

117TH CONGRESS
2D SESSION

H. R. 7858

To establish a new Federal body to provide reasonable oversight and regulation of digital platforms.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2022

Mr. WELCH introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a new Federal body to provide reasonable oversight and regulation of digital platforms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Digital Platform Commission Act of 2022”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; sense of Congress.
- Sec. 3. Definitions.
- Sec. 4. Establishment of Federal Digital Platform Commission.

- Sec. 5. Jurisdiction.
- Sec. 6. Organization and general powers.
- Sec. 7. Organization and functioning of the Commission.
- Sec. 8. Code Council.
- Sec. 9. Rulemaking authority, requirements, and considerations.
- Sec. 10. Systemically important digital platforms.
- Sec. 11. Merger review.
- Sec. 12. Petitions.
- Sec. 13. Research.
- Sec. 14. Investigative authority.
- Sec. 15. Enforcement by private persons and governmental entities.
- Sec. 16. Proceedings to enjoin, set aside, annul, or suspend orders of the Commission.
- Sec. 17. Report to Congress.
- Sec. 18. Authorization of appropriations.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) In the United States and around the world,
4 digital platforms and online services play a central
5 role in modern life by providing new tools for com-
6 munication, commerce, entrepreneurship, and de-
7 bate.

8 (2) The United States takes pride in the suc-
9 cess of its technology sector, which leads the world
10 in innovation and dynamism, provides valuable serv-
11 ices to the people of the United States, and supports
12 thousands of good-paying jobs in the United States.

13 (3) In recent years, a few digital platforms have
14 benefitted from the combination of economies of
15 scale, network effects, and unique characteristics of
16 the digital marketplace to achieve vast power over
17 the economy, society, and democracy of the United
18 States.

1 (4) The last time Congress enacted legislation
2 to meaningfully regulate the technology or tele-
3 communications sector was the Telecommunications
4 Act of 1996 (Public Law 104–104; 110 Stat 56.),
5 years before many of today’s largest digital plat-
6 forms even existed.

7 (5) Digital platforms remain largely unregu-
8 lated and are left to write their own rules without
9 meaningful democratic input or accountability.

10 (6) The unregulated policies and operations of
11 some of the most powerful digital platforms have at
12 times produced demonstrable harm, including—

13 (A) undercutting small businesses;

14 (B) abetting the collapse of trusted local
15 journalism;

16 (C) enabling addiction and other harms to
17 the mental health of the people of the United
18 States, especially minors;

19 (D) disseminating disinformation and hate
20 speech;

21 (E) undermining privacy and monetizing
22 the personal data of individuals in the United
23 States without their informed consent; and

24 (F) in some cases, radicalizing individuals
25 to violence.

1 (7) The failure of the United States Govern-
2 ment to establish appropriate regulations for digital
3 platforms cedes to foreign competitors the historic
4 role played by the United States in setting reason-
5 able rules of the road and technical standards for
6 emerging technologies.

7 (8) Throughout the history of the United
8 States, Congress has often responded to the emer-
9 gence of powerful and complex new sectors of the
10 economy by empowering sector-specific expert Fed-
11 eral regulators.

12 (9) Throughout the history of the United
13 States, the Federal Government has established rea-
14 sonable regulation, consistent with the First Amend-
15 ment to the Constitution of the United States, to
16 promote a diversity of viewpoints, support civic en-
17 gagement, and preserve the right of citizens to com-
18 municate with each other, which is foundational to
19 self-governance.

20 (10) The unique power and complexity of sev-
21 eral digital platforms, combined with the absence of
22 modern Federal regulations, reinforces the need for
23 a new Federal body equipped with the authorities,
24 tools, and expertise to regulate digital platforms to

1 ensure their operations remain consistent, where ap-
2 propriate, with the public interest.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the Federal agency established under this Act
5 should—

6 (1) develop appropriate regulations and policies
7 grounded in the common law principles of the duty
8 of care and the duty to deal, insofar as those prin-
9 ciples are relevant and practical; and

10 (2) adopt, where relevant and practical, a risk
11 management regulatory approach that prioritizes an-
12 ticipating, limiting, and balancing against other in-
13 terests the broad economic, societal, and political
14 risks of harm posed by the activities and operations
15 of a person or class of persons.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) ALGORITHMIC PROCESS.—The term “algo-
19 rithmic process” means a computational process, in-
20 cluding one derived from machine learning or other
21 artificial intelligence techniques, that processes per-
22 sonal information or other data for the purpose of
23 determining the order or manner in which a set of
24 information is provided, recommended to, or with-
25 held from a user of a digital platform, including—

- 1 (A) the provision of commercial content;
2 (B) the display of social media posts;
3 (C) the display of search results or
4 rankings; or
5 (D) any other method of automated deci-
6 sion making, content selection, or content am-
7 plification.

8 (2) COMMISSION.—The term “Commission”
9 means the Federal Digital Platform Commission es-
10 tablished under section 4.

11 (3) COUNCIL.—The term “Council” means the
12 Code Council established under section 8(a).

13 (4) DIGITAL PLATFORM.—

14 (A) IN GENERAL.—The term “digital plat-
15 form” means an online service that serves as an
16 intermediary facilitating interactions—

17 (i) between users; and

18 (ii) between users and—

19 (I) entities offering goods and
20 services through the online service; or

21 (II) the online service with re-
22 spect to goods and services offered di-
23 rectly by the online service.

24 (B) DE MINIMIS EXCEPTION.—

1 (i) IN GENERAL.—Notwithstanding
2 subparagraph (A)(ii)(II), the term “digital
3 platform” does not include an entity that
4 offers goods and services to the public on-
5 line if the offering of goods and services
6 online is a de minimis part of the entity’s
7 overall business.

8 (ii) ONLINE SERVICES THAT DO NOT
9 QUALIFY FOR DE MINIMIS EXCEPTION.—
10 Notwithstanding clause (i), if an online
11 service described in subparagraph
12 (A)(ii)(II) is owned by an entity but is of-
13 fered through an affiliate, partnership, or
14 joint venture of, or is otherwise segregable
15 from, the entity—

16 (I) the online service shall be
17 considered a digital platform; and

18 (II) the entity shall not be con-
19 sidered a digital platform.

20 (C) SMALL DIGITAL PLATFORM BUSI-
21 NESSES.—

22 (i) IN GENERAL.—The term “digital
23 platform” does not include a small digital
24 platform business, except as provided in
25 clause (iii).

1 (ii) SBA RULEMAKING.—Not later
2 than 180 days after the date of enactment
3 of this Act, the Administrator of the Small
4 Business Administration shall by regula-
5 tion define the term “small digital plat-
6 form business” for purposes of clause (i).

7 (iii) NON-APPLICABILITY TO SYSTEM-
8 ICALLY IMPORTANT DIGITAL PLAT-
9 FORMS.—Clause (i) shall not apply to a
10 systemically important digital platform.

11 (D) NEWS ORGANIZATIONS.—The term
12 “digital platform” does not include an entity
13 whose primary purpose is the delivery to the
14 public of news that the entity writes, edits, and
15 reports.

16 (5) IMMEDIATE FAMILY MEMBER.—The term
17 “immediate family member”, with respect to an indi-
18 vidual, means a spouse, parent, sibling, or child of
19 the individual.

20 (6) ONLINE SERVICE.—The term “online serv-
21 ice” includes a consumer-facing website, back-end
22 online-support system, or other facilitator of online
23 transactions and activities.

24 (7) SYSTEMICALLY IMPORTANT DIGITAL PLAT-
25 FORM.—The term “systemically important digital

1 platform” means a digital platform that the Com-
2 mission has designated as a systemically important
3 digital platform under section 10.

4 **SEC. 4. ESTABLISHMENT OF FEDERAL DIGITAL PLATFORM**
5 **COMMISSION.**

6 (a) ESTABLISHMENT.—There is established a com-
7 mission to be known as the “Federal Digital Platform
8 Commission”, which shall—

- 9 (1) be constituted as provided in this Act; and
10 (2) execute and enforce the provisions of this
11 Act.

12 (b) PURPOSES OF COMMISSION.—The purpose of the
13 Commission is to regulate digital platforms, consistent
14 with the public interest, convenience, and necessity, to pro-
15 mote to all the people of the United States, so far as pos-
16 sible, the following:

- 17 (1) Access to digital platforms for civic engage-
18 ment and economic and educational opportunities.
19 (2) Access to government services and public
20 safety.
21 (3) Competition to encourage the creation of
22 new online services and innovation, and to provide to
23 consumers benefits such as lower prices and better
24 quality of service.

1 (4) Prevention of harmful levels of concentra-
2 tion of private power over critical digital infrastruc-
3 ture.

4 (5) A robust and competitive marketplace of
5 ideas with a diversity of views at the local, State,
6 and national levels.

7 (6) Protection for consumers from deceptive,
8 unfair, unjust, unreasonable, or abusive practices
9 committed by digital platforms.

10 (7) Assurance that the algorithmic processes of
11 digital platforms are fair, transparent, and safe.

12 (c) **RULE OF CONSTRUCTION.**—Nothing in this Act
13 shall be construed to modify, impair, or supersede the ap-
14 plicability of any antitrust laws.

15 **SEC. 5. JURISDICTION.**

16 (a) **PLENARY JURISDICTION.**—The Commission shall
17 have jurisdiction over any digital platform, the services of
18 which—

19 (1) originate or are received within the United
20 States; and

21 (2) affect interstate or foreign commerce.

22 (b) **PROVISIONS RELATIVE TO SYSTEMICALLY IM-**
23 **PORTANT DIGITAL PLATFORMS.**—Not later than 180 days
24 after the earliest date as of which not fewer than 3 Com-
25 missioners have been confirmed, the Commission shall de-

1 termine whether to issue rules, with input from the Code
2 Council as appropriate, to establish for systemically impor-
3 tant digital platforms—

4 (1) commercial and technical standards for—

5 (A) data portability; and

6 (B) interoperability, which shall be defined
7 as the functionality of information systems to—

8 (i) exchange data; and

9 (ii) enable sharing of information;

10 (2) requirements for recommendation systems
11 and other algorithmic processes of systemically im-
12 portant digital platforms to ensure that the algo-
13 rithmic processes are fair, transparent, and without
14 harmful, abusive, anticompetitive, or deceptive bias;

15 (3) transparency requirements for terms of
16 service, including content moderation policies;

17 (4) requirements for regular public risk assess-
18 ments of the distribution of harmful content on a
19 systemically important digital platform and steps the
20 systemically important digital platform has taken, or
21 plans to take, to mitigate those harms;

22 (5) transparency and disclosure obligations to
23 enable—

24 (A) oversight by the Commission;

1 (B) third-party audits to ensure the accu-
2 racy of any public risk assessments required
3 under paragraph (4); and

4 (C) trusted third-party research in the
5 public interest; and

6 (6) commercial and technical standards to en-
7 sure accessibility to individuals with a disability, as
8 defined in section 3 of the Americans with Disabil-
9 ities Act of 1990 (42 U.S.C. 12102), including to
10 provide the ability for an individual who has a hear-
11 ing impairment, speech impairment, or vision im-
12 pairment to engage with systemically important dig-
13 ital platforms in a manner that is functionally equiv-
14 alent to the ability of an individual who does not
15 have a hearing impairment, speech impairment, or
16 vision impairment to engage with systemically im-
17 portant digital platforms.

18 (c) FORBEARANCE.—

19 (1) IN GENERAL.—The Commission may for-
20 bear from exercising jurisdiction over a digital plat-
21 form or class of digital platforms based on size, rev-
22 enue, market share, or other attributes the Commis-
23 sion determines appropriate.

24 (2) FLEXIBILITY.—The Commission may re-
25 assert jurisdiction over a digital platform or class of

1 digital platform over which the Commission forbore
2 from exercising jurisdiction under paragraph (1).

3 **SEC. 6. ORGANIZATION AND GENERAL POWERS.**

4 (a) IN GENERAL.—The Commission shall be com-
5 posed of 5 Commissioners appointed by the President, by
6 and with the advice and consent of the Senate, one of
7 whom the President shall designate as chair.

8 (b) QUALIFICATIONS.—

9 (1) CITIZENSHIP.—Each member of the Com-
10 mission shall be a citizen of the United States.

11 (2) CONFLICTS OF INTEREST.—

12 (A) IN GENERAL.—Subject to subpara-
13 graphs (B) and (C), no member of the Commis-
14 sion or person employed by the Commission,
15 and no immediate family member thereof,
16 shall—

17 (i) be financially interested in—

18 (I) any person significantly regu-
19 lated by the Commission under this
20 Act; or

21 (II) a third party in direct and
22 substantial competition with a person
23 described in subclause (I); or

24 (ii) be employed by, hold any official
25 relation to, or own any stocks, bonds, or

1 other securities of, any person or third
2 party described in clause (i).

3 (B) SIGNIFICANT INTEREST.—The prohibi-
4 tions under subparagraph (A) shall apply only
5 to financial interests in any company or other
6 entity that has a significant interest in activi-
7 ties subject to regulation by the Commission.

8 (C) WAIVER.—

9 (i) IN GENERAL.—Subject to section
10 208 of title 18, United States Code, the
11 Commission may waive, from time to time,
12 the application of the prohibitions under
13 subparagraph (A) to persons employed by
14 the Commission, or immediate family
15 members thereof, if the Commission deter-
16 mines that the financial interests of a per-
17 son that are involved in a particular case
18 are minimal.

19 (ii) NO WAIVER FOR COMMIS-
20 SIONERS.—The waiver authority under
21 clause (i) shall not apply with respect to
22 members of the Commission.

23 (iii) PUBLICATION.—If the Commis-
24 sion exercises the waiver authority under
25 clause (i), the Commission shall publish

1 notice of that action in the Federal Reg-
2 ister.

3 (3) DETERMINATION OF SIGNIFICANT INTER-
4 EST.—The Commission, in determining for purposes
5 of paragraph (2) whether a company or other entity
6 has a significant interest in activities that are sub-
7 ject to regulation by the Commission, shall consider,
8 without excluding other relevant factors—

9 (A) the revenues, investments, profits, and
10 managerial efforts directed to the related activi-
11 ties of the company or other entity, as com-
12 pared to the other aspects of the business of the
13 company or other entity;

14 (B) the extent to which the Commission
15 regulates and oversees the activities of the com-
16 pany or other entity;

17 (C) the degree to which the economic inter-
18 ests of the company or other entity may be af-
19 fected by any action of the Commission; and

20 (D) the perceptions held by the public re-
21 garding the business activities of the company
22 or other entity.

23 (4) NO OTHER EMPLOYMENT.—A member of
24 the Commission may not engage in any other busi-

1 ness, vocation, profession, or employment while serv-
2 ing as a member of the Commission.

3 (5) POLITICAL PARTIES.—The maximum num-
4 ber of commissioners who may be members of the
5 same political party shall be a number equal to the
6 least number of commissioners that constitutes a
7 majority of the full membership of the Commission.

8 (c) TERM.—

9 (1) IN GENERAL.—A commissioner—

10 (A) shall be appointed for a term of 5
11 years; and

12 (B) may continue to serve after the expira-
13 tion of the fixed term of office of the commis-
14 sioner until a successor is appointed and has
15 been confirmed and taken the oath of office.

16 (2) FILLING OF VACANCIES.—Any person cho-
17 sen to fill a vacancy in the Commission—

18 (A) shall be appointed for the unexpired
19 term of the commissioner that the person suc-
20 ceeds;

21 (B) except as provided in subparagraph
22 (C), may continue to serve after the expiration
23 of the fixed term of office of the commissioner
24 that the person succeeds until a successor is ap-

1 pointed and has been confirmed and taken the
2 oath of office; and

3 (C) may not continue to serve after the ex-
4 piration of the session of Congress that begins
5 after the expiration of the fixed term of office
6 of the commissioner that the person succeeds.

7 (3) EFFECT OF VACANCY ON POWERS OF COM-
8 MISSION.—Except as provided in section 9(e) (relat-
9 ing to repeal of prior rules), no vacancy in the Com-
10 mission shall impair the right of the remaining com-
11 missioners to exercise all the powers of the Commis-
12 sion.

13 (d) SALARY OF COMMISSIONERS.—

14 (1) IN GENERAL.—Each Commissioner shall re-
15 ceive an annual salary at the annual rate payable
16 from time to time for grade 16 of the pay scale of
17 the Securities and Exchange Commission, payable in
18 monthly installments.

19 (2) CHAIR.—The Chair of the Commission,
20 during the period of service as Chair, shall receive
21 an annual salary at the annual rate payable from
22 time to time for grade 17 of the pay scale of the Se-
23 curities and Exchange Commission.

24 (e) PRINCIPAL OFFICE.—

1 (1) GENERAL SESSIONS.—The principal office
2 of the Commission shall be in the District of Colum-
3 bia, where its general sessions shall be held.

4 (2) SPECIAL SESSIONS.—Whenever the conven-
5 ience of the public or of the parties may be pro-
6 moted or delay or expense prevented thereby, the
7 Commission may hold special sessions in any part of
8 the United States.

9 (f) EMPLOYEES.—

10 (1) IN GENERAL.—The Commission may, sub-
11 ject to the civil service laws and the Classification
12 Act of 1949, as amended, appoint such officers, en-
13 gineers, accountants, attorneys, inspectors, exam-
14 iners, and other employees as are necessary in the
15 exercise of its functions.

16 (2) ASSISTANTS.—

17 (A) PROFESSIONAL ASSISTANTS; SEC-
18 RETARY.—Without regard to the civil-service
19 laws, but subject to the Classification Act of
20 1949, each commissioner may appoint profes-
21 sional assistants and a secretary, each of whom
22 shall perform such duties as the commissioner
23 shall direct.

24 (B) ADMINISTRATIVE ASSISTANT TO
25 CHAIR.—In addition to the authority under sub-

1 paragraph (A), the Chair of the Commission
2 may appoint, without regard to the civil-service
3 laws, but subject to the Classification Act of
4 1949, an administrative assistant who shall per-
5 form such duties as the Chair shall direct.

6 (3) USE OF VOLUNTEERS TO MONITOR VIOLA-
7 TIONS RELATING TO ONLINE SERVICES.—

8 (A) RECRUITMENT AND TRAINING OF VOL-
9 UNTEERS.—The Commission, for purposes of
10 monitoring violations of any provision of this
11 Act (and of any regulation prescribed by the
12 Commission under this Act), may—

13 (i) recruit and train any software en-
14 gineer, computer scientist, data scientist,
15 or other individual with skills or expertise
16 relevant to the responsibilities of the Com-
17 mission; and

18 (ii) accept and employ the voluntary
19 and uncompensated services of individuals
20 described in clause (i).

21 (B) NO LIMITATIONS ON VOLUNTARY
22 SERVICES.—The authority of the Commission
23 under subparagraph (A) shall not be subject to
24 or affected by—

1 (i) part III of title 5, United States
2 Code; or

3 (ii) section 1342 of title 31, United
4 States Code.

5 (C) NO FEDERAL EMPLOYMENT.—Any in-
6 dividual who provides services under this para-
7 graph or who provides goods in connection with
8 such services shall not be considered a Federal
9 or special government employee.

10 (D) BROAD REPRESENTATION.—The Com-
11 mission, in accepting and employing services of
12 individuals under subparagraph (A), shall seek
13 to achieve a broad representation of individuals
14 and organizations.

15 (E) RULES OF CONDUCT.—The Commis-
16 sion may establish rules of conduct and other
17 regulations governing the service of individuals
18 under this paragraph.

19 (F) REGULATIONS FOR PERSONNEL PRAC-
20 TICES.—The Commission may prescribe regula-
21 tions to select, oversee, sanction, and dismiss
22 any individual authorized under this paragraph
23 to be employed by the Commission.

24 (g) EXPENDITURES.—

1 (1) IN GENERAL.—The Commission may make
2 such expenditures (including expenditures for rent
3 and personal services at the seat of government and
4 elsewhere, for office supplies, online subscriptions,
5 electronics, law books, periodicals, subscriptions, and
6 books of reference), as may be necessary for the exe-
7 cution of the functions vested in the Commission
8 and as may be appropriated for by Congress in ac-
9 cordance with the authorizations of appropriations
10 under section 18.

11 (2) REIMBURSEMENT.—All expenditures of the
12 Commission, including all necessary expenses for
13 transportation incurred by the commissioners or by
14 their employees, under their orders, in making any
15 investigation or upon any official business in any
16 other places than in the city of Washington, shall be
17 allowed and paid on the presentation of itemized
18 vouchers therefor approved by the Chair of the Com-
19 mission or by such other members or officer thereof
20 as may be designated by the Commission for that
21 purpose.

22 (3) GIFTS.—

23 (A) IN GENERAL.—Notwithstanding any
24 other provision of law, in furtherance of its
25 functions the Commission is authorized to ac-

1 cept, hold, administer, and use unconditional
2 gifts, donations, and bequests of real, personal,
3 and other property (including voluntary and un-
4 compensated services, as authorized by section
5 3109 of title 5, United States Code).

6 (B) TAXES.—For the purpose of Federal
7 law on income taxes, estate taxes, and gift
8 taxes, property or services accepted under the
9 authority of subparagraph (A) shall be deemed
10 to be a gift, bequest, or devise to the United
11 States.

12 (C) REGULATIONS.—

13 (i) IN GENERAL.—The Commission
14 shall promulgate regulations to carry out
15 this paragraph.

16 (ii) CONFLICTS OF INTEREST.—The
17 regulations promulgated under clause (i)
18 shall include provisions to preclude the ac-
19 ceptance of any gift, bequest, or donation
20 that would create a conflict of interest or
21 the appearance of a conflict of interest.

22 (h) QUORUM; SEAL.—

23 (1) QUORUM.—Three members of the Commis-
24 sion shall constitute a quorum thereof.

1 (2) SEAL.—The Commission shall have an offi-
2 cial seal which shall be judicially noticed.

3 (i) DUTIES AND POWERS.—The Commission may
4 perform any and all acts, including collection of any infor-
5 mation from digital platforms under the jurisdiction of the
6 Commission as the Commission determines necessary,
7 without regard to any final determination of the Office
8 on Management and Budget under chapter 35 of title 44,
9 United States Code (commonly referred to as the “Paper-
10 work Reduction Act”), make such rules and regulations,
11 and issue such orders, not inconsistent with this Act, as
12 may be necessary in the execution of its functions.

13 (j) CONDUCT OF PROCEEDINGS; HEARINGS.—

14 (1) IN GENERAL.—The Commission may con-
15 duct its proceedings in such manner as will best con-
16 duce to the proper dispatch of business and to the
17 ends of justice.

18 (2) CONFLICT OF INTEREST.—No commissioner
19 shall participate in any hearing or proceeding in
20 which he has a pecuniary interest.

21 (3) OPEN TO ALL PARTIES.—Any party may
22 appear before the Commission and be heard in per-
23 son or by attorney.

24 (4) RECORD OF PROCEEDINGS.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B)—

3 (i) every vote and official act of the
4 Commission shall be entered of record; and

5 (ii) the Commission shall endeavor to
6 make each proceeding public, while recog-
7 nizing the occasional need for private con-
8 vening and deliberation.

9 (B) DEFENSE INFORMATION.—The Com-
10 mission may withhold publication of records or
11 proceedings containing secret information af-
12 fecting the national defense.

13 (k) RECORD OF REPORTS.—All reports of investiga-
14 tions made by the Commission shall be entered of record,
15 and a copy thereof shall be furnished to the party who
16 may have complained, and to any digital platform or li-
17 censee that may have been complained of.

18 (l) PUBLICATION OF REPORTS; ADMISSIBILITY AS
19 EVIDENCE.—The Commission shall provide for the publi-
20 cation of its reports and decisions in such form and man-
21 ner as may be best adapted for public information and
22 use, and such authorized publications shall be competent
23 evidence of the reports and decisions of the Commission
24 therein contained in all courts of the United States and

1 of the several States without any further proof or authen-
2 tication thereof.

3 (m) COMPENSATION OF APPOINTEES.—Rates of
4 compensation of persons appointed under this section shall
5 be subject to the reduction applicable to officers and em-
6 ployees of the Federal Government generally.

7 (n) MEMORANDA OF UNDERSTANDING.—The Com-
8 mission shall enter into memoranda of understanding with
9 the Federal Communications Commission, the Federal
10 Trade Commission, and the Department of Justice to en-
11 sure, to the greatest extent possible, coordination, collabo-
12 ration, and the effective use of Federal resources con-
13 cerning areas of overlapping jurisdiction.

14 **SEC. 7. ORGANIZATION AND FUNCTIONING OF THE COM-**
15 **MISSION.**

16 (a) CHAIR; DUTIES; VACANCY.—

17 (1) IN GENERAL.—The member of the Commis-
18 sion designated by the President as Chair shall be
19 the chief executive officer of the Commission.

20 (2) DUTIES.—The Chair of the Commission
21 shall—

22 (A) preside at all meetings and sessions of
23 the Commission;

24 (B) represent the Commission in all mat-
25 ters relating to legislation and legislative re-

1 ports, except that any commissioner may
2 present the commissioner's own or minority
3 views or supplemental reports;

4 (C) represent the Commission in all mat-
5 ters requiring conferences or communications
6 with other governmental officers, departments,
7 or agencies; and

8 (D) generally coordinate and organize the
9 work of the Commission in such manner as to
10 promote prompt and efficient disposition of all
11 matters within the jurisdiction of the Commis-
12 sion.

13 (3) VACANCY.—In the case of a vacancy in the
14 office of the Chair of the Commission, or the ab-
15 sence or inability of the Chair to serve, the Commis-
16 sion may temporarily designate a member of the
17 Commission to act as Chair until the cause or cir-
18 cumstance requiring the designation is eliminated or
19 corrected.

20 (b) ORGANIZATION OF STAFF.—

21 (1) IN GENERAL.—From time to time as the
22 Commission may find necessary, the Commission
23 shall organize its staff into—

1 (A) bureaus, to function on the basis of
2 the Commission's principal workload operations;
3 and

4 (B) such other divisional organizations as
5 the Commission may determine necessary.

6 (2) INTEGRATION.—The Commission, to the ex-
7 tent practicable, shall organize the bureaus and
8 other divisions of the Commission to—

9 (A) promote collaboration and cross-cut-
10 ting subject matter and technical expertise; and

11 (B) avoid organization silos.

12 (3) PERSONNEL.—Each bureau established
13 under paragraph (1)(A) shall include such legal, en-
14 gineering, accounting, administrative, clerical, and
15 other personnel as the Commission may determine to
16 be necessary to perform its functions.

17 (4) EXPERT PERSONNEL.—The Commission
18 shall prioritize, to the extent practicable, the hiring
19 of staff with a demonstrated academic or profes-
20 sional background in computer science, data science,
21 application development, technology policy, and
22 other areas the Commission may determine nec-
23 essary to perform its functions.

24 (c) DELEGATION OF FUNCTIONS; EXCEPTIONS TO
25 INITIAL ORDERS; FORCE, EFFECT, AND ENFORCEMENT

1 OF ORDERS; ADMINISTRATIVE AND JUDICIAL REVIEW;
2 QUALIFICATIONS AND COMPENSATION OF DELEGATES;
3 ASSIGNMENT OF CASES; SEPARATION OF REVIEW AND
4 INVESTIGATIVE OR PROSECUTING FUNCTIONS; SEC-
5 RETARY; SEAL.—

6 (1) DELEGATION OF FUNCTIONS.—

7 (A) IN GENERAL.—When necessary to the
8 proper functioning of the Commission and the
9 prompt and orderly conduct of its business, the
10 Commission may, by published rule or by order,
11 delegate any of its functions to a panel of com-
12 missioners, an individual commissioner, an em-
13 ployee board, or an individual employee, includ-
14 ing functions with respect to hearing, deter-
15 mining, ordering, certifying, reporting, or other-
16 wise acting as to any work, business, or matter;
17 except that in delegating review functions to
18 employees in cases of adjudication (as defined
19 in the Administrative Procedure Act), the dele-
20 gation in any such case may be made only to
21 an employee board consisting of 2 or more em-
22 ployees referred to in paragraph (7).

23 (B) MINIMUM VOTE.—Any rule or order
24 described in subparagraph (A) may be adopted,
25 amended, or rescinded only by a vote of a ma-

1 jority of the members of the Commission then
2 holding office.

3 (2) FORCE, EFFECT, AND ENFORCEMENT OF
4 ORDERS.—Any order, decision, report, or action
5 made or taken pursuant to a delegation under para-
6 graph (1), unless reviewed as provided in paragraph
7 (3), shall have the same force and effect, and shall
8 be made, evidenced, and enforced in the same man-
9 ner, as orders, decisions, reports, or other actions of
10 the Commission.

11 (3) ADMINISTRATIVE AND JUDICIAL REVIEW.—

12 (A) AGGRIEVED PERSONS.—Any person
13 aggrieved by an order, decision, report or action
14 described in paragraph (1) may file an applica-
15 tion for review by the Commission within such
16 time and in such manner as the Commission
17 shall prescribe, and every such application shall
18 be passed upon by the Commission.

19 (B) INITIATIVE OF COMMISSION.—The
20 Commission, on its own initiative, may review
21 in whole or in part, at such time and in such
22 manner as it shall determine, any order, deci-
23 sion, report, or action made or taken pursuant
24 to any delegation under paragraph (1).

25 (4) REVIEW.—

1 (A) IN GENERAL.—In passing upon an ap-
2 plication for review filed under paragraph (3),
3 the Commission may grant, in whole or in part,
4 or deny the application without specifying any
5 reasons therefor.

6 (B) QUESTIONS OF FACT OR LAW.—No ap-
7 plication for review filed under paragraph
8 (3)(A) shall rely on questions of fact or law
9 upon which the panel of commissioners, indi-
10 vidual commissioner, employee board, or indi-
11 vidual employee has been afforded no oppor-
12 tunity to pass.

13 (5) GRANT OF APPLICATION.—If the Commis-
14 sion grants an application for review filed under
15 paragraph (3)(A), the Commission may—

16 (A) affirm, modify, or set aside the order,
17 decision, report, or action; or

18 (B) order a rehearing upon the order, deci-
19 sion, report, or action.

20 (6) APPLICATION REQUIRED FOR JUDICIAL RE-
21 VIEW.—The filing of an application for review under
22 paragraph (3)(A) shall be a condition precedent to
23 judicial review of any order, decision, report, or ac-
24 tion made or taken pursuant to a delegation under
25 paragraph (1).

1 (7) QUALIFICATIONS AND COMPENSATION OF
2 DELEGATES; ASSIGNMENT OF CASES; SEPARATION
3 OF REVIEW AND INVESTIGATIVE OR PROSECUTING
4 FUNCTIONS.—

5 (A) QUALIFICATIONS OF DELEGATES.—

6 The employees to whom the Commission may
7 delegate review functions in any case of adju-
8 dication (as defined in the Administrative Pro-
9 cedure Act)—

10 (i) shall be qualified, by reason of
11 their training, experience, and competence,
12 to perform such review functions; and

13 (ii) shall perform no duties incon-
14 sistent with such review functions.

15 (B) COMPENSATION.—An employee de-
16 scribed in subparagraph (A) shall be in a grade
17 classification or salary level commensurate with
18 the important duties of the employee, and in no
19 event less than the grade classification or salary
20 level of the employee or employees whose ac-
21 tions are to be reviewed.

22 (C) SEPARATION.—In the performance of
23 review functions described in subparagraph (A),
24 employees described in that subparagraph—

1 (i) shall be assigned to cases in rota-
2 tion so far as practicable; and

3 (ii) shall not be responsible to or sub-
4 ject to the supervision or direction of any
5 officer, employee, or agent engaged in the
6 performance of investigative or prosecuting
7 functions for any agency.

8 (8) SECRETARY; SEAL.—The secretary and seal
9 of the Commission shall be the secretary and seal of
10 each panel of the Commission, each individual com-
11 missioner, and each employee board or individual
12 employee exercising functions delegated pursuant to
13 paragraph (1) of this subsection.

14 (d) MEETINGS.—Meetings of the Commission shall
15 be held at regular intervals, not less frequently than once
16 each calendar month, at which times the functioning of
17 the Commission and the handling of its workload shall be
18 reviewed and such orders shall be entered and other action
19 taken as may be necessary or appropriate to expedite the
20 prompt and orderly conduct of the business of the Com-
21 mission with the objective of rendering a final decision in
22 a timely fashion.

23 (e) MANAGING DIRECTOR.—

1 (1) IN GENERAL.—The Commission shall have
2 a Managing Director who shall be appointed by the
3 Chair subject to the approval of the Commission.

4 (2) FUNCTIONS.—The Managing Director,
5 under the supervision and direction of the Chair,
6 shall perform such administrative and executive
7 functions as the Chair shall delegate.

8 (3) PAY.—The Managing Director shall be paid
9 at a rate equal to the rate then payable for grade
10 15 of the pay scale of the Securities and Exchange
11 Commission.

12 **SEC. 8. CODE COUNCIL.**

13 (a) ESTABLISHMENT.—The Commission shall estab-
14 lish a Code Council that shall develop proposed voluntary
15 or enforceable behavioral codes, technical standards, or
16 other policies for digital platforms through the code proc-
17 ess under subsection (e).

18 (b) MEMBERSHIP.—

19 (1) IN GENERAL.—The Council shall consist of
20 18 members, of whom—

21 (A) 6 shall be representatives of digital
22 platforms or associations of digital platforms,
23 not fewer than 3 of whom shall be representa-
24 tives of systemically important digital platforms

1 or associations that include systemically impor-
2 tant digital platforms;

3 (B) 6 shall be representatives of nonprofit
4 public interest groups, academics, and other ex-
5 perts not affiliated with commercial enterprises,
6 with demonstrated expertise in technology pol-
7 icy, law, consumer protection, privacy, competi-
8 tion, disinformation, or another area the Chair
9 determines relevant; and

10 (C) 6 shall be technical experts in engi-
11 neering, application development, computer
12 science, data science, machine learning, commu-
13 nications, media studies, and any other dis-
14 cipline the Chair determines relevant.

15 (2) APPOINTMENT.—The Chair shall appoint
16 each member of the Council, subject to approval by
17 the Commission.

18 (3) TERMS.—

19 (A) IN GENERAL.—A member of the Coun-
20 cil shall be appointed for a term of 3 years.

21 (B) STAGGERED TERMS.—The terms of
22 members of the Council shall be staggered such
23 that one-third of the membership of the Council
24 changes each year.

1 (c) MEETINGS.—The Council shall meet publicly not
2 less frequently than once a month.

3 (d) CHAIR AND VICE CHAIR.—

4 (1) IN GENERAL.—There shall be a Chair and
5 Vice Chair of the Council—

6 (A) one of whom shall be a member de-
7 scribed in subparagraph (A) of subsection
8 (b)(1); and

9 (B) one of whom shall be a member de-
10 scribed in subparagraph (B) of subsection
11 (b)(1).

12 (2) ANNUAL ROTATION.—The Chair or Vice
13 Chair for a calendar year shall be a member de-
14 scribed in a different subparagraph of subsection
15 (b)(1) than the member who served as Chair or Vice
16 Chair, respectively, for the preceding calendar year.

17 (e) CODE PROCESS.—

18 (1) IN GENERAL.—The Commission may, at
19 any time, initiate a process to develop a voluntary or
20 enforceable behavioral code, technical standard, or
21 other policy for digital platforms or a class of digital
22 platforms.

23 (2) INITIATION BASED ON PETITION OR COUN-
24 CIL VOTE.—The Commission may initiate the proc-
25 ess described in paragraph (1) if—

1 (A) the Commission receives a petition
2 from the public, including from a digital plat-
3 form or an association of digital platforms; or

4 (B) the Council votes to initiate the proc-
5 ess.

6 (3) COUNCIL EXAMINATION AND VOTE.—If the
7 process described in paragraph (1) is initiated, the
8 Council—

9 (A) shall consider and develop, if appro-
10 priate, a proposed behavioral code, technical
11 standard, or other policy for digital platforms
12 or a class of digital platforms;

13 (B) in considering and developing a pro-
14 posed code, standard, or policy under subpara-
15 graph (A), shall—

16 (i) allow for submission of feedback by
17 any interested party; and

18 (ii) make available to the public a fac-
19 tual record, developed during the consider-
20 ation and development of the proposed
21 code, standard, or policy, that includes any
22 submission received under clause (i);

23 (C) not earlier than 180 days and not later
24 than 360 days after the date on which the proc-
25 ess is initiated, shall vote on whether to submit

1 a recommendation for the proposed code, stand-
2 ard, or policy to the Commission; and

3 (D) may submit minority views along with
4 a recommendation under subparagraph (C), as
5 appropriate.

6 (4) PUBLIC REVIEW; COMMISSION EXAMINATION
7 AND VOTE.—Upon receipt of a recommendation for
8 a proposed behavioral code, technical standard, or
9 other policy from the Council under paragraph (3),
10 the Commission shall—

11 (A) allow for submission of comments on
12 the proposed code, standard, or policy by any
13 interested party for a period of not fewer than
14 45 days and not more than 90 days, and pub-
15 licly disclose any comments received;

16 (B) examine the proposed code, standard,
17 or policy, along with comments received under
18 subparagraph (A);

19 (C) determine whether to adopt, reject, or
20 adopt with modifications the proposed code,
21 standard, or policy;

22 (D) provide a public rationale for the de-
23 termination under subparagraph (C); and

24 (E) promulgate rules to carry out the de-
25 termination under subparagraph (C) in accord-

1 ance with section 553 of title 5, United States
2 Code.

3 (5) UPDATES.—Not less frequently than once
4 every 5 years, the Commission shall review and up-
5 date, as necessary, any behavioral code, technical
6 standard, or other policy established by rule under
7 paragraph (4).

8 (6) RULE OF CONSTRUCTION.—Nothing in this
9 subsection shall be construed to affect the authority
10 of the Commission to promulgate rules under section
11 9.

12 (f) QUALIFICATIONS.—

13 (1) CITIZENSHIP.—Each member of the Council
14 shall be a United States citizen or an alien lawfully
15 admitted for permanent residence to the United
16 States.

17 (2) CONFLICTS OF INTEREST.—

18 (A) IN GENERAL.—Subject to subpara-
19 graphs (B) and (C), no member of the Council
20 other than a member appointed under sub-
21 section (b)(1)(A) shall—

22 (i) be financially interested in any
23 company or other entity engaged in the
24 business of providing online services;

1 (ii) be financially interested in any
2 company or other entity that controls any
3 company or other entity specified in clause
4 (i), or that derives a significant portion of
5 its total income from ownership of stocks,
6 bonds, or other securities of any such com-
7 pany or other entity; or

8 (iii) be employed by, hold any official
9 relation to, or own any stocks, bonds, or
10 other securities of, any person significantly
11 regulated by the Commission under this
12 Act.

13 (B) SIGNIFICANT INTEREST.—The prohibi-
14 tions under subparagraph (A) shall apply only
15 to financial interests in any company or other
16 entity that has a significant interest in activi-
17 ties subject to regulation by the Commission.

18 (C) WAIVER.—

19 (i) IN GENERAL.—Subject to section
20 208 of title 18, United States Code, the
21 Commission may waive, from time to time,
22 the application of the prohibitions under
23 subparagraph (A) to a member of the
24 Council if the Commission determines that
25 the financial interests of the member that

1 are involved in a particular case are mini-
2 mal.

3 (ii) PUBLICATION.—If the Commis-
4 sion exercises the waiver authority under
5 clause (i), the Commission shall publish
6 notice of that action in the Federal Reg-
7 ister.

8 (3) DETERMINATION OF SIGNIFICANT INTER-
9 EST.—The Commission, in determining for purposes
10 of paragraph (2) whether a company or other entity
11 has a significant interest in activities that are sub-
12 ject to regulation by the Commission, shall consider,
13 without excluding other relevant factors—

14 (A) the revenues, investments, profits, and
15 managerial efforts directed to the related activi-
16 ties of the company or other entity, as com-
17 pared to the other aspects of the business of the
18 company or other entity;

19 (B) the extent to which the Commission
20 regulates and oversees the activities of the com-
21 pany or other entity;

22 (C) the degree to which the economic inter-
23 ests of the company or other entity may be af-
24 fected by any action of the Commission; and

1 (D) the perceptions held by the public re-
2 garding the business activities of the company
3 or other entity.

4 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall be construed to authorize the Council to promul-
6 gate rules.

7 **SEC. 9. RULEMAKING AUTHORITY, REQUIREMENTS, AND**
8 **CONSIDERATIONS.**

9 The Commission—

10 (1) may promulgate rules to carry out this Act
11 in accordance with section 553 of title 5, United
12 States Code; and

13 (2) shall tailor the rules promulgated under
14 paragraph (1), as appropriate, based on the size,
15 dominance, and other attributes of particular digital
16 platforms.

17 **SEC. 10. SYSTEMICALLY IMPORTANT DIGITAL PLATFORMS.**

18 (a) DESIGNATION OF SIDPS; RULEMAKING AU-
19 THORITY.—The Commission may—

20 (1) designate systemically important digital
21 platforms in accordance with this section; and

22 (2) promulgate rules specific to systemically im-
23 portant digital platforms, consistent with the pur-
24 poses of the Commission under section 4(b).

1 (b) MANDATORY CRITERIA.—The Commission shall
2 designate a digital platform a systemically important dig-
3 ital platform if the platform—

4 (1) is open to the public on one side;

5 (2) has significant engagement among users,
6 which may take the form of private groups, public
7 groups, and the sharing of posts visible to some or
8 all users;

9 (3) conducts business primarily at the inter-
10 state or international level, as opposed to the intra-
11 state level; and

12 (4) has operations with significant nationwide
13 economic, social, or political impacts, as defined by
14 the Commission for purposes of this paragraph
15 through notice-and-comment rulemaking under sec-
16 tion 553 of title 5, United States Code, which may
17 include—

18 (A) the ability of the platform to signifi-
19 cantly shape the national dissemination of
20 news;

21 (B) the ability of the platform to cause a
22 person significant, immediate, and demon-
23 strable economic, social, or political harm by ex-
24 clusion from the platform;

25 (C) the market power of the platform;

1 (D) the number of unique daily users of
2 the platform; and

3 (E) the dependence of business users, espe-
4 cially small business users, on the platform to
5 reach customers.

6 (c) ANNUAL AND OTHER REPORTS.—

7 (1) AUTHORITY TO REQUIRE REPORTS.—The
8 Commission may—

9 (A) require annual reports from system-
10 ically important digital platforms subject to this
11 Act, and from persons directly or indirectly con-
12 trolling or controlled by, or under direct or indi-
13 rect control with, any such platform;

14 (B) prescribe the content expected in such
15 reports;

16 (C) prescribe the manner in which such re-
17 ports shall be made; and

18 (D) require from such persons specific an-
19 swers to all questions upon which the Commis-
20 sion may need information.

21 (2) ADMINISTRATION.—

22 (A) TIME PERIOD COVERED; FILING.—A
23 report under paragraph (1)—

24 (i) shall be for such 12 months' period
25 as the Commission shall designate; and

1 (ii) shall be filed with the Commission
2 at its office in Washington not later than
3 3 months after the close of the year for
4 which the report is made, unless additional
5 time is granted in any case by the Com-
6 mission.

7 (B) FAILURE TO MEET DEADLINE.—If a
8 person subject to this subsection fails to make
9 and file an annual report within the time speci-
10 fied under subparagraph (A), or within the time
11 extended by the Commission, for making and
12 filing the report, or fails to make specific an-
13 swer to any question authorized by this sub-
14 section within 30 days after the time the person
15 is lawfully required so to do, the person shall
16 forfeit to the United States—

17 (i) \$10,000 for each day the person
18 continues to be in default with respect
19 thereto, for the first 30 days of such de-
20 fault; and

21 (ii) an amount determined appropriate
22 by the Commission for each subsequent
23 day that the person continues to be in de-
24 fault with respect thereto, which may not

1 exceed 1 percent of the total global revenue
2 of the person during the preceding year.

3 **SEC. 11. MERGER REVIEW.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (c), no digital platform shall be transferred or disposed
6 of in any manner, voluntarily or involuntarily, directly or
7 indirectly, or by transfer of control of any operator of such
8 digital platform, to any person except upon application to
9 the Commission and upon finding by the Commission that
10 the public interest, convenience, and necessity will be
11 served thereby. The Commission may grant or deny the
12 application, or grant the application with conditions if the
13 Commission finds that such conditions serve the public in-
14 terest, convenience, or necessity.

15 (b) PROCEDURES.—The Commission shall issue rules
16 that specify the procedures for review of applications
17 under subsection (a), which may include procedures that
18 are tailored to transactions of different sizes.

19 (c) EXEMPTIONS.—The Commission may issue rules
20 to exempt from review certain classes of digital platforms
21 on the basis of size, or such other criteria as the Commis-
22 sion considers appropriate in the public interest, conven-
23 ience, and necessity to achieve the purposes described in
24 section 4(b).

1 **SEC. 12. PETITIONS.**

2 (a) PETITION FOR FORBEARANCE.—

3 (1) SUBMISSION.—

4 (A) IN GENERAL.—Any digital platform or
5 association of digital platforms may submit a
6 petition to the Commission requesting that the
7 Commission forbear the application and en-
8 forcement of a rule promulgated under this Act,
9 including a behavioral code of conduct, tech-
10 nical standard, or other policy established by
11 rule under section 8.

12 (B) PUBLICATION.—

13 (i) IN GENERAL.—Subject to clause
14 (ii), the Commission shall make a petition
15 submitted under subparagraph (A) avail-
16 able to the public.

17 (ii) WAIVER.—The Commission may
18 waive the requirement under clause (i) if
19 the Commission makes the rationale for
20 the waiver available to the public..

21 (2) DISMISSAL WITHOUT PREJUDICE.—

22 (A) IN GENERAL.—Any petition submitted
23 under paragraph (1) shall be deemed dismissed
24 without prejudice if the Commission does not
25 grant the petition within 18 months after the
26 date on which the Commission receives the peti-

1 tion, unless the Commission extends the 18-
2 month period under subparagraph (B) of this
3 paragraph.

4 (B) EXTENSION.—The Commission may
5 extend the initial 18-month period under sub-
6 paragraph (A) by an additional 3 months.

7 (3) SCOPE OF GRANT AUTHORITY; WRITTEN
8 EXPLANATION.—The Commission may grant or deny
9 a petition submitted under paragraph (1) in whole
10 or in part and shall explain its decision in writing.

11 (4) NOTICE AND COMMENT REQUIREMENTS.—
12 Section 553 of title 5, United States Code, shall
13 apply to any determination of the Commission to
14 forbear the application and enforcement of a rule
15 under paragraph (1) of this subsection.

16 (b) STATE ENFORCEMENT AFTER COMMISSION FOR-
17 BEARANCE.—A State commission may not continue to
18 apply or enforce any rule, including any behavioral code,
19 technical standard, or other policy established by rule, that
20 the Commission has determined to forbear from applying
21 under subsection (a).

22 **SEC. 13. RESEARCH.**

23 (a) RESEARCH OFFICE.—In order to carry out the
24 purposes of this Act, the Commission shall establish an
25 office with not fewer than 20 dedicated employees to con-

1 duct internal research, and collaborate with outside aca-
2 demics and experts, as appropriate, to further the pur-
3 poses of the Commission under section 4(b).

4 (b) RESEARCH GRANTS.—

5 (1) IN GENERAL.—The office established under
6 subsection (a) may competitively award grants to
7 academic institutions and experts to conduct re-
8 search consistent with the purposes of the Commis-
9 sion under section 4(b).

10 (2) PUBLIC AVAILABILITY.—A recipient of a
11 grant awarded under paragraph (1) shall make the
12 findings of the research conducted using the grant
13 publicly available.

14 (c) PILOT RESEARCH PROGRAM FOR SENSITIVE
15 DATA.—The Commission shall by rule establish a pilot
16 program that allows vetted, nonprofit, financially disin-
17 terested academic institutions and experts to access data
18 and other information collected from a digital platform by
19 the Commission for the purposes of research and analysis
20 consistent with the public interest, while—

21 (1) ensuring that no personally identifiable in-
22 formation of any user of the digital platform is pub-
23 licly available; and

24 (2) making every effort to—

1 (A) avoid harm to the business interests of
2 the digital platform; and

3 (B) ensure the safety and security of the
4 private data and other information of the dig-
5 ital platform.

6 **SEC. 14. INVESTIGATIVE AUTHORITY.**

7 (a) IN GENERAL.—The Commission may inquire into
8 the management of the business of digital platforms sub-
9 ject to this Act, and shall keep itself informed as to the
10 manner and method in which that management is con-
11 ducted and as to technical and business developments in
12 the provision of online services.

13 (b) INFORMATION.—The Commission may obtain
14 from digital platforms subject to this Act and from per-
15 sons directly or indirectly controlling or controlled by, or
16 under direct or indirect control with, those platforms full
17 and complete information necessary, including data flows,
18 to enable the Commission to perform the duties and carry
19 out the objects for which it was created.

20 **SEC. 15. ENFORCEMENT BY PRIVATE PERSONS AND GOV-
21 ERNMENTAL ENTITIES.**

22 (a) RECOVERY OF DAMAGES.—Any person claiming
23 to be damaged by any digital platform subject to this Act
24 may—

1 (1) make complaint to the Commission under
2 subsection (b); or

3 (2) bring a civil action for enforcement of this
4 Act, including the rules promulgated under this Act,
5 in any district court of the United States of com-
6 petent jurisdiction.

7 (b) COMPLAINTS TO THE COMMISSION.—

8 (1) IN GENERAL.—

9 (A) APPLICATION.—Any person, any body
10 politic or municipal organization, or any State
11 attorney general or State commission, com-
12 plaining of anything done or omitted to be done
13 by any digital platform subject to this Act, in
14 contravention of the provisions thereof, may
15 apply to the Commission by petition which shall
16 briefly state the facts, whereupon a statement
17 of the complaint thus made shall be forwarded
18 by the Commission to the digital platform,
19 which shall be called upon to satisfy the com-
20 plaint or to answer the complaint in writing
21 within a reasonable time to be specified by the
22 Commission.

23 (B) RELIEF OF LIABILITY.—If a digital
24 platform described in subparagraph (A) within
25 the time specified makes reparation for the in-

1 jury alleged to have been caused, the platform
2 shall be relieved of liability to the complainant
3 only for the particular violation of law thus
4 complained of.

5 (C) INVESTIGATION.—If a digital platform
6 described in subparagraph (A) does not satisfy
7 the complaint within the time specified or there
8 shall appear to be any reasonable ground for in-
9 vestigating the complaint, the Commission shall
10 investigate the matters complained of in such
11 manner and by such means as the Commission
12 determines proper.

13 (D) DIRECT DAMAGE NOT REQUIRED.—No
14 complaint shall at any time be dismissed be-
15 cause of the absence of direct damage to the
16 complainant.

17 (2) ORDER.—

18 (A) IN GENERAL.—The Commission shall,
19 with respect to any investigation under this
20 subsection of the lawfulness of a charge, classi-
21 fication, regulation, or practice, issue an order
22 concluding the investigation not later than 180
23 days after the date on which the complaint was
24 filed.

1 (B) FINAL ORDER.—Any order concluding
2 an investigation under subparagraph (A) shall
3 be a final order and may be appealed under sec-
4 tion 16.

5 (3) ORDERS FOR PAYMENT OF MONEY.—If,
6 after hearing on a complaint under this paragraph,
7 the Commission determines that any party complain-
8 ant is entitled to an award of damages under this
9 Act, the Commission shall make an order directing
10 the digital platform to pay to the complainant the
11 sum to which the complainant is entitled on or be-
12 fore a day named.

13 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
14 ERAL.—If the attorney general of a State has reason to
15 believe that an interest of the residents of the State has
16 been or is threatened or adversely affected by any person
17 who violates this Act or a rule promulgated under this Act,
18 the attorney general of the State, as *parens patrie*, may
19 bring a civil action on behalf of the residents of the State
20 in any district court of the United States of competent
21 jurisdiction for enforcement of this Act, including the rules
22 promulgated under this Act.

23 (d) LIABILITY OF DIGITAL PLATFORM FOR ACTS
24 AND OMISSIONS OF AGENTS.—In construing and enforce-
25 ing the provisions of this Act, the act, omission, or failure

1 of any officer, agent, or other person acting for or em-
2 ployed by any digital platform or user, acting within the
3 scope of his employment, shall in every case be also
4 deemed to be the act, omission, or failure of the platform
5 or user as well as that of the person.

6 **SEC. 16. PROCEEDINGS TO ENJOIN, SET ASIDE, ANNUL, OR**
7 **SUSPEND ORDERS OF THE COMMISSION.**

8 (a) **RIGHT TO APPEAL.**—An appeal may be taken
9 from any decision or order of the Commission, by any per-
10 son who is aggrieved or whose interests are adversely af-
11 fected by the decision or order, to the United States Court
12 of Appeals for the District of Columbia or the United
13 States court of appeals for the circuit in which the person
14 resides.

15 (b) **FILING NOTICE OF APPEAL; CONTENTS; JURIS-**
16 **DICTION; TEMPORARY ORDERS.**—

17 (1) **FILING NOTICE OF APPEAL.**—An appeal de-
18 scribed in subsection (a) shall be taken by filing a
19 notice of appeal with the appropriate United States
20 court of appeals not later than 30 days after the
21 date on which public notice is given of the decision
22 or order complained of.

23 (2) **CONTENTS.**—A notice of appeal filed under
24 paragraph (1) shall contain—

1 (A) a concise statement of the nature of
2 the proceedings as to which the appeal is taken;

3 (B) a concise statement of the reasons on
4 which the appellant intends to rely, separately
5 stated and numbered; and

6 (C) proof of service of a true copy of the
7 notice and statements upon the Commission.

8 (3) JURISDICTION.—Upon the filing of a notice
9 of appeal with a United States court of appeals
10 under paragraph (1), the court—

11 (A) shall have jurisdiction of the pro-
12 ceedings and of the questions determined there-
13 in; and

14 (B) shall have power, by order, directed to
15 the Commission or any other party to the ap-
16 peal, to grant such temporary relief as the
17 court may deem just and proper.

18 (4) TEMPORARY ORDERS.—An order granting
19 temporary relief issued by the court under para-
20 graph (3)—

21 (A) may be affirmative or negative in scope
22 and application so as to permit—

23 (i) the maintenance of the status quo
24 in the matter in which the appeal is taken;

25 or

1 (ii) the restoration of a position or
2 status terminated or adversely affected by
3 the order appealed from; and

4 (B) shall, unless otherwise ordered by the
5 court, be effective pending hearing and deter-
6 mination of the appeal and compliance by the
7 Commission with the final judgment of the
8 court rendered in the appeal.

9 (c) NOTICE TO INTERESTED PARTIES; FILING OF
10 RECORD.—

11 (1) NOTICE TO INTERESTED PARTIES.—Not
12 later than 5 days after filing a notice of appeal
13 under subsection (b), the appellant shall provide, to
14 each person shown by the records of the Commission
15 to be interested in the appeal, notice of—

16 (A) the filing; and

17 (B) the pendency of the appeal.

18 (2) FILING OF RECORD.—The Commission shall
19 file with the court the record upon which the order
20 complained of was entered, as provided in section
21 2112 of title 28, United States Code.

22 (d) INTERVENTION.—

23 (1) RIGHT TO INTERVENE.—Not later than 30
24 days after the filing of an appeal described in sub-
25 section (a), any interested party may intervene and

1 participate in the proceedings had upon the appeal
2 by filing with the court—

3 (A) a notice of intention to intervene and
4 a verified statement showing the nature of the
5 interest of the person; and

6 (B) proof of service of true copies of the
7 notice and statement described in subparagraph
8 (A) upon—

9 (i) the appellant; and

10 (ii) the Commission.

11 (2) INTERESTED PARTY.—For purposes of
12 paragraph (1), any person who would be aggrieved
13 or whose interest would be adversely affected by a
14 reversal or modification of the order of the Commis-
15 sion complained of shall be considered an interested
16 party.

17 (e) RECORD AND BRIEFS.—The record and briefs
18 upon which an appeal described in subsection (a) shall be
19 heard and determined by the court shall contain such in-
20 formation and material, and shall be prepared within such
21 time and in such manner, as the court may by rule pre-
22 scribe.

23 (f) TIME OF HEARING; PROCEDURE.—The court
24 shall hear and determine an appeal described in subsection

1 (a) upon the record before it in the manner prescribed by
2 section 706 of title 5, United States Code.

3 (g) REMAND.—If the court renders a decision and en-
4 ters an order reversing the order of the Commission—

5 (1) the court shall remand the case to the Com-
6 mission to carry out the judgment of the court; and

7 (2) the Commission, in the absence of pro-
8 ceedings to review the judgment under paragraph
9 (1) or (2) of subsection (i), shall forthwith give ef-
10 fect to the judgment, and unless otherwise ordered
11 by the court, shall do so upon the basis of—

12 (A) the proceedings already had; and

13 (B) the record upon which the appeal was
14 heard and determined.

15 (h) JUDGMENT FOR COSTS.—The court may, in its
16 discretion, enter judgment for costs in favor of or against
17 an appellant, or other interested parties intervening in the
18 appeal, but not against the Commission, depending upon
19 the nature of the issues involved in the appeal and the
20 outcome of the appeal.

21 (i) FINALITY OF DECISION; REVIEW BY SUPREME
22 COURT.—The judgment of a court of appeals under this
23 section shall be final, subject to review by the Supreme
24 Court of the United States—

1 (1) upon writ of certiorari on petition therefor
2 under section 1254 of title 28, United States Code,
3 by—

4 (A) the appellant;

5 (B) the Commission; or

6 (C) any interested party intervening in the
7 appeal; or

8 (2) by certification by the court of appeals
9 under such section 1254.

10 **SEC. 17. REPORT TO CONGRESS.**

11 (a) IN GENERAL.—Not earlier than 5 years after the
12 date of enactment of this Act, the President shall establish
13 an independent panel to—

14 (1) comprehensively study the policies, oper-
15 ations, and regulations of the Commission; and

16 (2) submit an in-depth report to the congres-
17 sional committees of jurisdiction, including the Com-
18 mittee on Commerce, Science, and Transportation of
19 the Senate and the Committee on Energy and Com-
20 merce of the House of Representatives, that in-
21 cludes—

22 (A) an evaluation of the effectiveness of
23 the Commission in achieving the purposes
24 under section 4(b);

1 (B) recommended reforms to strengthen
2 the Commission; and

3 (C) a recommendation regarding whether
4 the Commission should continue in effect.

5 (b) MEMBERSHIP.—The independent panel estab-
6 lished under subsection (a) shall consist of 10 members,
7 of whom—

8 (1) 2 shall be appointed by the President;

9 (2) 2 shall be appointed by the majority leader
10 of the Senate;

11 (3) 2 shall be appointed by the minority leader
12 of the Senate;

13 (4) 2 shall be appointed by the Speaker of the
14 House of Representatives; and

15 (5) 2 shall be appointed by the minority leader
16 of the House of Representatives.

17 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated to the Com-
19 mission to carry out the functions of the Commission—

20 (1) \$100,000,000 for fiscal year 2023;

21 (2) \$200,000,000 for fiscal year 2024;

22 (3) \$300,000,000 for fiscal year 2025;

23 (4) \$450,000,000 for fiscal year 2026; and

- 1 (5) \$500,000,000 for each of fiscal years 2027
- 2 through 2032.

○