

Calendar No. 658117TH CONGRESS
2^D SESSION**S. 1628**

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

IN THE SENATE OF THE UNITED STATES

MAY 13, 2021

Mr. MARKEY (for himself, Mr. CASSIDY, Mr. BLUMENTHAL, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 15, 2022

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

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

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

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

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

Sec. 1. Table of contents.

Sec. 2. Definitions.

Sec. 3. Online collection, use, and disclosure of personal information of children
and minors.

Sec. 4. Fair Information Practices Principles.

Sec. 5. Digital Marketing Bill of Rights for Minors.

Sec. 6. Targeted marketing to children or minors.

Sec. 7. Removal of content.

Sec. 8. Privacy dashboard for connected devices for children and minors.

Sec. 9. Prohibition on sale of connected devices for children and minors that
fail to meet appropriate cybersecurity and data security stand-
ards.

Sec. 10. Rule for treatment of users of websites, services, and applications di-
rected to children or minors.

Sec. 11. Study of mobile and online application oversight.

Sec. 12. Youth Privacy and Marketing Division.

Sec. 13. Enforcement and applicability.

6 **SEC. 2. DEFINITIONS.**

7 (a) **IN GENERAL.**—In this Act:

8 (1) **COMMISSION.**—The term “Commission”
9 means the Federal Trade Commission.

10 (2) **CONSTRUCTIVE KNOWLEDGE.**—

11 (A) **IN GENERAL.**—The term “constructive
12 knowledge” means that knowledge that a minor
13 is a minor under section 5(a)(1)(A)(i)(II) shall
14 be imputed, at a minimum, to an operator if—

15 (i) the operator directly or indirectly
16 collects, uses, profiles, buys, sells, classi-
17 fies, or analyzes (using an algorithm or

1 other form of data analytics) data about a
2 user or groups of users to estimate, iden-
3 tify, or classify the age, age range, or
4 proxy thereof;

5 (ii) the operator directly or indirectly
6 collects, uses, profiles, buys, sells, classifies
7 or analyzes (using an algorithm or other
8 form of data analytics) data about the na-
9 ture of the content of the website, online
10 service, online application, or mobile appli-
11 cation that estimates, identifies, or classi-
12 fies the content as directed to users of a
13 particular age range or similarly estimates,
14 identifies, or classifies the intended or like-
15 ly audience for the content;

16 (iii) the operator has or receives data
17 or reporting related to the age of users on
18 the website, online service, online applica-
19 tion, or mobile application under the self-
20 regulatory guidelines described in section
21 1304 of the Children's Online Privacy Pro-
22 tection Act of 1998 (15 U.S.C. 6503) that
23 documents risks and controls, including the
24 existence of operator-controlled data ana-

1 lytics and content analytics capabilities and
2 functions or outputs;

3 (iv) the operator has or receives com-
4 plaints from parents or other third parties
5 about the age of users using its service,
6 whether through the operators' complaint
7 mechanism, by email, or other means con-
8 veniently accessible by the user;

9 (v) the operator has or receives data
10 or reporting or information from the oper-
11 ator's internal communications, including
12 documentation about its advertising prac-
13 tices, such as an advertisement insertion
14 order, or other promotional material to
15 marketers, that indicates that data is being
16 collected from users of a particular age
17 range that are using the product or serv-
18 ice;

19 (vi) the operator has publicly available
20 data or reporting regarding the operator's
21 product or service indicating that users of
22 a particular age range are using the prod-
23 uct or service; or

24 (vii) a content provider on the opera-
25 tor's website, online service, online applica-

1 tion, or mobile application communicates
2 to an ad-network that the content is in-
3 tended for users of a particular age range
4 or likely to appeal to users of a particular
5 age range, whether directly or indirectly.

6 (B) **ADDITIONAL FACTORS.**—The Commis-
7 sion may issue guidance or promulgate rules
8 that indicate factors, in addition to those de-
9 scribed in subparagraph (A), that should be
10 considered to be constructive knowledge for
11 purposes of this Act.

12 (3) **STANDARDS.**—The term “standards” means
13 benchmarks, guidelines, best practices, methodolo-
14 gies, procedures, and processes.

15 (b) **OTHER DEFINITIONS.**—The definitions set forth
16 in section 1302 of the Children’s Online Privacy Protec-
17 tion Act of 1998 (15 U.S.C. 6501), as amended by section
18 3(a) of this Act, shall apply in this Act, except to the ex-
19 tent the Commission provides otherwise by regulations
20 issued under section 553 of title 5, United States Code.

1 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
 2 **PERSONAL INFORMATION OF CHILDREN AND**
 3 **MINORS.**

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

7 (1) by amending paragraph (2) to read as fol-
 8 lows:

9 “(2) OPERATOR.—The term ‘operator’—

10 “(A) means any person—

11 “(i) who, for commercial purposes, in
 12 interstate or foreign commerce operates or
 13 provides a website on the internet, an on-
 14 line service, an online application, or a mo-
 15 bile application; and

16 “(ii) who—

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

22 “(II) allows another person to
 23 collect personal information directly
 24 from users of that website, service,
 25 application, or connected device (in

1 which case, the operator is deemed to
2 have collected the information); or

3 “~~(III)~~ allows users of that
4 website, service, application, or con-
5 nected device to publicly disclose per-
6 sonal information (in which case, the
7 operator is deemed to have collected
8 the information); and

9 “~~(B)~~ does not include any nonprofit entity
10 that would otherwise be exempt from coverage
11 under section 5 of the Federal Trade Commis-
12 sion Act (15 U.S.C. 45).”;

13 ~~(2)~~ in paragraph ~~(4)~~—

14 ~~(A)~~ by amending subparagraph ~~(A)~~ to read
15 as follows:

16 “~~(A)~~ the release of personal information
17 collected from a child or minor for any purpose,
18 except where the personal information is pro-
19 vided to a person other than an operator who—

20 “~~(i)~~ provides support for the internal
21 operations of the website, online service,
22 online application, or mobile application of
23 the operator, excluding any activity relat-
24 ing to targeted marketing directed to chil-
25 dren, minors, or connected devices; and

1 “(ii) does not disclose or use that per-
 2 sonal information for any other purpose;
 3 and”; and

4 (B) in subparagraph (B)—

5 (i) by inserting “or minor” after
 6 “child” each place the term appears;

7 (ii) by inserting “or minors” after
 8 “children”; and

9 (iii) by striking “website or online
 10 service” and inserting “website, online
 11 service, online application, or mobile appli-
 12 cation”;

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

15 “(F) geolocation information;

16 “(G) information used for biometric identi-
 17 fication, as defined in section 70123 of title 46,
 18 United States Code, of an individual;

19 “(H) information reasonably associated
 20 with or attributed to an individual;

21 “(I) information (including an internet
 22 protocol address) that permits the identification
 23 of—

24 “(i) an individual; or

1 “(ii) any device used by an individual
 2 to directly or indirectly access the internet
 3 or an online service, online application, or
 4 mobile application; or

5 “(J) information concerning a child or
 6 minor or the parents of that child or minor (in-
 7 cluding any unique or substantially unique iden-
 8 tifier, such as a customer number) that an op-
 9 erator collects online from the child or minor
 10 and combines with an identifier described in
 11 this paragraph.”;

12 (4) by amending paragraph (9) to read as fol-
 13 lows:

14 “(9) VERIFIABLE CONSENT.—The term ‘verifi-
 15 able consent’ means any reasonable effort (taking
 16 into consideration available technology), including a
 17 request for authorization for future collection, use,
 18 and disclosure described in the notice, to ensure
 19 that, in the case of a child, a parent of the child,
 20 or, in the case of a minor, the minor—

21 “(A) receives specific notice of the personal
 22 information collection, use, and disclosure prac-
 23 tices of the operator; and

1 “(B) before the personal information of the
2 child or minor is collected, freely and unambig-
3 uously authorizes—

4 “(i) the collection, use, and disclosure,
5 as applicable, of that personal information;
6 and

7 “(ii) any subsequent use of that per-
8 sonal information.”;

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

12 (6) by adding at the end the following:

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

17 “(13) **ONLINE.**—The term ‘online’ means—

18 “(A) connected to or compatible with the
19 internet; or

20 “(B) via the internet.

21 “(14) **ONLINE APPLICATION.**—The term ‘online
22 application’—

23 “(A) means an internet-connected software
24 program; and

1 “(B) includes a service or application of-
2 ferred via a connected device.

3 “(15) ONLINE SERVICE.—The term ‘online
4 service’—

5 “(A) means broadband internet access
6 service, as defined in the Report and Order on
7 Remand, Declaratory Ruling, and Order in the
8 matter of protecting and promoting the open
9 internet, adopted by the Federal Communica-
10 tions Commission on February 26, 2015 (FCC
11 15–24); and

12 “(B) includes a service or application of-
13 ferred via a connected device.

14 “(16) DIRECTED TO A CHILD OR MINOR.—

15 “(A) IN GENERAL.—The terms ‘directed to
16 a child’ or ‘directed to a minor’ means, with re-
17 spect to a website, online service, online applica-
18 tion, or mobile application, the website, online
19 service, online application, or mobile application
20 is targeted to children or minors, as the case
21 may be, as demonstrated by—

22 “(i) the subject matter of the website,
23 online service, online application, or mobile
24 application;

1 “(ii) the visual content of the website,
2 online service, online application, or mobile
3 application;

4 “(iii) the use of animated characters
5 or child-oriented activities for children, or
6 the use of minor-oriented characters or
7 minor-oriented activities for minors, and
8 related incentives on the website, online
9 service, online application, or mobile appli-
10 cation;

11 “(iv) the music or other audio content
12 on the website, online service, online appli-
13 cation, or mobile application;

14 “(v) the age of models on the website,
15 online service, online application, or mobile
16 application;

17 “(vi) the presence, on the website, on-
18 line service, online application, or mobile
19 application, of—

20 “(I) child celebrities;

21 “(II) celebrities who appeal to
22 children;

23 “(III) teen celebrities; or

24 “(IV) celebrities who appeal to
25 minors;

1 “(vii) the language used on the
2 website, online service, online application,
3 or mobile application;

4 “(viii) advertising content used on, or
5 used to advertise, the website, online serv-
6 ice, online application, or mobile applica-
7 tion; or

8 “(ix) reliable empirical evidence relat-
9 ing to—

10 “(I) the composition of the audi-
11 ence of the website, online service, on-
12 line application, or mobile application;
13 and

14 “(II) the intended audience of
15 the website, online service, online ap-
16 plication, or mobile application.

17 “(B) RULES OF CONSTRUCTION.—

18 “(i) SERVICES DEEMED DIRECTED TO
19 CHILDREN OR MINORS.—For the purposes
20 of this title, a website, online service, on-
21 line application, or mobile application shall
22 be deemed to be directed to children or mi-
23 nors if the operator of the website, online
24 service, online application, or mobile appli-
25 cation has constructive knowledge that the

1 website, online service, online application,
2 or mobile application collects personal in-
3 formation directly from users of any other
4 website, online service, online application,
5 or mobile application that is directed to
6 children or minors under the criteria de-
7 scribed in subparagraph (A).

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

10 “(I) IN GENERAL.—A website,
11 online service, online application, or
12 mobile application that is directed to
13 children or minors under the criteria
14 described in subparagraph (A), but
15 that does not target children or mi-
16 nors as the primary audience of the
17 website, online service, online applica-
18 tion, or mobile application, shall not
19 be deemed to be directed to children
20 or minors for purposes of this title if
21 the website, online service, online ap-
22 plication, or mobile application—

23 “(aa) does not collect per-
24 sonal information from any user
25 of the website, online service, on-

1 line application, or mobile appli-
2 cation before verifying age infor-
3 mation of the user; and

4 “(bb) does not, without first
5 complying with any relevant no-
6 tice and consent provision under
7 this title, collect, use, or disclose
8 personal information of any user
9 who identifies themselves to the
10 website, online service, online ap-
11 plication, or mobile application as
12 an individual who is under the
13 age of 16.

14 “(H) USE OF CERTAIN TOOLS.—

15 For purposes of this title, a website,
16 online service, online application, or
17 mobile application, shall not be
18 deemed directed to children or minors
19 solely because the website, online serv-
20 ice, online application, or mobile appli-
21 cation refers or links to any other
22 website, online service, online applica-
23 tion, or mobile application directed to
24 children or minors by using informa-
25 tion location tools, including—

- 1 “(aa) a directory;
 2 “(bb) an index;
 3 “(cc) a reference;
 4 “(dd) a pointer; or
 5 “(ee) a hypertext link.

6 “(17) MOBILE APPLICATION.—The term ‘mo-
 7 bile application’—

8 “(A) means a software program that runs
 9 on the operating system of—

- 10 “(i) a cellular telephone;
 11 “(ii) a tablet computer; or
 12 “(iii) a similar portable computing de-
 13 vice that transmits data over a wireless
 14 connection; and

15 “(B) includes a service or application of-
 16 fered via a connected device.

17 “(18) GEOLOCATION INFORMATION.—The term
 18 ‘geolocation information’ means information suffi-
 19 cient to identify a street name and name of a city
 20 or town.

21 “(19) MINOR.—The term ‘minor’ means an in-
 22 dividual over the age of 12 and under the age of 16.

23 “(20) TARGETED MARKETING.—The term ‘tar-
 24 geted marketing’ means advertising or any other ef-

1 fort to market a product or service that is directed
 2 to a specific individual or device—

3 “(A) based on—

4 “(i) the personal information of—

5 “(I) the individual; or

6 “(II) a group of individuals who

7 are similar in gender, age, income

8 level, race, or ethnicity to the specific

9 individual to whom the product or

10 service is marketed;

11 “(ii) psychological profiling; or

12 “(iii) a unique identifier of the device;

13 or

14 “(B) as a result of use by the individual,

15 access by any device of the individual, or use by

16 a group of individuals who are similar to the

17 specific individual, of—

18 “(i) a website;

19 “(ii) an online service;

20 “(iii) an online application;

21 “(iv) a mobile application; or

22 “(v) an operating system.”

23 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF

24 PERSONAL INFORMATION OF CHILDREN AND MINORS.—

1 Section 1303 of the Children’s Online Privacy Protection
2 Act of 1998 (15 U.S.C. 6502) is amended—

3 (1) by striking the heading and inserting the
4 following: “**ONLINE COLLECTION, USE, AND DIS-**
5 **CLOSURE OF PERSONAL INFORMATION OF**
6 **CHILDREN AND MINORS.**”;

7 (2) in subsection (a)—

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

10 “(1) **IN GENERAL.**—It is unlawful for an oper-
11 ator of a website, online service, online application,
12 or mobile application directed to a child or minor, or
13 an operator having constructive knowledge that per-
14 sonal information being collected is from a child or
15 minor, to collect personal information from a child
16 or minor in a manner that violates the regulations
17 prescribed under subsection (b).”;

18 (B) in paragraph (2)—

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

21 (ii) by striking “subsection
22 (b)(1)(B)(iii) to the parent of a child” and
23 inserting “subsection (b)(1)(A)(iii) to the
24 parent of a child or under subsection
25 (b)(1)(A)(iv) to a minor”;

1 (3) in subsection (b)—

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

4 “(1) REGULATIONS.—

5 “(A) IN GENERAL.—Not later than 1 year
6 after the date of the enactment of the Act enti-
7 tled ‘An Act to amend the Children’s Online
8 Privacy Protection Act of 1998 to strengthen
9 protections relating to the online collection, use,
10 and disclosure of personal information of chil-
11 dren and minors, and for other purposes’, the
12 Commission shall promulgate, under section
13 553 of title 5, United States Code, regulations
14 to require an operator of a website, online serv-
15 ice, online application, or mobile application di-
16 rected to children or minors, or an operator
17 having constructive knowledge that personal in-
18 formation being collected is from a child or
19 minor—

20 “(i) to provide clear and conspicuous
21 notice in clear and plain language of—

22 “(I) the types of personal infor-
23 mation the operator collects;

24 “(II) how the operator uses the
25 information;

1 “(III) whether and why the oper-
2 ator discloses the information; and

3 “(IV) the procedures or mecha-
4 nisms the operator uses to ensure that
5 personal information is not collected
6 from children or minors except in ac-
7 cordance with the regulations promul-
8 gated under this paragraph;

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

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

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

19 “(II) the opportunity at any time
20 to delete personal information col-
21 lected from the child; and

22 “(III) a means that is reasonable
23 under the circumstances for the par-
24 ent to obtain any personal information
25 collected from the child, if such infor-

1 mation is available to the operator at
2 the time the parent makes the re-
3 quest;

4 “(iv) to provide to a minor who has
5 provided personal information to the oper-
6 ator, upon request by and proper identi-
7 fication of the minor—

8 “(I) a description of the specific
9 types of personal information collected
10 from the minor by the operator;

11 “(II) the opportunity at any time
12 to delete personal information col-
13 lected from the minor; and

14 “(III) a means that is reasonable
15 under the circumstances for the minor
16 to obtain any personal information
17 collected from the minor, if such in-
18 formation is available to the operator
19 at the time the minor makes the re-
20 quest;

21 “(v) not to condition participation in
22 a game, or use of a website, service, or ap-
23 plication, by a child or minor on the provi-
24 sion by the child or minor of more personal
25 information than is reasonably required to

1 participate in the game or use the website,
2 service, or application; and

3 “(vi) to establish and maintain rea-
4 sonable procedures to protect the confiden-
5 tiality, security, and integrity of personal
6 information collected from children and mi-
7 nors.

8 “(B) UPDATES.—Not less frequently than
9 once every 4 years after the date on which reg-
10 ulations are promulgated under subparagraph
11 (A), the Commission shall update those regula-
12 tions as necessary.”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A), by striking “verifiable parental
16 consent” and inserting “verifiable con-
17 sent”;

18 (ii) in subparagraph (A)—

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

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

23 (III) by inserting “or minor or to
24 contact a different child or minor”
25 after “to recontact the child”;

1 (iii) in subparagraph (B)—

2 (I) by striking “parent or child”
3 and inserting “parent, child, or
4 minor”; and

5 (II) by striking “parental con-
6 sent” each place the term appears and
7 inserting “verifiable consent”;

8 (iv) in subparagraph (C)—

9 (I) in the matter preceding clause
10 (i), by inserting “or minor” after
11 “child” each place the term appears;

12 (II) in clause (i)—

13 (aa) by inserting “or minor”
14 after “child” each place the term
15 appears; and

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

19 (III) in clause (ii)—

20 (aa) by inserting “or minor,
21 as applicable,” after “parent”;
22 and

23 (bb) by inserting “or minor”
24 after “child” each place the term
25 appears; and

- 1 (v) in subparagraph (D)—
- 2 (I) in the matter preceding clause
- 3 (i), by inserting “or minor” after
- 4 “child” each place the term appears;
- 5 (II) in clause (ii), by inserting
- 6 “or minor” after “child”; and
- 7 (III) in the flush text following
- 8 clause (iii)—
- 9 (aa) by inserting “or minor,
- 10 as applicable,” after “parent”
- 11 each place the term appears; and
- 12 (bb) by inserting “or minor”
- 13 after “child”; and

14 (C) by amending paragraph (3) to read as

15 follows:

16 “(3) CONTINUATION OF SERVICE.—The regula-

17 tions shall prohibit an operator from discontinuing

18 service provided to a child or minor on the basis of

19 a request by the parent of the child or by the minor,

20 under the regulations prescribed under clauses

21 (iii)(II) and (iv)(II), respectively, of paragraph

22 (1)(A) to delete personal information collected from

23 the child or minor, to the extent that the operator

24 is capable of providing such service without such in-

25 formation.”;

1 (4) by redesignating subsections (c) and (d) as
2 subsections (d) and (e), respectively; and

3 (5) by inserting after subsection (b) the fol-
4 lowing:

5 “(e) CONSTRUCTIVE KNOWLEDGE.—

6 “(1) IN GENERAL.—Constructive knowledge
7 that personal information being collected is from a
8 child or minor under subsection (a) or (b) shall be
9 imputed, at a minimum, to an operator if—

10 “(A) the operator directly or indirectly col-
11 lects, uses, profiles, buys, sells, classifies, or
12 analyzes (using an algorithm or other form of
13 data analytics) data about a user or groups of
14 users to estimate, identify, or classify the age,
15 age range, or proxy thereof;

16 “(B) the operator directly or indirectly col-
17 lects, uses, profiles, buys, sells, classifies or
18 analyzes (using an algorithm or other form of
19 data analytics) data about the nature of the
20 content of the website, online service, online ap-
21 plication, or mobile application that estimates,
22 identifies, or classifies the content as child or
23 minor-directed or similarly estimates, identifies,
24 or classifies the intended or likely audience for
25 the content;

1 “(C) the operator has or receives data or
2 reporting related to the age of users on the
3 website, online service, online application, or
4 mobile application under the self-regulatory
5 guidelines described in section 1304 that docu-
6 ments risks and controls, including the exist-
7 ence of operator-controlled data analytics and
8 content analytics capabilities and functions or
9 outputs;

10 “(D) the operator has or receives com-
11 plaints from parents or other third parties
12 about the age of users using its service, whether
13 through the operators’ complaint mechanism,
14 by email, or other means conveniently accessible
15 by the user;

16 “(E) the operator has or receives data or
17 reporting or information from the operator’s in-
18 ternal communications, including documenta-
19 tion about its advertising practices, such as an
20 advertisement insertion order, or other pro-
21 motional material to marketers, that indicates
22 that data is being collected from children or mi-
23 nors that are using the product or service;

24 “(F) the operator has publicly available
25 data or reporting regarding the operator’s prod-

1 net or service indicating that children or minors
2 are using its product or service; or

3 “(G) a content provider on the operator’s
4 website, online service, online application, or
5 mobile application communicates to an ad-net-
6 work that the content is intended for children
7 or minors or likely to appeal to children or mi-
8 nors, whether directly or indirectly.

9 “(2) ADDITIONAL FACTORS.—The Commission
10 may issue guidance or promulgate rules that indicate
11 factors, in addition to those described in paragraph
12 (1), that should be considered to be constructive
13 knowledge for purposes of this section.”.

14 (e) SAFE HARBORS.—Section 1304 of the Children’s
15 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
16 is amended—

17 (1) in subsection (b)(1), by inserting “and mi-
18 nors” after “children”; and

19 (2) by adding at the end the following:

20 “(d) PUBLICATION.—The Commission shall publish
21 on the internet website of the Commission any report or
22 documentation required by regulation to be submitted to
23 the Commission to carry out this section.”.

1 (d) ADMINISTRATION AND APPLICABILITY OF ACT.—
2 Section 1306 of the Children’s Online Privacy Protection
3 Act of 1998 (15 U.S.C. 6505) is amended—

4 (1) in subsection (b)—

5 (A) in paragraph (1), by striking “, in the
6 ease of” and all that follows and inserting the
7 following: “by the appropriate Federal banking
8 agency, with respect to any insured depository
9 institution (as those terms are defined in sec-
10 tion 3 of that Act (12 U.S.C. 1813));” and

11 (B) by striking paragraph (2) and redesi-
12 gnating paragraphs (3) through (6) as para-
13 graphs (2) through (5), respectively; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
17 OPERATORS.—

18 “(1) ENFORCEMENT BY COMMISSION.—Not-
19 withstanding section 5(a)(2) of the Federal Trade
20 Commission Act (15 U.S.C. 45(a)(2)), compliance
21 with the requirements imposed under this title shall
22 be enforced by the Commission with respect to any
23 telecommunications carrier (as defined in section 3
24 of the Communications Act of 1934 (47 U.S.C.
25 153)).

1 ~~“(2) RELATIONSHIP TO OTHER LAW.—To the~~
 2 ~~extent that section 222, 338(i), or 631 of the Com-~~
 3 ~~munications Act of 1934 (47 U.S.C. 222, 338(i);~~
 4 ~~551) is inconsistent with this title, this title con-~~
 5 ~~trols.”.~~

6 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

7 The Fair Information Practices Principles described
 8 in this section are the following:

9 ~~(1) COLLECTION LIMITATION PRINCIPLE.—Ex-~~
 10 ~~cept as provided in paragraph (3), personal informa-~~
 11 ~~tion should be collected from a child or minor only~~
 12 ~~when collection of the personal information is—~~

13 ~~(A) consistent with the context of a par-~~
 14 ~~ticular transaction or service or the relationship~~
 15 ~~of the child or minor with the operator, includ-~~
 16 ~~ing collection necessary to fulfill a transaction~~
 17 ~~or provide a service requested by the child or~~
 18 ~~minor; or~~

19 ~~(B) required or specifically authorized by~~
 20 ~~law.~~

21 ~~(2) DATA QUALITY PRINCIPLE.—The personal~~
 22 ~~information of a child or minor should be accurate,~~
 23 ~~complete, and kept up-to-date to the extent nec-~~
 24 ~~essary to fulfill the purposes described in subpara-~~
 25 ~~graphs (A) through (D) of paragraph (3).~~

1 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
2 purposes for which personal information is collected
3 should be specified to the parent of a child or to a
4 minor not later than at the time of the collection of
5 the information. The subsequent use or disclosure of
6 the information should be limited to—

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

9 (B) support for the internal operations of
10 the website, service, or application, as described
11 in section 312.2 of title 16, Code of Federal
12 Regulations, excluding any activity relating to
13 targeted marketing directed to children, minors,
14 or a device of a child or minor if the support
15 for internal operations is consistent with the in-
16 terest of the child or minor;

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

20 (D) other purposes—

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

23 (ii) to which the minor or parent of
24 the child has consented under paragraph

1 (7) before the information is used or dis-
2 closed for such other purposes.

3 (4) RETENTION LIMITATION PRINCIPLE.—

4 (A) IN GENERAL.—The personal informa-
5 tion of a child or minor should not be retained
6 for longer than is necessary to fulfill a trans-
7 action or provide a service requested by the
8 child or minor or such other purposes specified
9 in subparagraphs (A) through (D) of paragraph
10 (3).

11 (B) DATA DISPOSAL.—The operator should
12 implement a reasonable and appropriate data
13 disposal policy based on the nature and sensi-
14 tivity of personal information described in sub-
15 paragraph (A).

16 (5) SECURITY SAFEGUARDS PRINCIPLE.—The
17 personal information of a child or minor should be
18 protected by reasonable and appropriate security
19 safeguards against risks such as loss or unauthor-
20 ized access, destruction, use, modification, or disclo-
21 sure.

22 (6) OPENNESS PRINCIPLE.—

23 (A) GENERAL PRINCIPLE.—The operator
24 should maintain a general policy of openness
25 about developments, practices, and policies with

1 respect to the personal information of a child or
2 minor.

3 (B) PROVISION OF INFORMATION.—The
4 operator should provide to each parent of a
5 child, or to each minor, using the website, on-
6 line service, online application, or mobile appli-
7 cation of the operator with a clear and promi-
8 nent means—

9 (i) to identify and contact the oper-
10 ator, by, at a minimum, disclosing, clearly
11 and prominently, the identity of the oper-
12 ator and—

13 (I) in the case of an operator
14 who is an individual, the address of
15 the principal residence of the operator
16 and an email address and telephone
17 number for the operator; or

18 (II) in the case of any other op-
19 erator, the address of the principal
20 place of business of the operator and
21 an email address and telephone num-
22 ber for the operator;

23 (ii) to determine whether the operator
24 possesses any personal information of the
25 child or minor, the nature of any such in-

1 formation, and the purposes for which the
2 information was collected and is being re-
3 tained;

4 (iii) to obtain any personal informa-
5 tion of the child or minor that is in the
6 possession of the operator from the oper-
7 ator, or from a person specified by the op-
8 erator, within a reasonable time after mak-
9 ing a request, at a charge (if any) that is
10 not excessive, in a reasonable manner, and
11 in a form that is readily intelligible to the
12 child or minor;

13 (iv) to challenge the accuracy of per-
14 sonal information of the child or minor
15 that is in the possession of the operator;

16 (v) to determine if the child or minor
17 has established the inaccuracy of personal
18 information in a challenge under clause
19 (iv) in order to have such information
20 erased, corrected, completed, or otherwise
21 amended; and

22 (vi) to determine the method by which
23 the operator obtains data relevant to the
24 child or minor.

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

6 (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

7 The operator should—

8 (A) obtain consent from a parent of a child
9 or from a minor before using or disclosing the
10 personal information of the child or minor for
11 any purpose other than the purposes described
12 in subparagraphs (A) through (C) of paragraph
13 (3); and

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

21 (8) RACIAL AND SOCIOECONOMIC PROFILING.—

22 The personal information of a child or minor shall
23 not be used to direct content to the child or minor,
24 or a group of individuals similar to the child or

1 minor, on the basis of race, socioeconomic factors, or
2 any proxy thereof.

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

4 (a) ACTS PROHIBITED.—

5 (1) PROHIBITION.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), it shall be unlawful for an
8 operator of a website, online service, online ap-
9 plication, or mobile application to collect per-
10 sonal information from a minor if—

11 (i)(I) the minor is a user of the
12 website, online service, online application,
13 or mobile application; and

14 (II) the operator has constructive
15 knowledge that personal information is
16 being collected from a minor or minors; or

17 (ii) the website, online service, online
18 application, or mobile application is di-
19 rected to minors.

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

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

4 (b) ~~REGULATIONS.~~—

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

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

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

17 (a) ~~ACTS PROHIBITED.~~—

18 (1) ~~CHILDREN.~~—It shall be unlawful for an op-
19 erator of a website, online service, online application,
20 or mobile application to use, disclose to third par-
21 ties, or compile personal information of a child for
22 purposes of targeted marketing if—

23 (A)(i) the child is a user of the website,
24 online service, online application, or mobile ap-
25 plication; and

1 (ii) the operator has constructive knowl-
2 edge that personal information is being col-
3 lected from a child or children; or

4 (B) the website, online service, online ap-
5 plication, or mobile application is directed to a
6 child.

7 (2) MINORS.—

8 (A) PROHIBITION.—Except as provided in
9 subparagraph (B), it shall be unlawful for an
10 operator of a website, online service, online ap-
11 plication, or mobile application to use, disclose
12 to third parties, or compile personal informa-
13 tion of a minor for purposes of targeted mar-
14 keting if—

15 (i)(I) the minor is a user of the
16 website, online service, online application,
17 or mobile application; and

18 (II) the operator has constructive
19 knowledge that the minor is a minor; or

20 (ii) the website, online service, online
21 application, or mobile application is di-
22 rected to a minor.

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

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

4 (b) ~~REGULATIONS.~~—

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

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

14 **SEC. 7. REMOVAL OF CONTENT.**

15 (a) ~~ACTS PROHIBITED.~~—It is unlawful for an oper-
16 ator to make publicly available through a website, online
17 service, online application, or mobile application content
18 or information that contains or displays personal informa-
19 tion of children or minors in a manner that violates sub-
20 section (b).

21 (b) ~~REQUIREMENT.~~—

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

24 (A) implement mechanisms that permit a
25 user of the website, online service, online appli-

1 eation, or mobile application of the operator to
2 erase or otherwise eliminate content or informa-
3 tion that is—

4 (i) submitted to the website, online
5 service, online application, or mobile appli-
6 cation by that user;

7 (ii) publicly available through the
8 website, online service, online application,
9 or mobile application; and

10 (iii) contains or displays personal in-
11 formation of children or minors; and

12 ~~(B)~~ take appropriate steps to—

13 (i) make users aware of the mecha-
14 nisms described in subparagraph (A); and

15 (ii) provide notice to users that the
16 mechanisms described in subparagraph (A)
17 do not necessarily provide comprehensive
18 removal of the content or information sub-
19 mitted by users.

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

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

4 (B) was submitted to the website, online
5 service, online application, or mobile application
6 of the operator by any person other than the
7 user who is attempting to erase or otherwise
8 eliminate the content or information, including
9 content or information submitted by the user
10 that was republished or resubmitted by another
11 person.

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

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

20 **SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES**
21 **FOR CHILDREN AND MINORS.**

22 (a) **IN GENERAL.**—A manufacturer of a connected
23 device directed to a child or minor shall prominently dis-
24 play on the packaging for the connected device a standard-
25 ized and easy-to-understand privacy dashboard, detailing

1 whether, what, and how personal information of a child
2 or minor is—

- 3 (1) collected from the connected device;
- 4 (2) transmitted from the connected device;
- 5 (3) retained on the connected device;
- 6 (4) retained by the manufacturer or affiliated
7 person;
- 8 (5) used by the manufacturer or affiliated per-
9 son; and
- 10 (6) protected.

11 (b) FEATURES.—A privacy dashboard under sub-
12 section (a) shall inform a consumer of—

- 13 (1) the extent to which the connected device
14 meets the highest cybersecurity and data security
15 standards, including if and how to obtain security
16 patches;
- 17 (2) the extent to which the connected device
18 gives—
 - 19 (A) a parent meaningful control over the
20 information of a child of the parent; and
 - 21 (B) a minor meaningful control over the
22 information of the minor;
- 23 (3) the extent to which the device minimizes the
24 collection, retention, and use of information from a
25 child or minor;

1 (4) the location of privacy policies;

2 (5) the type of personal information the con-
3 nected device may collect;

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

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

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

11 (c) REGULATIONS.—

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

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

21 (d) EFFECTIVE DATE.—Subsections (a) and (b) shall
22 take effect on the date that is 180 days after the promul-
23 gation of regulations under subsection (c).

1 **SEC. 9. PROHIBITION ON SALE OF CONNECTED DEVICES**
2 **FOR CHILDREN AND MINORS THAT FAIL TO**
3 **MEET APPROPRIATE CYBERSECURITY AND**
4 **DATA SECURITY STANDARDS.**

5 (a) PROHIBITION.—Beginning 1 year after the date
6 of enactment of this Act, no person may sell a connected
7 device unless the connected device meets appropriate cy-
8 bersecurity and data security standards established by the
9 Commission.

10 (b) CYBERSECURITY AND DATA SECURITY STAND-
11 ARDS.—

12 (1) IN GENERAL.—The Commission shall pro-
13 mulgate, under section 553 of title 5, United States
14 Code, cybersecurity and data security standards de-
15 scribed in subsection (a).

16 (2) CONSIDERATIONS.—In promulgating cyber-
17 security and data security standards under para-
18 graph (1), the Commission shall—

19 (A) create cybersecurity and data security
20 standards for different subsets of connected de-
21 vices based on the varying degrees of—

22 (i) cybersecurity and data security
23 risk associated with each subset of con-
24 nected device;

1 (ii) sensitivity of information collected,
2 stored, or transmitted by each subset of
3 connected device; and

4 (iii) functionality of each subset of
5 connected device;

6 (B) consider incorporating, to the extent
7 practicable, existing cybersecurity and data se-
8 curity standards; and

9 (C) ensure that the cybersecurity and data
10 security standards—

11 (i) are consistent with Fair Informa-
12 tion Practice Principles described in sec-
13 tion 4; and

14 (ii) promote data minimization.

15 **SEC. 10. RULE FOR TREATMENT OF USERS OF WEBSITES,**
16 **SERVICES, AND APPLICATIONS DIRECTED TO**
17 **CHILDREN OR MINORS.**

18 For the purposes of this Act, an operator of a
19 website, online service, online application, or mobile appli-
20 cation that is directed to children or minors shall treat
21 each user of that website, online service, online applica-
22 tion, or mobile application as a child or minor, except as
23 permitted by the Commission pursuant to a regulation
24 promulgated under this Act.

1 **SEC. 11. STUDY OF MOBILE AND ONLINE APPLICATION**
 2 **OVERSIGHT.**

3 Not later than 2 years after the date of enactment
 4 of this Act, the Commission shall submit to each com-
 5 mittee of the Senate and each committee of the House
 6 of Representatives that has jurisdiction over the Commis-
 7 sion a report on the processes of platforms that offer mo-
 8 bile and online applications for ensuring that, of those ap-
 9 plications that are directed to children or minors, the ap-
 10 plications operate in accordance with—

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

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

17 (3) any other Federal or State law relating to
 18 the privacy of children or minors.

19 **SEC. 12. YOUTH PRIVACY AND MARKETING DIVISION.**

20 (a) **ESTABLISHMENT.**—There is established within
 21 the Commission a division to be known as the Youth Pri-
 22 vacy and Marketing Division.

23 (b) **DIRECTOR.**—The Youth Privacy and Marketing
 24 Division shall be headed by a Director, who shall be ap-
 25 pointed by the Chairman of the Commission.

1 (e) DUTIES.—The Youth Privacy and Marketing Di-
2 vision established under subsection (a) shall be responsible
3 for addressing, as it relates to this Act and the amend-
4 ments made by this Act—

5 (1) the privacy of children and minors; and

6 (2) marketing directed at children and minors.

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

12 (e) REPORTS.—Not later than 1 year after the date
13 of enactment of this Act, and each year thereafter, the
14 Director of the Youth and Privacy Marketing Division
15 shall submit to the Committee on Commerce, Science, and
16 Transportation of the Senate and the Committee on En-
17 ergy and Commerce of the House of Representatives a re-
18 port that includes—

19 (1) a description of the work of the Youth Pri-
20 vacy and Marketing Division on emerging concerns
21 relating to youth privacy and marketing practices;
22 and

23 (2) an assessment of how effectively the Com-
24 mission has, during the period for which the report

1 is submitted, addressed youth privacy and marketing
2 practices.

3 **SEC. 13. ENFORCEMENT AND APPLICABILITY.**

4 (a) **ENFORCEMENT BY THE COMMISSION.—**

5 (1) **IN GENERAL.—**Except as otherwise pro-
6 vided, this Act and the regulations prescribed under
7 this Act shall be enforced by the Commission under
8 the Federal Trade Commission Act (15 U.S.C. 41 et
9 seq.).

10 (2) **UNFAIR OR DECEPTIVE ACTS OR PRAC-**
11 **TICES.—**Subject to subsection (b), a violation of this
12 Act or a regulation prescribed under this Act shall
13 be treated as a violation of a rule defining an unfair
14 or deceptive act or practice prescribed under section
15 18(a)(1)(B) of the Federal Trade Commission Act
16 (15 U.S.C. 57a(a)(1)(B)).

17 (3) **ACTIONS BY THE COMMISSION.—**

18 (A) **IN GENERAL.—**Subject to subsection
19 (b), and except as provided in subsection (d)(1),
20 the Commission shall prevent any person from
21 violating this Act or a regulation prescribed
22 under this Act in the same manner, by the
23 same means, and with the same jurisdiction,
24 powers, and duties as though all applicable
25 terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were in-
2 corporated into and made a part of this Act,
3 and any person who violates this Act or such
4 regulation shall be subject to the penalties and
5 entitled to the privileges and immunities pro-
6 vided in the Federal Trade Commission Act.

7 (B) VIOLATIONS.—

8 (i) IN GENERAL.—In an action
9 brought by the Commission to enforce this
10 Act and the regulations prescribed under
11 this Act, each connected device that fails to
12 meet a standard promulgated under this
13 Act shall be treated as a separate violation.

14 (ii) CIVIL PENALTY.—Notwithstand-
15 ing section 5(m) of the Federal Trade
16 Commission Act (15 U.S.C. 45(m)), a civil
17 penalty recovered for a violation of this Act
18 or a regulation prescribed under this Act
19 may be in excess of the amounts provided
20 for in that section as the court finds ap-
21 propriate to deter violations of this Act
22 and regulations prescribed under this Act.

23 (iii) FIRST VIOLATIONS.—In an action
24 brought by the Commission to enforce this
25 Act and the regulations prescribed under

1 this Act, the Commission may seek a civil
2 penalty for any violation of this Act or reg-
3 ulation prescribed under this Act, including
4 any violation that is the first violation of
5 this Act or a regulation prescribed under
6 this Act that a person against whom the
7 action is brought has committed.

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

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

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

21 (3) Under part A of subtitle VII of title 49,
22 United States Code, by the Secretary of Transpor-
23 tation, with respect to any air carrier or foreign air
24 carrier subject to such part.

1 (4) Under the Packers and Stockyards Act,
 2 1921 (7 U.S.C. 181 et seq.) (except as provided in
 3 section 406 of that Act (7 U.S.C. 226; 227)) by the
 4 Secretary of Agriculture, with respect to any activi-
 5 ties subject to that Act.

6 (5) Under the Farm Credit Act of 1971 (12
 7 U.S.C. 2001 et seq.) by the Farm Credit Adminis-
 8 tration, with respect to any Federal land bank, Fed-
 9 eral land bank association, Federal intermediate
 10 credit bank, or production credit association.

11 (e) ENFORCEMENT BY STATE ATTORNEYS GEN-
 12 ERAL.—

13 (1) IN GENERAL.—

14 (A) CIVIL ACTIONS.—In any case in which
 15 the attorney general of a State has reason to
 16 believe that an interest of the residents of that
 17 State has been or is threatened or adversely af-
 18 fected by the engagement of any person in a
 19 practice that violates this Act or a regulation
 20 prescribed under this Act, the State, as *parens*
 21 *patriae*, may bring a civil action on behalf of
 22 the residents of the State in a district court of
 23 the United States of appropriate jurisdiction
 24 to—

25 (i) enjoin that practice;

1 (ii) enforce compliance with this Act
2 or such regulation;

3 (iii) obtain damages, restitution, or
4 other compensation on behalf of residents
5 of the State; or

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

8 (B) NOTICE.—

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

13 (I) written notice of that action;
14 and

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

17 (ii) EXEMPTION.—

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

1 (HH) NOTIFICATION.—In an ac-
 2 tion described in subelause (I), the at-
 3 torney general of a State shall provide
 4 notice and a copy of the complaint to
 5 the Commission at the same time as
 6 the attorney general files the action.

7 (2) INTERVENTION.—

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

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

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

17 (ii) to file a petition for appeal.

18 (3) CONSTRUCTION.—For purposes of bringing
 19 any civil action under paragraph (1), nothing in this
 20 Act shall be construed to prevent an attorney gen-
 21 eral of a State from exercising the powers conferred
 22 on the attorney general by the laws of that State
 23 to—

24 (A) conduct investigations;

25 (B) administer oaths or affirmations; or

1 (C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 (4) ACTIONS BY THE COMMISSION.—In any
5 case in which an action is instituted by or on behalf
6 of the Commission for violation of this Act or a reg-
7 ulation prescribed under this Act, no State may,
8 during the pendency of that action, institute an ac-
9 tion under paragraph (1) against any defendant
10 named in the complaint in the action instituted by
11 or on behalf of the Commission for that violation.

12 (5) VENUE; SERVICE OF PROCESS.—

13 (A) VENUE.—Any action brought under
14 paragraph (1) may be brought in the district
15 court of the United States that meets applicable
16 requirements relating to venue under section
17 1391 of title 28, United States Code.

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

21 (i) is an inhabitant; or

22 (ii) may be found.

23 (d) TELECOMMUNICATIONS CARRIERS AND CABLE
24 OPERATORS.—

1 (1) ENFORCEMENT BY COMMISSION.—Notwith-
 2 standing section 5(a)(2) of the Federal Trade Com-
 3 mission Act (15 U.S.C. 45(a)(2)), compliance with
 4 the requirements imposed under this Act shall be en-
 5 forced by the Commission with respect to any tele-
 6 communications carrier (as defined in section 3 of
 7 the Communications Act of 1934 (47 U.S.C. 153)).

8 (2) RELATIONSHIP TO OTHER LAWS.—To the
 9 extent that section 222, 338(i), or 631 of the Com-
 10 munications Act of 1934 (47 U.S.C. 222, 338(i);
 11 551) is inconsistent with this Act, this Act controls.

12 (c) SAFE HARBORS.—

13 (1) DEFINITION.—In this subsection—

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

16 (B) the term “covered operator” means an
 17 operator subject to guidelines approved under
 18 paragraph (2);

19 (C) the term “requesting entity” means an
 20 entity that submits a safe harbor request to the
 21 Commission; and

22 (D) the term “safe harbor request” means
 23 a request to have self-regulatory guidelines de-
 24 scribed in paragraph (2)(A) approved under
 25 that paragraph.

1 (2) GUIDELINES.—

2 (A) IN GENERAL.—An operator may sat-
3 isfy the requirements of regulations issued
4 under an applicable section by following a set of
5 self-regulatory guidelines, issued by representa-
6 tives of the marketing or online industries, or
7 by other persons, that, after notice and an op-
8 portunity for comment, are approved by the
9 Commission upon making a determination that
10 the guidelines meet the requirements of the reg-
11 ulations issued under that applicable section.

12 (B) EXPEDITED RESPONSE TO RE-
13 QUESTS.—Not later than 180 days after the
14 date on which a safe harbor request is filed
15 under subparagraph (A), the Commission shall
16 act upon the request set forth in writing the
17 conclusions of the Commission with regard to
18 the request.

19 (C) APPEALS.—A requesting entity may
20 appeal the final action of the Commission under
21 subparagraph (B), or a failure by the Commis-
22 sion to act in the period described in that para-
23 graph, to a district court of the United States
24 of appropriate jurisdiction, as provided for in
25 section 706 of title 5, United States Code.

1 (3) INCENTIVES.—

2 (A) SELF-REGULATORY INCENTIVES.—In
3 prescribing regulations under an applicable sec-
4 tion, the Commission shall provide incentives
5 for self-regulation by covered operators to im-
6 plement the protections afforded children and
7 minors, as applicable, under the regulatory re-
8 quirements described in those sections.

9 (B) DEEMED COMPLIANCE.—The incen-
10 tives under subparagraph (A) shall include pro-
11 visions for ensuring that a covered operator will
12 be deemed to be in compliance with the require-
13 ments of the regulations under an applicable
14 section if that person complies with guidelines
15 approved under paragraph (2).

16 (4) REGULATIONS.—In prescribing regulations
17 relating to safe harbor guidelines under an applica-
18 ble section, the Commission shall—

19 (A) establish criteria for the approval of
20 guidelines that will ensure that a covered oper-
21 ator provides substantially the same or greater
22 protections for children and minors, as applica-
23 ble, as those contained in the regulations issued
24 under the applicable section; and

1 (~~B~~) require that any report or documenta-
2 tion required to be submitted to the Commis-
3 sion by a covered operator or requesting entity
4 will be published on the internet website of the
5 Commission.

6 (~~5~~) REPORT BY THE INSPECTOR GENERAL.—

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

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

18 (I) operating fairly and effec-
19 tively; and

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

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

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

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

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

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Online collection, use, and disclosure of personal information of children and minors.

Sec. 4. Fair Information Practices Principles.

Sec. 5. Digital Marketing Bill of Rights for Minors.

Sec. 6. Targeted marketing to children or minors.

Sec. 7. Removal of content.

Sec. 8. Privacy dashboard for connected devices for children and minors.

Sec. 9. Rule for treatment of users of websites, services, and applications directed to children or minors.

Sec. 10. Study of mobile and online application oversight.

Sec. 11. Youth Privacy and Marketing Division.

Sec. 12. Enforcement and applicability.

Sec. 13. GAO study.

14 **SEC. 2. DEFINITIONS.**

15 *(a) IN GENERAL.—In this Act:*

16 *(1) COMMISSION.—The term “Commission”*
 17 *means the Federal Trade Commission.*

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

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

10 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
 11 **PERSONAL INFORMATION OF CHILDREN AND**
 12 **MINORS.**

13 (a) *DEFINITIONS.*—*Section 1302 of the Children’s On-*
 14 *line Privacy Protection Act of 1998 (15 U.S.C. 6501) is*
 15 *amended—*

16 (1) *by amending paragraph (2) to read as fol-*
 17 *lows:*

18 “(2) *OPERATOR.*—*The term ‘operator’—*

19 “(A) *means any person—*

20 “(i) *who, for commercial purposes, in*
 21 *interstate or foreign commerce operates or*
 22 *provides a website on the internet, an online*
 23 *service, an online application, a mobile ap-*
 24 *plication, or a connected device; and*

25 “(ii) *who—*

1 “(I) collects or maintains, either
2 directly or through a service provider,
3 personal information from or about the
4 users of that website, service, applica-
5 tion, or connected device;

6 “(II) allows another person to col-
7 lect personal information directly from
8 users of that website, service, applica-
9 tion, or connected device (in which
10 case, the operator is deemed to have
11 collected the information); or

12 “(III) allows users of that website,
13 service, application, or connected de-
14 vice to publicly disclose personal infor-
15 mation (in which case, the operator is
16 deemed to have collected the informa-
17 tion); and

18 “(B) does not include any nonprofit entity
19 that would otherwise be exempt from coverage
20 under section 5 of the Federal Trade Commission
21 Act (15 U.S.C. 45).”;

22 (2) in paragraph (4)—

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

1 “(A) the release of personal information col-
2 lected from a child or minor for any purpose, ex-
3 cept where the personal information is provided
4 to a person other than an operator who—

5 “(i) provides support for the internal
6 operations of the website, online service, on-
7 line application, mobile application, or con-
8 nected device of the operator, excluding any
9 activity relating to targeted marketing di-
10 rected to children, minors, or connected de-
11 vices; and

12 “(ii) does not disclose or use that per-
13 sonal information for any other purpose;
14 and”; and

15 (B) in subparagraph (B)—

16 (i) by inserting “or minor” after
17 “child” each place the term appears;

18 (ii) by inserting “or minors” after
19 “children”; and

20 (iii) by striking “website or online
21 service” and inserting “website, online serv-
22 ice, online application, mobile application,
23 or connected device”;

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

1 “(F) geolocation information;

2 “(G) information generated from the meas-
3 urement or technological processing of an indi-
4 vidual’s biological, physical, or physiological
5 characteristics, including—

6 “(i) fingerprints;

7 “(ii) voice prints;

8 “(iii) iris or retina imagery scans;

9 “(iv) facial imagery or templates;

10 “(v) deoxyribonucleic acid (DNA) in-
11 formation; or

12 “(vi) gait;

13 “(H) information reasonably associated
14 with or attributed to a child or minor;

15 “(I) information (including an internet
16 protocol address) that permits the identification
17 of—

18 “(i) an individual; or

19 “(ii) any device used by an individual
20 to directly or indirectly access the internet
21 or an online service, online application, mo-
22 bile application, or connected device; or

23 “(J) information concerning a child or
24 minor or the parents of that child or minor (in-
25 cluding any unique or substantially unique iden-

1 *tifier, such as a customer number) that an oper-*
2 *ator collects online from the child or minor and*
3 *combines with an identifier described in this*
4 *paragraph.”;*

5 *(4) by amending paragraph (9) to read as fol-*
6 *lows:*

7 *“(9) VERIFIABLE CONSENT.—The term ‘verifiable*
8 *consent’ means any reasonable effort (taking into con-*
9 *sideration available technology), including a request*
10 *for authorization for future collection, use, and disclo-*
11 *sure described in the notice, to ensure that, in the case*
12 *of a child, a parent of the child, or, in the case of a*
13 *minor, the minor—*

14 *“(A) receives specific notice of the personal*
15 *information collection, use, and disclosure prac-*
16 *tices of the operator; and*

17 *“(B) before the personal information of the*
18 *child or minor is collected, freely and unambig-*
19 *uously authorizes—*

20 *“(i) the collection, use, and disclosure,*
21 *as applicable, of that personal information;*
22 *and*

23 *“(ii) any subsequent use of that per-*
24 *sonal information.”;*

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

4 (6) *by adding at the end the following:*

5 “(12) *CONNECTED DEVICE.—The term ‘connected*
6 *device’ means a device that is capable of connecting*
7 *to the internet, directly or indirectly, or to another*
8 *connected device.*

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

11 “(A) *means an internet-connected software*
12 *program; and*

13 “(B) *includes a service or application of-*
14 *fered via a connected device.*

15 “(14) *ONLINE SERVICE.—*

16 “(A) *IN GENERAL.—The term ‘online serv-*
17 *ice’ means a mass-market retail service by wire*
18 *or radio that provides the capability to transmit*
19 *data and receive data from all or substantially*
20 *all Internet endpoints, including any capabili-*
21 *ties that are incidental to and enable the oper-*
22 *ation of a communications service, but excluding*
23 *dial-up Internet service.*

24 “(B) *SCOPE.—Such term includes—*

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

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

7 “(15) DIRECTED TO CHILDREN OR MINORS.—

8 “(A) IN GENERAL.—The terms ‘directed to
9 children’, ‘directed to minors’, and ‘directed to
10 children or minors’ mean, with respect to a
11 website, online service, online application, mobile
12 application, or connected device, that the website,
13 online service, online application, mobile appli-
14 cation, or connected device, or a portion thereof,
15 is targeted to children or minors, as the case
16 may be, as demonstrated by—

17 “(i) the subject matter of the website,
18 online service, online application, mobile
19 application, or connected device;

20 “(ii) the visual content of the website,
21 online service, online application, mobile
22 application, or connected device;

23 “(iii) the use of animated characters or
24 child-oriented activities for children, or the
25 use of minor-oriented characters or minor-

1 *oriented activities for minors, and related*
2 *incentives on the website, online service, on-*
3 *line application, mobile application, or con-*
4 *nected device;*

5 “(iv) *the music or other audio content*
6 *on the website, online service, online appli-*
7 *cation, mobile application, or connected de-*
8 *vice;*

9 “(v) *the age of models on the website,*
10 *online service, online application, mobile*
11 *application, or connected device;*

12 “(vi) *the presence, on the website, on-*
13 *line service, online application, mobile ap-*
14 *plication, or connected device, of—*

15 “(I) *child celebrities;*

16 “(II) *celebrities who appeal to*
17 *children;*

18 “(III) *teen celebrities; or*

19 “(IV) *celebrities who appeal to*
20 *minors;*

21 “(vii) *the language used on the website,*
22 *online service, online application, mobile*
23 *application, or connected device;*

24 “(viii) *advertising content used on, or*
25 *used to advertise, the website, online service,*

1 *online application, mobile application, or*
2 *connected device; or*

3 *“(ix) reliable empirical evidence relat-*
4 *ing to—*

5 *“(I) the composition of the audi-*
6 *ence of the website, online service, on-*
7 *line application, mobile application, or*
8 *connected device; and*

9 *“(II) the intended audience of the*
10 *website, online service, online applica-*
11 *tion, mobile application, or connected*
12 *device.*

13 *“(B) RULES OF CONSTRUCTION.—*

14 *“(i) SERVICES DEEMED DIRECTED TO*
15 *CHILDREN OR MINORS.—For the purposes of*
16 *this title, a website, online service, online*
17 *application, mobile application, or con-*
18 *ected device, or a portion thereof, shall be*
19 *deemed to be directed to children or minors*
20 *if it collects personal information directly*
21 *from users of any other website, online serv-*
22 *ice, online application, mobile application,*
23 *or connected device that is—*

1 “(I) directed to children or minors
2 under the criteria described in sub-
3 paragraph (A); or

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

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

8 “(I) IN GENERAL.—A website, on-
9 line service, online application, mobile
10 application, or connected device that is
11 directed to children or minors under
12 the criteria described in subparagraph
13 (A), but that does not target children
14 or minors as the primary audience of
15 the website, online service, online ap-
16 plication, mobile application, or con-
17 nected device shall not be deemed to be
18 directed to children or minors for pur-
19 poses of this title if the website, online
20 service, online application, mobile ap-
21 plication, or connected device—

22 “(aa) does not collect per-
23 sonal information from any user
24 of the website, online service, on-
25 line application, mobile applica-

1 *tion, or connected device before*
2 *verifying age information of the*
3 *user; and*

4 *“(bb) does not, without first*
5 *complying with any relevant no-*
6 *tice and consent provision under*
7 *this title, collect, use, or disclose*
8 *personal information of any user*
9 *who identifies themselves to the*
10 *website, online service, online ap-*
11 *plication, mobile application, or*
12 *connected device as an individual*
13 *who is age 16 or younger.*

14 *“(II) USE OF CERTAIN TOOLS.—*
15 *For purposes of this title, a website,*
16 *online service, online application, mo-*
17 *bile application, or connected device,*
18 *shall not be deemed directed to children*
19 *or minors solely because the website,*
20 *online service, online application, mo-*
21 *bile application, or connected device re-*
22 *fers or links to any other website, on-*
23 *line service, online application, mobile*
24 *application, or connected device di-*

1 *rected to children or minors by using*
2 *information location tools, including—*

3 *“(aa) a directory;*

4 *“(bb) an index;*

5 *“(cc) a reference;*

6 *“(dd) a pointer; or*

7 *“(ee) a hypertext link.*

8 *“(16) MOBILE APPLICATION.—The term ‘mobile*
9 *application’—*

10 *“(A) means a software program that runs*
11 *on the operating system of—*

12 *“(i) a cellular telephone;*

13 *“(ii) a tablet computer; or*

14 *“(iii) a similar portable computing de-*
15 *vice that transmits data over a wireless con-*
16 *nection; and*

17 *“(B) includes a service or application of-*
18 *fered via a connected device.*

19 *“(17) GEOLOCATION INFORMATION.—The term*
20 *‘geolocation information’ means information suffi-*
21 *cient to identify a street name and name of a city or*
22 *town.*

23 *“(18) MINOR.—The term ‘minor’ means an indi-*
24 *vidual over the age of 12 and under the age of 17.*

1 “(19) *TARGETED MARKETING*.—The term ‘tar-
2 geted marketing’ means advertising or any other ef-
3 fort to market a product or service that is directed to
4 a specific individual or device—

5 “(A) based on—

6 “(i) the personal information of—

7 “(I) the individual; or

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

13 “(ii) psychological profiling of an indi-
14 vidual or group of individuals; or

15 “(iii) a unique identifier of the device;

16 or

17 “(B) as a result of use by the individual,
18 access by any device of the individual, or use by
19 a group of individuals who are similar to the
20 specific individual, of more than a single—

21 “(i) website;

22 “(ii) online service;

23 “(iii) online application;

24 “(iv) mobile application;

25 “(v) connected device; or

1 “(vi) operating system.

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

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

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

18 (1) *by striking the heading and inserting the fol-*
 19 *lowing: “**ONLINE COLLECTION, USE, AND DIS-***
 20 ***CLOSURE OF PERSONAL INFORMATION OF***
 21 ***CHILDREN AND MINORS.*”;**

22 (2) *in subsection (a)—*

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

1 “(1) *IN GENERAL.*—*It is unlawful for an oper-*
 2 *ator of a website, online service, online application,*
 3 *mobile application, or connected device that is di-*
 4 *rected to children or minors or is used or reasonably*
 5 *likely to be used by children or minors in a manner*
 6 *that involves the collection of personal information, to*
 7 *collect personal information from a child or minor in*
 8 *a manner that violates the regulations prescribed*
 9 *under subsection (b).”;* and

10 *(B) in paragraph (2)—*

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

13 *(ii) by striking “subsection*
 14 *(b)(1)(B)(iii) to the parent of a child” and*
 15 *inserting “subsection (b)(1)(A)(iii) to the*
 16 *parent of a child or under subsection*
 17 *(b)(1)(A)(iv) to a minor”;* and

18 *(3) in subsection (b)—*

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

21 “(1) *REGULATIONS.*—

22 “(A) *IN GENERAL.*—*Not later than 1 year*
 23 *after the date of enactment of the Children and*
 24 *Teens’ Online Privacy Protection Act, the Com-*
 25 *mission shall promulgate, under section 553 of*

1 *title 5, United States Code, regulations to require*
2 *an operator of a website, online service, online*
3 *application, mobile application, or connected de-*
4 *vice that is directed to children or minors or is*
5 *used or is reasonably likely to be used by chil-*
6 *dren or minors in a manner that involves the*
7 *collection of their personal information—*

8 *“(i) to provide clear and conspicuous*
9 *notice in clear and plain language of—*

10 *“(I) the types of personal infor-*
11 *mation the operator collects;*

12 *“(II) how the operator uses the in-*
13 *formation;*

14 *“(III) whether and why the oper-*
15 *ator discloses the information; and*

16 *“(IV) the procedures or mecha-*
17 *nisms the operator uses to ensure that*
18 *personal information is not collected*
19 *from children or minors except in ac-*
20 *cordance with the regulations promul-*
21 *gated under this paragraph;*

22 *“(ii) to obtain verifiable consent for the*
23 *collection, use, or disclosure of personal in-*
24 *formation of a child or minor;*

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

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

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

13 “(III) a means that is reasonable
14 under the circumstances for the parent
15 to obtain any personal information
16 collected from the child, if such infor-
17 mation is available to the operator at
18 the time the parent makes the request;

19 “(iv) to provide to a minor who has
20 provided personal information to the oper-
21 ator, upon request by and proper identifica-
22 tion of the minor—

23 “(I) a description of the specific
24 types of personal information collected
25 from the minor by the operator;

1 “(II) the opportunity at any time
2 to delete personal information collected
3 from the minor and refuse further use
4 or collection of personal information
5 from the minor; and

6 “(III) a means that is reasonable
7 under the circumstances for the minor
8 to obtain any personal information
9 collected from the minor, if such infor-
10 mation is available to the operator at
11 the time the minor makes the request;

12 “(v) to prevent the collection from a
13 child or minor of more personal informa-
14 tion that is reasonably required to use the
15 website, online service, online application,
16 mobile application, or connected device ;
17 and

18 “(vi) to establish and maintain reason-
19 able procedures to protect the confiden-
20 tiality, security, and integrity of personal
21 information collected from children and mi-
22 nors.

23 “(B) UPDATES.—The Commission shall re-
24 view and update the regulations promulgated
25 under subparagraph (A) as necessary.”;

- 1 (B) in paragraph (2)—
- 2 (i) in the matter preceding subpara-
- 3 graph (A), by striking “verifiable parental
- 4 consent” and inserting “verifiable consent”;
- 5 (ii) in subparagraph (A)—
- 6 (I) by inserting “or minor” after
- 7 “collected from a child”;
- 8 (II) by inserting “or minor” after
- 9 “request from the child”; and
- 10 (III) by inserting “or minor or to
- 11 contact another child or minor” after
- 12 “to recontact the child”;
- 13 (iii) in subparagraph (B)—
- 14 (I) by striking “parent or child”
- 15 and inserting “parent or minor”; and
- 16 (II) by striking “parental con-
- 17 sent” each place the term appears and
- 18 inserting “verifiable consent”;
- 19 (iv) in subparagraph (C)—
- 20 (I) in the matter preceding clause
- 21 (i), by inserting “or minor” after
- 22 “child” each place the term appears;
- 23 (II) in clause (i)—

1 (aa) by inserting “or minor”
2 after “child” each place the term
3 appears; and

4 (bb) by inserting “or minor,
5 as applicable,” after “parent”
6 each place the term appears; and
7 (III) in clause (ii)—

8 (aa) by inserting “or minor,
9 as applicable,” after “parent”;
10 and

11 (bb) by inserting “or minor”
12 after “child” each place the term
13 appears; and

14 (v) in subparagraph (D)—

15 (I) in the matter preceding clause
16 (i), by inserting “or minor” after
17 “child” each place the term appears;

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

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

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

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

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

5 “(3) CONTINUATION OF SERVICE.—The regula-
6 tions shall prohibit an operator from discontinuing
7 service provided to a child or minor on the basis of
8 a request by the parent of the child or by the minor,
9 under the regulations prescribed under clauses
10 (iii)(II) and (iv)(II), respectively, of paragraph
11 (1)(A) to delete personal information collected from
12 the child or minor, to the extent that the operator is
13 capable of providing such service without such infor-
14 mation.”.

15 (c) SAFE HARBORS.—Section 1304 of the Children’s
16 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
17 is amended—

18 (1) in subsection (b)(1), by inserting “and mi-
19 nors” after “children”; and

20 (2) by adding at the end the following:

21 “(d) PUBLICATION.—

22 “(1) IN GENERAL.—The Commission shall pub-
23 lish on the internet website of the Commission any re-
24 port or documentation required by regulation to be
25 submitted to the Commission to carry out this section.

1 “(2) *RESTRICTIONS ON PUBLICATION.*—*The re-*
2 *strictions described in subsection (f) of section 6 of the*
3 *Federal Trade Commission Act (15 U.S.C. 46(f)) ap-*
4 *licable to the publication of information obtained by*
5 *the Commission through investigations conducted*
6 *under such section shall apply in same manner to the*
7 *publication under this subsection of information ob-*
8 *tained by the Commission from a report or docu-*
9 *mentation described in paragraph (1).”.*

10 *(d) ADMINISTRATION AND APPLICABILITY OF ACT.*—
11 *Section 1306 of the Children’s Online Privacy Protection*
12 *Act of 1998 (15 U.S.C. 6505) is amended—*

13 *(1) in subsection (b)—*

14 *(A) in paragraph (1), by striking “, in the*
15 *case of” and all that follows through “the Board*
16 *of Directors of the Federal Deposit Insurance*
17 *Corporation;” and inserting the following: “by*
18 *the appropriate Federal banking agency, with re-*
19 *spect to any insured depository institution (as*
20 *those terms are defined in section 3 of that Act*
21 *(12 U.S.C. 1813));”; and*

22 *(B) by striking paragraph (2) and redesign-*
23 *ating paragraphs (3) through (6) as para-*
24 *graphs (2) through (5), respectively; and*

1 (2) *by adding at the end the following new sub-*
 2 *section:*

3 “(f) *TELECOMMUNICATIONS CARRIERS AND CABLE OP-*
 4 *ERATORS.—*

5 “(1) *ENFORCEMENT BY COMMISSION.—Notwith-*
 6 *standing sections 4, 5(a)(2), or 6 of the Federal Trade*
 7 *Commission Act (15 U.S.C. 44, 45(a)(2), 46), or any*
 8 *jurisdictional limitation of the Commission, the Com-*
 9 *mission shall also enforce this Act and the regulations*
 10 *promulgated under this Act, in the same manner pro-*
 11 *vided in subsection (d), with respect to common car-*
 12 *riers subject to the Communications Act of 1934 (47*
 13 *U.S.C. 151 et seq.) and Acts amendatory thereof and*
 14 *supplementary thereto.*

15 “(2) *RELATIONSHIP TO OTHER LAW.—To the ex-*
 16 *tent that section 222, 338(i), or 631 of the Commu-*
 17 *nications Act of 1934 (47 U.S.C. 222, 338(i), 551) is*
 18 *inconsistent with this title, this title controls.”.*

19 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

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

22 “(1) *COLLECTION LIMITATION PRINCIPLE.—Ex-*
 23 *cept as provided in paragraph (3), personal informa-*
 24 *tion should be collected from a child or minor only*
 25 *when collection of the personal information is—*

1 (A) consistent with the context of a par-
2 ticular transaction or service or the relationship
3 of the child or minor with the operator, includ-
4 ing collection necessary to fulfill a transaction or
5 provide a service requested by the child or minor;
6 or

7 (B) required or specifically authorized by
8 law.

9 (2) *DATA QUALITY PRINCIPLE.*—The personal in-
10 formation of a child or minor should be accurate,
11 complete, and kept up-to-date to the extent necessary
12 to fulfill the purposes described in subparagraphs (A)
13 through (D) of paragraph (3).

14 (3) *PURPOSE SPECIFICATION PRINCIPLE.*—The
15 purposes for which personal information is collected
16 and used should be specified to the parent of a child
17 or to a minor not later than at the time of the collec-
18 tion of the information. The subsequent use or disclo-
19 sure of the information should be limited to—

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

22 (B) support for the internal operations of
23 the website, service, or application, as described
24 in section 312.2 of title 16, Code of Federal Reg-
25 ulations (as in effect on the date of enactment of

1 *this Act), excluding any activity relating to tar-*
2 *geted marketing directed to children, minors, or*
3 *a device of a child or minor if the support for*
4 *internal operations is consistent with the inter-*
5 *est of the child or minor;*

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

9 (D) *other purposes—*

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

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

16 (4) *RETENTION LIMITATION PRINCIPLE.—*

17 (A) *IN GENERAL.—The personal informa-*
18 *tion of a child or minor should not be retained*
19 *for longer than is necessary to fulfill a trans-*
20 *action or provide a service requested by the child*
21 *or minor or such other purposes specified in sub-*
22 *paragraphs (A) through (D) of paragraph (3).*

23 (B) *DATA DISPOSAL.—The operator should*
24 *implement a reasonable and appropriate data*
25 *disposal policy based on the nature and sensi-*

1 *tivity of personal information described in sub-*
2 *paragraph (A).*

3 (5) *SECURITY SAFEGUARDS PRINCIPLE.—The*
4 *personal information of a child or minor should be*
5 *protected by reasonable and appropriate security safe-*
6 *guards against risks such as loss or unauthorized ac-*
7 *cess, destruction, use, modification, or disclosure.*

8 (6) *TRANSPARENCY PRINCIPLE.—*

9 (A) *GENERAL PRINCIPLE.—The operator*
10 *should be transparent about developments, prac-*
11 *tices, and policies with respect to the personal*
12 *information of a child or minor.*

13 (B) *PROVISION OF INFORMATION.—The op-*
14 *erator should provide to each parent of a child,*
15 *or to each minor, using the website, online serv-*
16 *ice, online application, mobile application, or*
17 *connected device of the operator with a clear and*
18 *prominent means—*

19 (i) *to identify and contact the oper-*
20 *ator, by, at a minimum, disclosing, clearly*
21 *and prominently, the identity of the oper-*
22 *ator and—*

23 (I) *in the case of an operator who*
24 *is an individual, the address of the*
25 *principal residence (but not a personal*

1 *residence) of the operator and an email*
2 *address or online contact form and*
3 *telephone number for the operator; or*

4 *(II) in the case of any other oper-*
5 *ator, the address of the principal place*
6 *of business of the operator and an*
7 *email address or online contact form*
8 *and telephone number for the operator;*

9 *(ii) to determine whether the operator*
10 *possesses any personal information of the*
11 *child or minor, the nature of any such in-*
12 *formation, and the purposes for which the*
13 *information was collected and is being re-*
14 *tained;*

15 *(iii) to obtain any personal informa-*
16 *tion of the child or minor that is in the pos-*
17 *session of the operator from the operator, or*
18 *from a person specified by the operator,*
19 *within a reasonable time after making a re-*
20 *quest, at a charge (if any) that is not exces-*
21 *sive, in a reasonable manner, and in a form*
22 *that is readily intelligible to the child or*
23 *minor;*

1 (iv) to challenge the accuracy of per-
2 sonal information of the child or minor that
3 is in the possession of the operator;

4 (v) to determine if the child or minor
5 has established the inaccuracy of personal
6 information in a challenge under clause (iv)
7 in order to have such information erased,
8 corrected, completed, or otherwise amended;
9 and

10 (vi) to determine the method by which
11 the operator obtains data relevant to the
12 child or minor.

13 (C) *LIMITATION.*—Nothing in this para-
14 graph shall be construed to permit an operator
15 to erase or otherwise modify personal informa-
16 tion requested by a law enforcement agency pur-
17 suant to legal authority.

18 (7) *INDIVIDUAL PARTICIPATION PRINCIPLE.*—The
19 operator should—

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

1 (B) obtain affirmative express consent from
2 a parent of a child or from a minor before using
3 or disclosing previously collected personal infor-
4 mation of the child or minor for purposes that
5 constitute a material change in practice from the
6 original purposes specified to the child or minor
7 under paragraph (3).

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

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

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

21 (a) *ACTS PROHIBITED.*—

22 (1) *PROHIBITION.*—

23 (A) *IN GENERAL.*—Except as provided in
24 subparagraph (B), it shall be unlawful for an
25 operator of a website, online service, online ap-

1 *plication, mobile application, or connected device*
2 *to collect personal information from a user if—*

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

5 *(ii) the website, online service, online*
6 *application, mobile application, or con-*
7 *ected device is directed to minors.*

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

13 *(2) EFFECTIVE DATE.—This subsection shall take*
14 *effect on the date that is 180 days after the promulga-*
15 *tion of regulations under subsection (b).*

16 *(b) REGULATIONS.—*

17 *(1) IN GENERAL.—Not later than 1 year after*
18 *the date of enactment of this Act, the Commission*
19 *shall promulgate, under section 553 of title 5, United*
20 *States Code, regulations to implement this section, in-*
21 *cluding regulations further defining the Fair Infor-*
22 *mation Practices Principles described in section 4.*

23 *(2) UPDATES.—Not less frequently than once*
24 *every 4 years after the date on which regulations are*
25 *promulgated under paragraph (1), the Commission*

1 *shall review and update those regulations as nec-*
2 *essary.*

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

4 *(a) ACTS PROHIBITED.—*

5 *(1) CHILDREN.—It shall be unlawful for an op-*
6 *erator of a website, online service, online application,*
7 *mobile application, or connected device to collect, use,*
8 *disclose to third parties, or compile personal informa-*
9 *tion of a user for purposes of targeted marketing (or*
10 *to allow another person to collect, use, disclose, or*
11 *compile such information for such purpose) if—*

12 *(A) such use, disclosure, or compiling of*
13 *personal information involves or is reasonably*
14 *likely to involve collection of personal informa-*
15 *tion from a child; or*

16 *(B) the website, online service, online appli-*
17 *cation, mobile application, or connected device is*
18 *directed to children.*

19 *(2) MINORS.—*

20 *(A) PROHIBITION.—Except as provided in*
21 *subparagraph (B), it shall be unlawful for an*
22 *operator of a website, online service, online ap-*
23 *plication, mobile application, or connected device*
24 *to collect, use, disclose to third parties, or com-*
25 *pile personal information of a user for purposes*

1 of targeted marketing (or to allow another person
2 to collect, use, disclose, or compile such informa-
3 tion for such purpose) if—

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

6 (ii) the website, online service, online
7 application, mobile application, or con-
8 nected device is directed to minors.

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

12 (3) *EFFECTIVE DATE.*—This subsection shall take
13 effect on the date that is 180 days after the promulga-
14 tion of regulations under subsection (b).

15 (b) *REGULATIONS.*—

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

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

23 **SEC. 7. REMOVAL OF CONTENT.**

24 (a) *ACTS PROHIBITED.*—It is unlawful for an operator
25 to make, or enable a child or minor to make, publicly avail-

1 *able through a website, online service, online application,*
2 *mobile application, or connected device content or informa-*
3 *tion that contains or displays personal information of chil-*
4 *dren or minors in a manner that violates subsection (b).*

5 *(b) REQUIREMENT.—*

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

8 *(A) implement mechanisms that permit a*
9 *user of the website, online service, online appli-*
10 *cation, mobile application, or connected device of*
11 *the operator (and, in the case of a user that is*
12 *a child, a parent of that user) to erase or other-*
13 *wise eliminate content or information that is—*

14 *(i) submitted to the website, online*
15 *service, online application, mobile applica-*
16 *tion, or connected device by that user;*

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

20 *(iii) contains or displays personal in-*
21 *formation of children or minors; and*

22 *(B) take appropriate steps to—*

23 *(i) make users and parents of users*
24 *who are children aware of the mechanisms*
25 *described in subparagraph (A); and*

1 (ii) provide notice to users and parents
2 of users who are children that the mecha-
3 nisms described in subparagraph (A) do not
4 necessarily provide comprehensive removal
5 of the content or information submitted by
6 users.

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

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

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

22 (c) *LIMITATION.*—Nothing in this section shall be con-
23 strued to limit the authority of a law enforcement agency
24 to obtain any content or information from an operator as

1 *authorized by law or pursuant to an order of a court of*
 2 *competent jurisdiction.*

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

6 **SEC. 8. PRIVACY DASHBOARD FOR CONNECTED DEVICES**
 7 **FOR CHILDREN AND MINORS.**

8 (a) *IN GENERAL.*—*A manufacturer of a connected de-*
 9 *vice directed to children or minors shall prominently dis-*
 10 *play in an easy-to-access electronic format associated with*
 11 *the connected device or on the packaging for the connected*
 12 *device a standardized and easy-to-understand privacy dash-*
 13 *board, detailing whether, what, and how personal informa-*
 14 *tion of a child or minor is—*

15 (1) *collected from the connected device;*

16 (2) *transmitted from the connected device;*

17 (3) *retained on the connected device;*

18 (4) *retained by the manufacturer or an affiliated*
 19 *third party;*

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

22 (6) *protected.*

23 (b) *FEATURES.*—*A privacy dashboard under sub-*
 24 *section (a) shall inform a consumer of—*

1 (1) *the extent to which the connected device meets*
2 *the highest cybersecurity and data security standards,*
3 *including if and how to obtain security patches;*

4 (2) *the extent to which the connected device*
5 *gives—*

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

8 (B) *a minor meaningful control over the in-*
9 *formation of the minor;*

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

13 (4) *the location of privacy policies;*

14 (5) *the type of personal information the con-*
15 *nected device may collect;*

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

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

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

23 (c) *REGULATIONS.—*

24 (1) *IN GENERAL.—Not later than 1 year after*
25 *the date of enactment of this Act, the Commission*

1 *shall promulgate, under section 553 of title 5, United*
2 *States Code, regulations to implement this section.*

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

6 (d) *EFFECTIVE DATE.—Subsections (a) and (b) shall*
7 *take effect on the date that is 180 days after the promulga-*
8 *tion of regulations under subsection (c).*

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

12 *For the purposes of this Act, an operator of a website,*
13 *online service, online application, mobile application, or*
14 *connected device that is directed to children or minors shall*
15 *treat each user of that website, online service, online appli-*
16 *cation, mobile application, or connected device as a child*
17 *or minor, except as permitted by the Commission pursuant*
18 *to a regulation promulgated under this Act, and except to*
19 *the extent the website, online service, online application,*
20 *mobile application, or connected device is deemed directed*
21 *to mixed audiences.*

22 **SEC. 10. STUDY OF MOBILE AND ONLINE APPLICATION**
23 **OVERSIGHT.**

24 *Not later than 3 years after the date of enactment of*
25 *this Act, the Commission shall submit to each committee*

1 *of the Senate and each committee of the House of Represent-*
 2 *atives that has jurisdiction over the Commission a report*
 3 *on the processes of platforms that offer mobile and online*
 4 *applications for ensuring that, of those applications that*
 5 *are directed to children or minors, the applications operate*
 6 *in accordance with—*

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

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

13 **SEC. 11. YOUTH PRIVACY AND MARKETING DIVISION.**

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

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

19 (c) *DUTIES.—The Youth Privacy and Marketing Divi-*
 20 *sion established under subsection (a) shall be responsible for*
 21 *assisting the Commission to address, as it relates to this*
 22 *Act and the amendments made by this Act—*

23 (1) *the privacy of children and minors; and*

24 (2) *marketing directed at children and minors.*

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

6 (e) *REPORTS.*—*Not later than 1 year after the date*
7 *of enactment of this Act, and each year thereafter, the Direc-*
8 *tor of the Youth and Privacy Marketing Division shall sub-*
9 *mit to the Committee on Commerce, Science, and Transpor-*
10 *tation of the Senate and the Committee on Energy and*
11 *Commerce of the House of Representatives a report that in-*
12 *cludes—*

13 (1) *a description of the work of the Youth Pri-*
14 *vacancy and Marketing Division on emerging concerns*
15 *relating to youth privacy and marketing practices;*
16 *and*

17 (2) *an assessment of how effectively the Commis-*
18 *sion has, during the period for which the report is*
19 *submitted, addressed youth privacy and marketing*
20 *practices.*

21 **SEC. 12. ENFORCEMENT AND APPLICABILITY.**

22 (a) *ENFORCEMENT BY THE COMMISSION.*—

23 (1) *IN GENERAL.*—*Except as otherwise provided,*
24 *this Act and the regulations prescribed under this Act*

1 *shall be enforced by the Commission under the Fed-*
2 *eral Trade Commission Act (15 U.S.C. 41 et seq.).*

3 (2) *UNFAIR OR DECEPTIVE ACTS OR PRAC-*
4 *TICES.—Subject to subsection (b), a violation of this*
5 *Act or a regulation prescribed under this Act shall be*
6 *treated as a violation of a rule defining an unfair or*
7 *deceptive act or practice prescribed under section*
8 *18(a)(1)(B) of the Federal Trade Commission Act (15*
9 *U.S.C. 57a(a)(1)(B)).*

10 (3) *ACTIONS BY THE COMMISSION.—*

11 (A) *IN GENERAL.—Subject to subsection (b),*
12 *and except as provided in subsection (d)(1), the*
13 *Commission shall prevent any person from vio-*
14 *lating this Act or a regulation prescribed under*
15 *this Act in the same manner, by the same means,*
16 *and with the same jurisdiction, powers, and du-*
17 *ties as though all applicable terms and provi-*
18 *sions of the Federal Trade Commission Act (15*
19 *U.S.C. 41 et seq.) were incorporated into and*
20 *made a part of this Act, and any person who*
21 *violates this Act or such regulation shall be sub-*
22 *ject to the penalties and entitled to the privileges*
23 *and immunities provided in the Federal Trade*
24 *Commission Act.*

1 (B) *VIOLATIONS.*—*Notwithstanding section*
2 *5(m) of the Federal Trade Commission Act (15*
3 *U.S.C. 45(m)), a civil penalty recovered for a*
4 *violation of this Act or a regulation prescribed*
5 *under this Act may be in excess of the amounts*
6 *provided for in that section as the court finds*
7 *appropriate to deter violations of this Act and*
8 *regulations prescribed under this Act.*

9 (b) *ENFORCEMENT BY CERTAIN OTHER AGENCIES.*—
10 *Notwithstanding subsection (a), compliance with the re-*
11 *quirements imposed under this Act shall be enforced as fol-*
12 *lows:*

13 (1) *Under section 8 of the Federal Deposit Insur-*
14 *ance Act (12 U.S.C. 1818) by the appropriate Federal*
15 *banking agency, with respect to an insured depository*
16 *institution (as such terms are defined in section 3 of*
17 *such Act (12 U.S.C. 1813)).*

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

22 (3) *Under part A of subtitle VII of title 49,*
23 *United States Code, by the Secretary of Transpor-*
24 *tation, with respect to any air carrier or foreign air*
25 *carrier subject to such part.*

1 (4) *Under the Packers and Stockyards Act, 1921*
2 (7 U.S.C. 181 et seq.) (except as provided in section
3 406 of that Act (7 U.S.C. 226, 227)) by the Secretary
4 of Agriculture, with respect to any activities subject
5 to that Act.

6 (5) *Under the Farm Credit Act of 1971 (12*
7 *U.S.C. 2001 et seq.) by the Farm Credit Administra-*
8 *tion, with respect to any Federal land bank, Federal*
9 *land bank association, Federal intermediate credit*
10 *bank, or production credit association.*

11 (c) *ENFORCEMENT BY STATE ATTORNEYS GENERAL.—*

12 (1) *IN GENERAL.—*

13 (A) *CIVIL ACTIONS.—In any case in which*
14 *the attorney general of a State has reason to be-*
15 *lieve that an interest of the residents of that*
16 *State has been or is threatened or adversely af-*
17 *ected by the engagement of any person in a*
18 *practice that violates this Act or a regulation*
19 *prescribed under this Act, the State, as parens*
20 *patriae, may bring a civil action on behalf of the*
21 *residents of the State in a district court of the*
22 *United States of appropriate jurisdiction to—*

23 (i) *enjoin that practice;*

24 (ii) *enforce compliance with this Act or*
25 *such regulation;*

1 (iii) obtain damages, restitution, or
2 other compensation on behalf of residents of
3 the State; or

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

6 (B) NOTICE.—

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

11 (I) written notice of that action;

12 and

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

15 (ii) EXEMPTION.—

16 (I) IN GENERAL.—Clause (i) shall
17 not apply with respect to the filing of
18 an action by an attorney general of a
19 State under this paragraph if the at-
20 torney general of the State determines
21 that it is not feasible to provide the no-
22 tice described in that clause before the
23 filing of the action.

24 (II) NOTIFICATION.—In an action
25 described in subclause (I), the attorney

1 *general of a State shall provide notice*
2 *and a copy of the complaint to the*
3 *Commission at the same time as the*
4 *attorney general files the action.*

5 (2) *INTERVENTION.—*

6 (A) *IN GENERAL.—On receiving notice*
7 *under paragraph (1)(B), the Commission shall*
8 *have the right to intervene in the action that is*
9 *the subject of the notice.*

10 (B) *EFFECT OF INTERVENTION.—If the*
11 *Commission intervenes in an action under para-*
12 *graph (1), it shall have the right—*

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

15 (ii) *to file a petition for appeal.*

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

21 (A) *conduct investigations;*

22 (B) *administer oaths or affirmations; or*

23 (C) *compel the attendance of witnesses or*
24 *the production of documentary and other evi-*
25 *dence.*

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

9 (5) *VENUE; SERVICE OF PROCESS.*—

10 (A) *VENUE.*—*Any action brought under*
11 *paragraph (1) may be brought in the district*
12 *court of the United States that meets applicable*
13 *requirements relating to venue under section*
14 *1391 of title 28, United States Code.*

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

18 (i) *is an inhabitant; or*

19 (ii) *may be found.*

20 (d) *TELECOMMUNICATIONS CARRIERS AND CABLE OP-*
21 *ERATORS.*—

22 (1) *ENFORCEMENT BY COMMISSION.*—*Notwith-*
23 *standing section 4, 5(a)(2), or 6 of the Federal Trade*
24 *Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any*
25 *jurisdictional limitation of the Commission, the Com-*

1 mission shall also enforce this Act and regulations
2 promulgated under this Act, in the same manner pro-
3 vided in paragraph (a), with respect to common car-
4 riers subject to the Communications Act of 1934 (47
5 U.S.C. 151 et seq.) and Acts amendatory thereof and
6 supplementary thereto.

7 (2) *RELATIONSHIP TO OTHER LAWS.*—To the ex-
8 tent that section 222, 338(i), or 631 of the Commu-
9 nications Act of 1934 (47 U.S.C. 222, 338(i), 551) is
10 inconsistent with this Act, this Act controls.

11 (e) *SAFE HARBORS.*—

12 (1) *DEFINITION.*—In this subsection—

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

15 (B) the term “covered operator” means an
16 operator subject to guidelines approved under
17 paragraph (2);

18 (C) the term “requesting entity” means an
19 entity that submits a safe harbor request to the
20 Commission; and

21 (D) the term “safe harbor request” means a
22 request to have self-regulatory guidelines de-
23 scribed in paragraph (2)(A) approved under that
24 paragraph.

25 (2) *GUIDELINES.*—

1 (A) *IN GENERAL.*—An operator may satisfy
2 the requirements of regulations issued under an
3 applicable section by following a set of self-regu-
4 latory guidelines, issued by representatives of the
5 marketing or online industries, or by other per-
6 sons, that, after notice and an opportunity for
7 comment, are approved by the Commission upon
8 making a determination that the guidelines meet
9 the requirements of the regulations issued under
10 that applicable section.

11 (B) *EXPEDITED RESPONSE TO RE-*
12 *QUESTS.*—Not later than 180 days after the date
13 on which a safe harbor request is filed under
14 subparagraph (A), the Commission shall act
15 upon the request set forth in writing the conclu-
16 sions of the Commission with regard to the re-
17 quest.

18 (C) *APPEALS.*—A requesting entity may
19 appeal the final action of the Commission under
20 subparagraph (B), or a failure by the Commis-
21 sion to act in the period described in that para-
22 graph, to a district court of the United States of
23 appropriate jurisdiction, as provided for in sec-
24 tion 706 of title 5, United States Code.

25 (3) *INCENTIVES.*—

1 (A) *SELF-REGULATORY INCENTIVES.*—*In*
2 *prescribing regulations under an applicable sec-*
3 *tion, the Commission shall provide incentives for*
4 *self-regulation by covered operators to implement*
5 *the protections afforded children and minors, as*
6 *applicable, under the regulatory requirements de-*
7 *scribed in those sections.*

8 (B) *DEEMED COMPLIANCE.*—*The incentives*
9 *under subparagraph (A) shall include provisions*
10 *for ensuring that a covered operator will be*
11 *deemed to be in compliance with the require-*
12 *ments of the regulations under an applicable sec-*
13 *tion if that person complies with guidelines ap-*
14 *proved under paragraph (2).*

15 (4) *REGULATIONS.*—

16 (A) *IN GENERAL.*—*In prescribing regula-*
17 *tions relating to safe harbor guidelines under an*
18 *applicable section, the Commission shall—*

19 (i) *establish criteria for the approval of*
20 *guidelines that will ensure that a covered*
21 *operator provides substantially the same or*
22 *greater protections for children and minors,*
23 *as applicable, as those contained in the reg-*
24 *ulations issued under the applicable section;*
25 *and*

1 (ii) subject to subsection (B), require
2 that any report or documentation required
3 to be submitted to the Commission by a cov-
4 ered operator or requesting entity will be
5 published on the internet website of the
6 Commission.

7 (B) *RESTRICTIONS ON PUBLICATION.*—The
8 restrictions described in subsection (f) of section
9 6 of the Federal Trade Commission Act (15
10 U.S.C. 46(f)) applicable to the publication of in-
11 formation obtained by the Commission through
12 investigations conducted under such section shall
13 apply in same manner to the publication under
14 this paragraph of information included in a re-
15 port or documentation described in subpara-
16 graph (A).

17 (5) *REPORT BY THE INSPECTOR GENERAL.*—

18 (A) *IN GENERAL.*—Not later than 2 years
19 after the date of enactment of this Act, and once
20 each 2 years thereafter, the Inspector General of
21 the Commission shall submit to the Commission
22 and each committee of the Senate and each com-
23 mittee of the House of Representatives that has
24 jurisdiction over the Commission a report re-

1 *garding the safe harbor provisions under this*
2 *subparagraph, which shall include—*

3 *(i) an analysis of whether the safe har-*
4 *bor provisions are—*

5 *(I) operating fairly and effec-*
6 *tively; and*

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

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

12 *(B) PUBLICATION.—Not later than 10 days*
13 *after the date on which a report under subpara-*
14 *graph (A) is submitted, the Commission shall*
15 *publish the report on the internet website of the*
16 *Commission.*

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

20 *(g) RULE OF CONSTRUCTION.—Nothing in this Act*
21 *may be construed to authorize any action by the Commis-*
22 *sion that would violate section 18(h) of the Federal Trade*
23 *Commission Act (15 U.S.C. 57a(h)).*

1 **SEC. 13. GAO STUDY.**

2 (a) *STUDY.*—*The Comptroller General of the United*
3 *States (in this section referred to as the “Comptroller Gen-*
4 *eral”)* shall conduct a study on the privacy of minors who
5 *use financial technology products. Such study shall—*

6 (1) *identify the type of financial technology*
7 *products that minors are using;*

8 (2) *identify the potential risks to minors’ pri-*
9 *vacv from using such financial technology products;*
10 *and*

11 (3) *determine whether existing laws are suffi-*
12 *cient to address such risks to minors’ privacy.*

13 (b) *REPORT.*—*Not later than 1 year after the date of*
14 *enactment of this section, the Comptroller General shall sub-*
15 *mit to Congress a report containing the results of the study*
16 *conducted under subsection (a), together with recommenda-*
17 *tions for such legislation and administrative action as the*
18 *Comptroller General determines appropriate.*

Calendar No. 658

117TH CONGRESS
2^D SESSION

S. 1628

A BILL

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

DECEMBER 15, 2022

Reported with an amendment