8 ARDS AND TECHNOLOGY STANDARDS AND GUIDE-
9 LINES.—Upon receiving the standards and guidelines
10 from the Director of the National Institute of Standards
11 and Technology pursuant to section 37(e) of the National
12 Institute of Standards and Technology Act, the Director
13 shall, in consultation with the Secretary of Commerce and
14 the Director of the Office of Management and Budget,
15 issue a requirement that the head of each agency—

16 “(1) adopt such standards and guidelines; and

17 “(2) comply with the requirements for trans-
18 mission of covered communications pursuant to sub-
19 section (c).

20 “(c) ESTABLISHMENT OF COVERED COMMUNICA-
21 TIONS PORTAL.—The Director shall, in consultation with
22 the Secretary of Commerce and the Director of the Office
23 of Management and Budget—

24 “(1) establish a portal for covered communica-
25 tions; and

1 “(2) require each head of an agency to transmit
2 to the portal, not less than once every 120 days, new
3 or previously unreported covered communications
4 discovered through reasonable efforts, including em-
5 ployee self-reporting.

6 “(d) PUBLIC WEBSITE FOR COVERED COMMUNICA-
7 TIONS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the Director of the Office of Science and Technology
10 Policy shall make available on a publicly accessible,
11 searchable website, a detailed description of each
12 covered communication, received by the Director
13 under subsection (c) that—

14 “(A) summarizes the contents of each cov-
15 ered communication; and

16 “(B) identifies all requests, whether im-
17 plied or express, for content actions included in
18 such covered communications.

19 “(2) AVAILABILITY OF SENSITIVE COVERED
20 COMMUNICATIONS.—

21 “(A) IN GENERAL.—The Director may, in
22 consultation with the Director of the Office of
23 Management and Budget and the applicable
24 agency head, redact information contained in a
25 detailed description of a covered communica-

1 tion, as described in paragraph (1), before pub-
2 lication to the public, to the extent that such in-
3 formation falls into an exemption described in
4 a paragraph of section 552(b) of title 5, United
5 States Code (commonly known as the 'Freedom
6 of Information Act'), if—

7 “(i) the description includes markings
8 detailing the specific exemption under
9 which such redactions were made; and

10 “(ii) such information is unredacted
11 when an exemption is no longer applicable.

12 “(B) AVAILABILITY TO CONGRESS.—The
13 full, unredacted record of all covered commu-
14 nications shall be made available to the Chair-
15 man and Ranking Member of the Committee on
16 Commerce, Science, and Transportation of the
17 Senate and the Chairman and Ranking Member
18 of the Committee on Energy and Commerce of
19 the House of Representatives at an interval de-
20 termined appropriate by the Chairmen and
21 Ranking Members each Congress, but not less
22 than once every fiscal year.

23 “(C) AVAILABILITY TO AFFECTED PER-
24 SONS.—The Director shall provide to any per-
25 son covered communications that request or

1 recommend a content action with respect to
2 such person, upon a request by such person
3 made in a manner consistent with the proce-
4 dures for a request made under section
5 552a(d)(1) of title 5, United States Code (com-
6 monly known as the 'Privacy Act').

7 “(e) PROVIDER COMPLAINT PROCESS.—

8 “(1) IN GENERAL.—In establishing the publicly
9 accessible, searchable website under subsection (d),
10 the Director shall also establish a process within
11 such website through which the broadcaster, pro-
12 vider of an interactive computer service, information
13 content provider, or provider of artificial intelligence
14 may, without retaliation by the Federal Government,
15 submit a complaint alleging that an officer or em-
16 ployee of the United States has violated section
17 723(b) of the Communications Act of 1934.

18 “(2) TRANSMITTAL OF COMPLAINT.—

19 “(A) TRANSMITTAL.—Not later than 15
20 days after receiving a valid complaint pursuant
21 to paragraph (1) regarding an officer or em-
22 ployee of the United States, the Director shall
23 transmit such complaint to—

1 “(i) the Inspector General of the
2 agency that employs the officer or em-
3 ployee;

4 “(ii) the Chairman and Ranking
5 Member of the Committee on Commerce,
6 Science, and Transportation of the Senate;
7 and

8 “(iii) the Chairman and Ranking
9 Member of the Committee on Energy and
10 Commerce of the House of Representa-
11 tives.

12 “(B) VALIDITY.—For purposes of this
13 paragraph, a complaint of the broadcaster, pro-
14 vider of an interactive computer service, or pro-
15 vider of artificial intelligence is considered valid
16 if the complaint—

17 “(i) is brought by an employee or an
18 authorized person acting on behalf of the
19 broadcaster or provider; and

20 “(ii) identifies the communication and
21 includes sufficient information to reason-
22 ably substantiate an alleged violation of
23 section 723(b) of the Communications Act
24 of 1934.

1 “(f) AUDITS FOR COMPLIANCE WITH THE NATIONAL
2 INSTITUTE OF STANDARDS AND TECHNOLOGY STAND-
3 ARDS AND GUIDELINES.—

4 “(1) AUDITS REQUIRED.—Not less frequently
5 than once every 2 years, each Inspector General of
6 an agency shall audit the compliance of the agency
7 of the Inspector General with—

8 “(A) the standards and guidelines required
9 to be adopted under subsection (b)(1); and

10 “(B) the requirements of paragraph (2) of
11 subsection (c) regarding transmittal of covered
12 communications to the portal established under
13 paragraph (1) of such subsection, including a
14 review of whether the agency is properly categor-
15 izing a communication as a covered commu-
16 nication for listing in the portal and trans-
17 mission to Congress and consideration of
18 whether the agency is properly excluding a com-
19 munication from categorization as a covered
20 communication.

21 “(2) TRANSMITTAL OF FINDINGS.—Not later
22 than 7 days after an Inspector General completes an
23 audit under paragraph (1), the Inspector General
24 shall transmit a summary of the findings of the In-

1 spectator General with respect to the audit to the fol-
2 lowing:

3 “(A) The Director.

4 “(B) The Chairman and Ranking Member
5 of the Committee on Commerce, Science, and
6 Transportation of the Senate.

7 “(C) The Chairman and Ranking Member
8 of the Committee on Energy and Commerce of
9 the House of Representatives.”.

10 **SEC. 6. SEVERABILITY.**

11 If any provision of this Act, or any amendment made
12 by this Act, is determined to be unenforceable or invalid,
13 the remaining provisions of this Act and the amendments
14 made by this Act shall not be affected.