

113TH CONGRESS
1ST SESSION

S. _____

To amend the Children’s Online Privacy Protection Act of 1998 to extend, enhance, and revise the provisions relating to collection, use, and disclosure of personal information of children, to establish certain other protections for personal information of children and minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Children’s Online Privacy Protection Act of 1998 to extend, enhance, and revise the provisions relating to collection, use, and disclosure of personal information of children, to establish certain other protections for 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Do Not Track Kids
5 Act of 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Since the enactment of the Children’s On-
4 line Privacy Protection Act of 1998, the World Wide
5 Web has changed dramatically, with the creation of
6 tens of millions of websites, the proliferation of en-
7 tirely new media platforms, and the emergence of a
8 diverse ecosystem of services, devices, and applica-
9 tions that enable users to connect wirelessly within
10 an online environment without being tethered to a
11 desktop computer.

12 (2) The explosive growth of the Internet eco-
13 system has unleashed a wide array of opportunities
14 to learn, communicate, participate in civic life, ac-
15 cess entertainment, and engage in commerce.

16 (3) In addition to these significant benefits, the
17 Internet also presents challenges, particularly with
18 respect to the efforts of entities to track the online
19 activities of children and minors and to collect, use,
20 and disclose personal information about them, in-
21 cluding their geolocation, for commercial purposes.

22 (4) Children and teens are visiting numerous
23 companies’ websites, and marketers are using multi-
24 media games, online quizzes, and mobile phone and
25 tablet applications to create ties to children and
26 teens.

1 (5) According to a study by the Wall Street
2 Journal in 2010, websites directed to children and
3 teens were more likely to use cookies and other
4 tracking tools than sites directed to a general audi-
5 ence.

6 (6) This study examined 50 popular websites
7 for children and teens in the United States and
8 found that these 50 sites placed 4,123 cookies, bea-
9 cons, and other tracking tools on the test computer
10 used for the study.

11 (7) This is 30 percent greater than the number
12 of such tracking tools that were placed on the test
13 computer in a similar study of the 50 overall most
14 popular websites in the United States, which are
15 generally directed to adults.

16 (8) Children and teens lack the cognitive ability
17 to distinguish advertising from program content and
18 to understand that the purpose of advertising is to
19 persuade them, making them unable to activate the
20 defenses on which adults rely.

21 (9) Children and teens are less able than adults
22 to understand the potential long-term consequences
23 of having their information available to third parties,
24 including advertisers, and other individuals.

1 (10) According to Common Sense Media and
2 the Center for Digital Democracy, 90 percent of
3 teens have used some form of social media, 75 per-
4 cent have a social networking site, and 51 percent
5 check their social networking site at least once a
6 day.

7 (11) Ninety-one percent of parents and 91 per-
8 cent of adults believe it is not okay for advertisers
9 to collect information about a child's location from
10 that child's mobile phone.

11 (12) Ninety-four percent of parents and 91 per-
12 cent of adults agree that advertisers should receive
13 the parent's permission before putting tracking soft-
14 ware on a child's computer.

15 (13) Ninety-six percent of parents and 94 per-
16 cent of adults expressed disapproval when asked if
17 it is "okay for a website to ask children for personal
18 information about their friends".

19 (14) Eighty-eight percent of parents would sup-
20 port a law that requires search engines and social
21 networking sites to get users' permission before
22 using their personal information.

23 (15) A Commonsense Media/Zogby poll found
24 that 94 percent of parents and 94 percent of adults
25 believe individuals should have the ability to request

1 the deletion, after a specific period of time, of all of
2 their personal information held by an online search
3 engine, social networking site, or marketing com-
4 pany.

5 (16) According to a Pew/Berkman Center poll,
6 69 percent of parents of teens who engage in online
7 activity are concerned about how that activity might
8 affect their children's future academic or employ-
9 ment opportunities.

10 (17) Eighty-one percent of parents of teens who
11 engage in online activity say they are concerned
12 about how much information advertisers can learn
13 about their children's online activity.

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

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

19 (1) by amending paragraph (2) to read as fol-
20 lows:

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

22 “(A) means any person who, for commer-
23 cial purposes, in interstate or foreign commerce,
24 operates or provides a website on the Internet,

1 online service, online application, or mobile ap-
2 plication, and who—

3 “(i) collects or maintains, either di-
4 rectly or through a service provider, per-
5 sonal information from or about the users
6 of such website, service, or application;

7 “(ii) allows another person to collect
8 personal information directly from users of
9 such website, service, or application (in
10 which case the operator is deemed to have
11 collected the information); or

12 “(iii) allows users of such website,
13 service, or application to publicly disclose
14 personal information (in which case the op-
15 erator is deemed to have collected the in-
16 formation); and

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

21 (2) in paragraph (4)—

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

24 “(A) the release of personal information
25 for any purpose, except where such information

1 is provided to a person other than an operator
2 who provides support for the internal operations
3 of the website, online service, online application,
4 or mobile application of the operator and does
5 not disclose or use that information for any
6 other purpose; and”;

7 (B) in subparagraph (B), by striking
8 “website or online service” and inserting
9 “website, online service, online application, or
10 mobile application”;

11 (3) in paragraph (8)—

12 (A) by amending subparagraph (G) to read
13 as follows:

14 “(G) information concerning a child or the
15 parents of that child (including any unique or
16 substantially unique identifier, such as a cus-
17 tomer number) that an operator collects online
18 from the child and combines with an identifier
19 described in subparagraphs (A) through (G).”;

20 (B) by redesignating subparagraphs (F)
21 and (G) as subparagraphs (G) and (H), respec-
22 tively; and

23 (C) by inserting after subparagraph (E)
24 the following new subparagraph:

1 “(F) information (including an Internet
2 protocol address) that permits the identification
3 of an individual, the computer of an individual,
4 or any other device used by an individual to ac-
5 cess the Internet or an online service, online ap-
6 plication, or mobile application;”;

7 (4) by striking paragraph (10) and redesign-
8 nating paragraphs (11) and (12) as paragraphs (10)
9 and (11), respectively; and

10 (5) by adding at the end the following new
11 paragraph:

12 “(12) ONLINE, ONLINE SERVICE, ONLINE AP-
13 PLICATION, MOBILE APPLICATION, DIRECTED TO
14 CHILDREN.—The terms ‘online’, ‘online service’, ‘on-
15 line application’, ‘mobile application’, and ‘directed
16 to children’ shall have the meanings given such
17 terms by the Commission by regulation. Not later
18 than 1 year after the date of the enactment of the
19 Do Not Track Kids Act of 2013, the Commission
20 shall promulgate, under section 553 of title 5,
21 United States Code, regulations that define such
22 terms broadly enough so that they are not limited to
23 current technology, consistent with the principles ar-
24 ticulated by the Commission regarding the definition
25 of the term ‘Internet’ in its statement of basis and

1 purpose on the final rule under this title promul-
2 gated on November 3, 1999 (64 Fed. Reg. 59891).
3 The definition of the term ‘online service’ in such
4 regulations shall include broadband Internet access
5 service (as defined in the Report and Order of the
6 Federal Communications Commission relating to the
7 matter of preserving the open Internet and
8 broadband industry practices (FCC 10–201, adopted
9 by the Commission on December 21, 2010)).”.

10 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF
11 PERSONAL INFORMATION OF CHILDREN.—Section 1303
12 of the Children’s Online Privacy Protection Act of 1998
13 (15 U.S.C. 6502) is amended—

14 (1) by striking the heading and inserting the
15 following: “**ONLINE COLLECTION, USE, AND DIS-**
16 **CLOSURE OF PERSONAL INFORMATION OF**
17 **CHILDREN.**”;

18 (2) in subsection (a)—

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

21 “(1) IN GENERAL.—It is unlawful for an oper-
22 ator of a website, online service, online application,
23 or mobile application directed to children, or an op-
24 erator having actual knowledge that personal infor-
25 mation being collected is from a child, to collect per-

1 sonal information from a child in a manner that vio-
2 lates the regulations prescribed under subsection
3 (b).”; and

4 (B) in paragraph (2)—

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

7 (ii) by striking “subsection
8 (b)(1)(B)(iii)” and inserting “subsection
9 (b)(1)(C)(iii)”; and

10 (3) in subsection (b)—

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

13 “(1) IN GENERAL.—Not later than 1 year after
14 the date of the enactment of the Do Not Track Kids
15 Act of 2013, the Commission shall promulgate,
16 under section 553 of title 5, United States Code,
17 regulations to require an operator of a website, on-
18 line service, online application, or mobile application
19 directed to children, or an operator having actual
20 knowledge that personal information being collected
21 is from a child—

22 “(A) to provide clear and conspicuous no-
23 tice in clear and plain language of the types of
24 personal information the operator collects, how
25 the operator uses such information, whether the

1 operator discloses such information, and the
2 procedures or mechanisms the operator uses to
3 ensure that personal information is not col-
4 lected from children except in accordance with
5 the regulations promulgated under this para-
6 graph;

7 “(B) to obtain verifiable parental consent
8 for the collection, use, or disclosure of personal
9 information of a child;

10 “(C) to provide to a parent whose child
11 has provided personal information to the oper-
12 ator, upon request by and proper identification
13 of the parent—

14 “(i) a description of the specific types
15 of personal information collected from the
16 child by the operator;

17 “(ii) the opportunity at any time to
18 refuse to permit the further use or mainte-
19 nance in retrievable form, or future collec-
20 tion, by the operator of personal informa-
21 tion collected from the child; and

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

1 able to the operator at the time the parent
2 makes the request;

3 “(D) not to condition participation in a
4 game, or use of a website, service, or applica-
5 tion, by a child on the provision by the child of
6 more personal information than is reasonably
7 required to participate in the game or use the
8 website, service, or application; and

9 “(E) to establish and maintain reasonable
10 procedures to protect the confidentiality, secu-
11 rity, and integrity of personal information col-
12 lected from children.”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A), by striking “paragraph
16 (1)(A)(ii)” and inserting “paragraph
17 (1)(B)”;

18 (ii) in subparagraph (A), by inserting
19 “or to contact a different child” after “to
20 recontact the child”;

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

23 “(3) CONTINUATION OF SERVICE.—The regula-
24 tions shall prohibit an operator from discontinuing
25 service provided to a child on the basis of refusal by

1 the parent of the child, under the regulations pre-
2 scribed under paragraph (1)(C)(ii), to permit the
3 further use or maintenance in retrievable form, or
4 future collection, by the operator of personal infor-
5 mation collected from the child, to the extent that
6 the operator is capable of providing such service
7 without such information.”; and

8 (D) by adding at the end the following:

9 “(4) RULE FOR TREATMENT OF USERS OF
10 WEBSITES, SERVICES, AND APPLICATIONS DIRECTED
11 TO CHILDREN.—An operator of a website, online
12 service, online application, or mobile application that
13 is directed to children shall treat all users of such
14 website, service, or application as children for pur-
15 poses of this title, except as permitted by the Com-
16 mission by a regulation promulgated under this
17 title.”.

18 (c) ADMINISTRATION AND APPLICABILITY OF ACT.—
19 Section 1306 of the Children’s Online Privacy Protection
20 Act of 1998 (15 U.S.C. 6505) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1), by striking “, in the
23 case of” and all that follows and inserting the
24 following: “by the appropriate Federal banking
25 agency with respect to any insured depository

1 institution (as such terms are defined in section
2 3 of such Act (12 U.S.C. 1813));” and

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

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

8 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
9 OPERATORS.—

10 “(1) ENFORCEMENT BY FTC.—Notwithstanding
11 section 5(a)(2) of the Federal Trade Commission
12 Act (15 U.S.C. 45(a)(2)), compliance with the requirements imposed under this title shall be enforced
13 by the Commission with respect to any telecommunications carrier (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)).

17 “(2) RELATIONSHIP TO OTHER LAW.—To the
18 extent that sections 222, 338(i), and 631 of the
19 Communications Act of 1934 (47 U.S.C. 222;
20 338(i); 551) are inconsistent with this title, this title
21 controls.”.

22 **SEC. 4. TARGETED MARKETING TO CHILDREN OR MINORS.**

23 (a) ACTS PROHIBITED.—It is unlawful for—

24 (1) an operator of a website, online service, on-
25 line application, or mobile application directed to

1 children, or an operator having actual knowledge
2 that personal information being collected is from a
3 child, to use, disclose to third parties, or compile
4 personal information for targeted marketing pur-
5 poses without verifiable parental consent; or

6 (2) an operator of a website, online service, on-
7 line application, or mobile application directed to mi-
8 nors, or an operator having actual knowledge that
9 personal information being collected is from a minor,
10 to use, disclose to third parties, or compile personal
11 information for targeted marketing purposes without
12 the consent of the minor.

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

17 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS**
18 **AND FAIR INFORMATION PRACTICES PRIN-**
19 **CIPLES.**

20 (a) ACTS PROHIBITED.—It is unlawful for an oper-
21 ator of a website, online service, online application, or mo-
22 bile application directed to minors, or an operator having
23 actual knowledge that personal information being collected
24 is from a minor, to collect personal information from a
25 minor unless such operator has adopted and complies with

1 a Digital Marketing Bill of Rights for Teens that is con-
2 sistent with the Fair Information Practices Principles de-
3 scribed in subsection (b).

4 (b) FAIR INFORMATION PRACTICES PRINCIPLES.—
5 The Fair Information Practices Principles described in
6 this subsection are the following:

7 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-
8 cept as provided in paragraph (3), personal informa-
9 tion should be collected from a minor only when col-
10 lection of the personal information is—

11 (A) consistent with the context of a par-
12 ticular transaction or service or the relationship
13 of the minor with the operator, including collec-
14 tion necessary to fulfill a transaction or provide
15 a service requested by the minor; or

16 (B) required or specifically authorized by
17 law.

18 (2) DATA QUALITY PRINCIPLE.—The personal
19 information of a minor should be accurate, complete,
20 and kept up-to-date to the extent necessary to fulfill
21 the purposes described in subparagraphs (A)
22 through (D) of paragraph (3).

23 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
24 purposes for which personal information is collected
25 should be specified to the minor not later than at

1 the time of the collection of the information. The
2 subsequent use or disclosure of the information
3 should be limited to—

4 (A) fulfillment of the transaction or service
5 requested by the minor;

6 (B) support for the internal operations of
7 the website, service, or application, as described
8 in section 312.2 of title 16, Code of Federal
9 Regulations;

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

13 (D) other purposes—

14 (i) that are specified in a notice to the
15 minor; and

16 (ii) to which the minor has consented
17 under paragraph (7) before the informa-
18 tion is used or disclosed for such other
19 purposes.

20 (4) RETENTION LIMITATION PRINCIPLE.—The
21 personal information of a minor should not be re-
22 tained for longer than is necessary to fulfill a trans-
23 action or provide a service requested by the minor
24 or such other purposes specified in subparagraphs
25 (A) through (D) of paragraph (3). The operator

1 should implement a reasonable and appropriate data
2 disposal policy based on the nature and sensitivity of
3 such personal information.

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

9 (6) OPENNESS PRINCIPLE.—

10 (A) IN GENERAL.—The operator should
11 maintain a general policy of openness about de-
12 velopments, practices, and policies with respect
13 to the personal information of a minor. The op-
14 erator should provide each minor using the
15 website, online service, online application, or
16 mobile application of the operator with a clear
17 and prominent means—

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

22 (I) in the case of an operator
23 who is an individual, the address of
24 the principal residence of the operator

1 and an email address and telephone
2 number for the operator; or

3 (II) in the case of any other op-
4 erator, the address of the principal
5 place of business of the operator and
6 an email address and telephone num-
7 ber for the operator;

8 (ii) to determine whether the operator
9 possesses any personal information of the
10 minor, the nature of any such information,
11 and the purposes for which the information
12 was collected and is being retained;

13 (iii) to obtain any personal informa-
14 tion of the minor that is in the possession
15 of the operator from the operator, or from
16 a person specified by the operator, within
17 a reasonable time after making a request,
18 at a charge (if any) that is not excessive,
19 in a reasonable manner, and in a form that
20 is readily intelligible to the minor;

21 (iv) to challenge the accuracy of per-
22 sonal information of the minor that is in
23 the possession of the operator; and

24 (v) if the minor establishes the inaccu-
25 racy of personal information in a challenge

1 under clause (iv), to have such information
2 erased, corrected, completed, or otherwise
3 amended.

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

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

11 (A) obtain consent from a minor before
12 using or disclosing the personal information of
13 the minor for any purpose other than the pur-
14 poses described in subparagraphs (A) through
15 (C) of paragraph (3); and

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

22 (c) REGULATIONS.—Not later than 1 year after the
23 date of the enactment of this Act, the Commission shall
24 promulgate, under section 553 of title 5, United States
25 Code, regulations to implement this section, including reg-

1 ulations further defining the Fair Information Practices
2 Principles described in subsection (b).

3 **SEC. 6. ONLINE COLLECTION OF GEOLOCATION INFORMA-**
4 **TION OF CHILDREN AND MINORS.**

5 (a) ACTS PROHIBITED.—

6 (1) IN GENERAL.—It is unlawful for an oper-
7 ator of a website, online service, online application,
8 or mobile application directed to children or minors,
9 or an operator having actual knowledge that
10 geolocation information being collected is from a
11 child or minor, to collect geolocation information
12 from a child or minor in a manner that violates the
13 regulations prescribed under subsection (b).

14 (2) DISCLOSURE TO PARENT OR MINOR PRO-
15 TECTED.—Notwithstanding paragraph (1), neither
16 an operator nor the operator’s agent shall be held to
17 be liable under any Federal or State law for any dis-
18 closure made in good faith and following reasonable
19 procedures in responding to a request for disclosure
20 of geolocation information under subparagraph
21 (C)(ii)(III) or (D)(ii)(III) of subsection (b)(1).

22 (b) REGULATIONS.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of the enactment of this Act, the Commis-
25 sion shall promulgate, under section 553 of title 5,

1 United States Code, regulations that require an op-
2 erator of a website, online service, online application,
3 or mobile application directed to children or minors,
4 or an operator having actual knowledge that
5 geolocation information being collected is from a
6 child or minor—

7 (A) to provide clear and conspicuous notice
8 in clear and plain language of any geolocation
9 information the operator collects, how the oper-
10 ator uses such information, and whether the op-
11 erator discloses such information;

12 (B) to establish procedures or mechanisms
13 to ensure that geolocation information is not
14 collected from children or minors except in ac-
15 cordance with regulations promulgated under
16 this paragraph;

17 (C) in the case of collection of geolocation
18 information from a child—

19 (i) prior to collecting such informa-
20 tion, to obtain verifiable parental consent;
21 and

22 (ii) after collecting such information,
23 to provide to the parent of the child, upon
24 request by and proper identification of the
25 parent—

1 (I) a description of the
2 geolocation information collected from
3 the child by the operator;

4 (II) the opportunity at any time
5 to refuse to permit the further use or
6 maintenance in retrievable form, or
7 future collection, by the operator of
8 geolocation information from the
9 child; and

10 (III) a means that is reasonable
11 under the circumstances for the par-
12 ent to obtain any geolocation informa-
13 tion collected from the child, if such
14 information is available to the oper-
15 ator at the time the parent makes the
16 request; and

17 (D) in the case of collection of geolocation
18 information from a minor—

19 (i) prior to collecting such informa-
20 tion, to obtain affirmative express consent
21 from such minor; and

22 (ii) after collecting such information,
23 to provide to the minor, upon request—

1 (I) a description of the
2 geolocation information collected from
3 the minor by the operator;

4 (II) the opportunity at any time
5 to refuse to permit the further use or
6 maintenance in retrievable form, or
7 future collection, by the operator of
8 geolocation information from the
9 minor; and

10 (III) a means that is reasonable
11 under the circumstances for the minor
12 to obtain any geolocation information
13 collected from the minor, if such in-
14 formation is available to the operator
15 at the time the minor makes the re-
16 quest.

17 (2) WHEN CONSENT NOT REQUIRED.—The reg-
18 ulations promulgated under paragraph (1) shall pro-
19 vide that verifiable parental consent under subpara-
20 graph (C)(i) of such paragraph or affirmative ex-
21 press consent under subparagraph (D)(i) of such
22 paragraph is not required when the collection of the
23 geolocation information of a child or minor is nec-
24 essary, to the extent permitted under other provi-
25 sions of law, to provide information to law enforce-

1 ment agencies or for an investigation on a matter re-
2 lated to public safety.

3 (3) CONTINUATION OF SERVICE.—The regula-
4 tions promulgated under paragraph (1) shall pro-
5 hibit an operator from discontinuing service provided
6 to—

7 (A) a child on the basis of refusal by the
8 parent of the child, under subparagraph
9 (C)(ii)(II) of such paragraph, to permit the fur-
10 ther use or maintenance in retrievable form, or
11 future online collection, of geolocation informa-
12 tion from the child by the operator, to the ex-
13 tent that the operator is capable of providing
14 such service without such information; or

15 (B) a minor on the basis of refusal by the
16 minor, under subparagraph (D)(ii)(II) of such
17 paragraph, to permit the further use or mainte-
18 nance in retrievable form, or future online col-
19 lection, of geolocation information from the
20 minor by the operator, to the extent that the
21 operator is capable of providing such service
22 without such information.

23 (c) INCONSISTENT STATE LAW.—No State or local
24 government may impose any liability for commercial ac-
25 tivities or actions by operators in interstate or foreign

1 commerce in connection with an activity or action de-
2 scribed in this section that is inconsistent with the treat-
3 ment of those activities or actions under this section.

4 **SEC. 7. REMOVAL OF CONTENT.**

5 (a) ACTS PROHIBITED.—It is unlawful for an oper-
6 ator of a website, online service, online application, or mo-
7 bile application to make publicly available through the
8 website, service, or application content or information that
9 contains or displays personal information of children or
10 minors in a manner that violates the regulations pre-
11 scribed under subsection (b).

12 (b) REGULATIONS.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of the enactment of this Act, the Commis-
15 sion shall promulgate, under section 553 of title 5,
16 United States Code, regulations that require an oper-
17 ator—

18 (A) to the extent technologically feasible,
19 to implement mechanisms that permit a user of
20 the website, service, or application of the oper-
21 ator to erase or otherwise eliminate content or
22 information submitted to the website, service, or
23 application by such user that is publicly avail-
24 able through the website, service, or application

1 and contains or displays personal information of
2 children or minors; and

3 (B) to take appropriate steps to make
4 users aware of such mechanisms and to provide
5 notice to users that such mechanisms do not
6 necessarily provide comprehensive removal of
7 the content or information submitted by such
8 users.

9 (2) EXCEPTION.—The regulations promulgated
10 under paragraph (1) may not require an operator or
11 third party to erase or otherwise eliminate content
12 or information that—

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

16 (B) was submitted to the website, service,
17 or application of the operator by any person
18 other than the user who is attempting to erase
19 or otherwise eliminate such content or informa-
20 tion, including content or information submitted
21 by such user that was republished or resub-
22 mitted by another person.

23 (3) LIMITATION.—Nothing in this section shall
24 be construed to limit the authority of a law enforce-
25 ment agency to obtain any content or information

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

3 **SEC. 8. 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.—Subject to
18 subsection (b), and except as provided in subsection
19 (d)(1), the Commission shall prevent any person
20 from violating this Act or a regulation prescribed
21 under this Act in the same manner, by the same
22 means, and with the same jurisdiction, powers, and
23 duties as though all applicable terms and provisions
24 of the Federal Trade Commission Act (15 U.S.C. 41
25 et seq.) were incorporated into and made a part of

1 this Act, and any person who violates this Act or
2 such regulation shall be subject to the penalties and
3 entitled to the privileges and immunities provided in
4 the Federal Trade Commission Act.

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

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

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

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

22 (4) Under the Packers and Stockyards Act,
23 1921 (7 U.S.C. 181 et seq.) (except as provided in
24 section 406 of such Act (7 U.S.C. 226; 227)) by the

1 Secretary of Agriculture, with respect to any activi-
2 ties subject to such Act.

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

8 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
9 ERAL.—

10 (1) IN GENERAL.—

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

22 (i) enjoin that practice;

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

1 (iii) obtain damages, restitution, or
2 other compensation on behalf of residents
3 of 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)
17 shall not apply with respect to the fil-
18 ing of an action by an attorney gen-
19 eral of a State under this paragraph,
20 if the attorney general determines
21 that it is not feasible to provide the
22 notice described in that clause before
23 the filing of the action.

24 (II) NOTIFICATION.—In an ac-
25 tion described in subclause (I), the at-

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

(B) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under paragraph (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.

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

22 (A) conduct investigations;

23 (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 FTC.—Notwithstanding
2 section 5(a)(2) of the Federal Trade Commission
3 Act (15 U.S.C. 45(a)(2)), compliance with the re-
4 quirements imposed under this Act shall be enforced
5 by the Commission with respect to any telecommuni-
6 cations carrier (as defined in section 3 of the Com-
7 munications Act of 1934 (47 U.S.C. 153)).

8 (2) RELATIONSHIP TO OTHER LAW.—To the ex-
9 tent that sections 222, 338(i), and 631 of the Com-
10 munications Act of 1934 (47 U.S.C. 222; 338(i);
11 551) are inconsistent with this Act, this Act con-
12 trols.

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

16 An operator of a website, online service, online appli-
17 cation, or mobile application that is directed to children
18 or minors shall treat all users of such website, service, or
19 application as children or minors (as the case may be) for
20 purposes of this Act, except as permitted by the Commis-
21 sion by a regulation promulgated under this Act.

22 **SEC. 10. DEFINITIONS.**

23 (a) IN GENERAL.—In this Act:

24 (1) MINOR.—The term “minor” means an indi-
25 vidual over the age of 12 and under the age of 16.

1 (2) TARGETED MARKETING.—The term “tar-
2 geted marketing” means advertising or other efforts
3 to market a product or service that are directed to
4 a specific individual or device—

5 (A) based on the personal information of
6 the individual or a unique identifier of the de-
7 vice; and

8 (B) as a result of use by the individual, or
9 access by the device, of a website, online serv-
10 ice, online application, or mobile application.

11 (b) TERMS DEFINED BY COMMISSION.—In this Act,
12 the terms “directed to minors” and “geolocation informa-
13 tion” shall have the meanings given such terms by the
14 Commission by regulation. Not later than 1 year after the
15 date of the enactment of this Act, the Commission shall
16 promulgate, under section 553 of title 5, United States
17 Code, regulations that define such terms broadly enough
18 so that they are not limited to current technology, con-
19 sistent with the principles articulated by the Commission
20 regarding the definition of the term “Internet” in its
21 statement of basis and purpose on the final rule under
22 the Children’s Online Privacy Protection Act of 1998 (15
23 U.S.C. 6501 et seq.) promulgated on November 3, 1999
24 (64 Fed. Reg. 59891).

1 (c) OTHER DEFINITIONS.—The definitions set forth
2 in section 1302 of the Children’s Online Privacy Protec-
3 tion Act of 1998 (15 U.S.C. 6501), as amended by section
4 3(a), shall apply in this Act, except to the extent the Com-
5 mission provides otherwise by regulations issued under
6 section 553 of title 5, United States Code.

7 **SEC. 11. EFFECTIVE DATES.**

8 (a) IN GENERAL.—Except as provided in subsections
9 (b) and (c), this Act and the amendments made by this
10 Act shall take effect on the date that is 1 year after the
11 date of the enactment of this Act.

12 (b) AUTHORITY TO PROMULGATE REGULATIONS.—
13 The following shall take effect on the date of the enact-
14 ment of this Act:

15 (1) The amendments made by subsections
16 (a)(5) and (b)(3)(A) of section 3.

17 (2) Sections 4(b), 5(c), 6(b), and 7(b).

18 (3) Subsections (b) and (c) of section 10.

19 (c) DIGITAL MARKETING BILL OF RIGHTS FOR
20 TEENS.—Section 5, except for subsection (c) of such sec-
21 tion, shall take effect on the date that is 180 days after
22 the promulgation of regulations under such subsection.