To amend the Communications Act of 1934 to prevent the carriage of child pornography by video service providers, to protect children from online predators, and to restrict the sale or purchase of children’s personal information in interstate commerce.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to prevent the carriage of child pornography by video service providers, to protect children from online predators, and to restrict the sale or purchase of children’s personal information in interstate commerce.

1  Be it enacted by the Senate and House of Representa-
2  tives of the United States of America in Congress assembled,
3  SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
4  (a) Short Title.—This Act may be cited as the
5  “Protecting Children in the 21st Century Act”.
6  (b) Table of Contents.—The table of contents for
7  this Act is as follows:
Sec. 1. Short title; table of contents.

TITLE I—PROTECTING CHILDREN

Sec. 101. Video transmission of child pornography.
Sec. 102. Additional child pornography amendments.

TITLE II—DELETING ONLINE PREDATORS

Sec. 201. Short title.
Sec. 203. Certifications to include protections against commercial social networking websites and chat rooms.
Sec. 204. FTC consumer alert on internet dangers to children.

TITLE III—CHILDREN’S LISTBROKER PRIVACY

Sec. 301. Short title.
Sec. 302. Restriction on sale or purchase of children’s personal information.
Sec. 303. Administration and enforcement.
Sec. 304. Actions by States.
Sec. 305. Definitions.
Sec. 306. Effective date.

TITLE I—PROTECTING CHILDREN

SEC. 101. VIDEO TRANSMISSION OF CHILD PORNOGRAPHY.

Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended by adding at the end the following:

“(g) Child Pornography.—

“(1) In general.—A video service provider authorized to provide video service in a local franchise area shall comply with the regulations on child pornography promulgated pursuant to paragraph (2).

“(2) Regulations.—Not later than 180 days after the date of enactment of the Protecting Children in the 21st Century Act, the Commission shall promulgate regulations to require a video service to
prevent the offering of child pornography (as such term is defined in section 254(h)(7)(F)).”.

SEC. 102. ADDITIONAL CHILD PORNOGRAPHY AMENDMENTS.

(a) INCREASE IN FINE FOR FAILURE TO REPORT.—
Section 227(b)(4) of the Crime Control Act of 1990 (42 U.S.C. 13032(b)(4)) is amended—

(1) by striking “$50,000;” in subparagraph (A) and inserting “$150,000;”; and

(2) by striking “$100,000.” in subparagraph (B) and inserting “$300,000.”.

(b) WARNING LABELS FOR WEBSITES DEPICTING SEXUALLY EXPLICIT MATERIAL.—

(1) IN GENERAL.—

(A) NOTICE REQUIREMENT.—It is unlawful for the operator of a website that is primarily operated for commercial purposes knowingly, and with knowledge of the character of the material, to place sexually explicit material on the website unless—

(i) the first page of the website viewable on the Internet does not include any sexually explicit material; and

(ii) each page or screen of the website that does contain sexually explicit material
also displays the matter prescribed by the Federal Trade Commission under paragraph (2).

(B) EXCEPTION FOR RESTRICTED ACCESS WEBSITES.—Subparagraph (A)(ii) does not apply to any website access to which is restricted to a specific set of individuals through a password or other access restriction mechanism.

(2) MARKS OR NOTICES.—Within 90 days after the date of enactment of this Act, the Federal Trade Commission shall, in consultation with the Attorney General, promulgate regulations establishing clearly identifiable marks or notices to be included in the code, if technologically feasible, or on the pages or screens of a website that contains sexually explicit material to inform any person who accesses that website of the nature of the material and to facilitate the filtering of such pages or screens.

(3) INAPPLICABILITY TO CARRIERS AND OTHER SERVICE PROVIDERS.—Subsection (a) does not apply to a person to the extent that the person is—

(A) a telecommunications carrier (as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44));
(B) engaged in the business of providing an Internet access service; or

(C) engaged in the transmission, storage, retrieval, hosting, formatting, or translation of a communication made by another person, without selection or alteration of the content (other than by translation or by lawful selection or deletion of matter).

(4) DEFINITIONS.—In this subsection:

(A) WEBSITE.—The term “website” means any collection of material placed in a computer server-based file archive so that it is publicly accessible over the Internet using hypertext transfer protocol, or any successor protocol.

(B) SEXUALLY EXPLICIT MATERIAL.—The term “sexually explicit material” means material that depicts sexually explicit conduct (as defined in section 2256(2)(A) of section 2256 of title 18, United States Code), unless that depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.

(C) INTERNET.—The term “Internet” means the combination of computer facilities and electromagnetic transmission media, and
related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Internet protocol or any successor protocol to transmit information.

(D) INTERNET ACCESS SERVICE.—The term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to the public other than telecommunications service (as defined in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46))).

(5) PENALTY.—Violation of this subsection is punishable by a fine under title 18, United States Code, or imprisonment for not more than 5 years, or both.

**TITLE II—DELETING ONLINE PREDATORS**

SEC. 201. SHORT TITLE.

This title may be cited as the “Deleting Online Predators Act of 2007”.

SEC. 202. FINDINGS.

The Congress finds that—
(1) sexual predators approach minors on the Internet using chat rooms and social networking websites, and, according to the United States Attorney General, one in five children has been approached sexually on the Internet;

(2) sexual predators can use these chat rooms and websites to locate, learn about, befriend, and eventually prey on children by engaging them in sexually explicit conversations, asking for photographs, and attempting to lure children into a face to face meeting; and

(3) with the explosive growth of trendy chat rooms and social networking websites, it is becoming more and more difficult to monitor and protect minors from those with devious intentions, particularly when children are away from parental supervision.

SEC. 203. CERTIFICATIONS TO INCLUDE PROTECTIONS AGAINST COMMERCIAL SOCIAL NETWORKING WEBSITES AND CHAT ROOMS.

(a) Certification by Schools.—Section 254(h)(5)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(5)(B)) is amended by striking clause (i) and inserting the following:

“(i) is enforcing a policy of Internet safety for minors that prevents
cyberbullying and includes monitoring the online activities of minors and the operation of a technology protection measure with respect to any of its computers with Internet access that—

“(I) protects against access through such computers to visual depictions that are—

“(aa) obscene;

“(bb) child pornography; or

“(cc) harmful to minors;

and

“(II) protects against access to a commercial social networking website or chat room unless used for an educational purpose with adult supervision; and”.

(b) Certification by Libraries.—Section 254(h)(6)(B) of such Act (47 U.S.C. 254(h)(6)(B)) is amended by striking clause (i) and inserting the following:

“(i) is enforcing a policy of Internet safety that prevents cyberbullying and includes the operation of a technology protection measure with respect to any of its computers with Internet access that—
“(I) protects against access through such computers to visual de-
pictions that are—
“(aa) obscene;
“(bb) child pornography; or
“(cc) harmful to minors;
and
“(II) protects against access by minors without parental authorization
to a commercial social networking website or chat room, and informs
parents that sexual predators can use these websites and chat rooms to prey
on children; and”.

(c) DEFINITIONS.—Section 254(h)(7) of such Act (47 U.S.C. 254(h)(7)) is amended by adding at the end the following new subparagraph:

“(J) COMMERCIAL SOCIAL NETWORKING WEBSITES; CHAT ROOMS.—Within 120 days after the date of enactment of the Deleting On-
line Predators Act of 2006, the Commission shall by rule define the terms ‘social networking website’ and ‘chat room’ for purposes of this subsection. In determining the definition of a social networking website, the Commission shall
take into consideration the extent to which a website—

“(i) is offered by a commercial entity;

“(ii) permits registered users to create an on-line profile that includes detailed personal information;

“(iii) permits registered users to create an on-line journal and share such a journal with other users;

“(iv) elicits highly-personalized information from users; and

“(v) enables communication among users.”.

(d) **Disabling During Adult or Educational Use.**—Section 254(h)(5)(D) of such Act (47 U.S.C. 254(h)(5)(D)) is amended—

(1) by inserting “OR EDUCATIONAL” after “DURING ADULT” in the heading; and

(2) by inserting before the period at the end the following: “or during use by an adult or by minors with adult supervision to enable access for educational purposes pursuant to subparagraph (B)(i)(II)”.
SEC. 204. FTC CONSUMER ALERT ON INTERNET DANGERS TO CHILDREN.

(a) INFORMATION REGARDING CHILD PREDATORS AND THE INTERNET.—Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall—

(1) issue a consumer alert regarding the potential dangers to children of Internet child predators, including the potential danger of commercial social networking websites and chat rooms through which personal information about child users of such websites may be accessed by child predators; and

(2) establish a website to serve as a resource for information for parents, teachers and school administrators, and others regarding the potential dangers posed by the use of the Internet by children, including information about commercial social networking websites and chat rooms through which personal information about child users of such websites may be accessed by child predators.

(b) COMMERCIAL SOCIAL NETWORKING WEBSITES.—In subsection (a), the terms ”commercial social networking website” and ”chat room” have the meanings given such terms pursuant to section 254(h)(7)(J) of the Communications Act of 1934 (47 U.S.C. 254(h)(7)(J)).
TITLE III—CHILDREN’S LISTBROKER PRIVACY

SEC. 301. SHORT TITLE.

This title may be cited as the “Children’s Listbroker Privacy Act”.

SEC. 302. RESTRICTION ON SALE OR PURCHASE OF CHILDREN’S PERSONAL INFORMATION.

(a) IN GENERAL.—It is unlawful—

(1) to sell personal information about an individual the seller knows to be a child;

(2) to purchase personal information about an individual identified by the seller as a child, for the purpose of marketing to that child; or

(3) for a person who has provided a certification pursuant to subsection (b)(2), in connection with the purchase of personal information about an individual identified by the seller as a child, to engage in any practice that violates the terms of the certification.

(b) EXCEPTIONS.—

(1) PARENTAL CONSENT.—Subsection (a) does not apply to any sale, purchase, or use of personal information about a child if the parent of the child has granted express consent to that sale, purchase, or use of the information.
(2) Certification.—Subsection (a)(1) shall not apply to the sale of personal information about a child if the purchaser certifies to the seller, electronically or in writing, before the sale is completed—

(A) the purpose for which the information will be used by the purchaser; and

(B) that the purchaser will neither—

(i) use the information for marketing that child; nor

(ii) permit the information to be used by others for the purpose of marketing to that child.

SEC. 303. ADMINISTRATION AND ENFORCEMENT.

(a) In General.—Except as provided in subsection (b), this title shall be enforced by the Commission as if the violation of section 302 of this title were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by Certain Other Agencies.—Compliance with this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—
(A) national banks, and Federal branches
and Federal agencies of foreign banks, by the
Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve
System (other than national banks), branches
and agencies of foreign banks (other than Fed-
eral branches, Federal agencies, and insured
State branches of foreign banks), commercial
lending companies owned or controlled by for-
egn banks, and organizations operating under
section 25 or 25A of the Federal Reserve Act
(12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit
Insurance Corporation (other than members of
the Federal Reserve System) and insured State
branches of foreign banks, by the Board of Di-
rectors of the Federal Deposit Insurance Cor-
poration;

(2) section 8 of the Federal Deposit Insurance
Act (12 U.S.C. 1818), by the Director of the Office
of Thrift Supervision, in the case of a savings asso-
ciation the deposits of which are insured by the Fed-
eral Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C.
1751 et seq.) by the National Credit Union Adminis-
tration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

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

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of section 302 of this title is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement im-
posed under section 302 of this title, any other authority
conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commis-
ion shall prevent any person from violating section 302
of this title in the same manner, by the same means, and
with the same jurisdiction, powers, and duties as though
all applicable terms and provisions of the Federal Trade
Commission Act (15 U.S.C. 41 et seq.) were incorporated
into and made a part of this title. Any entity that violates
any provision of that section is subject to the penalties
and entitled to the privileges and immunities provided in
the Federal Trade Commission Act in the same manner,
by the same means, and with the same jurisdiction, power,
and duties as though all applicable terms and provisions
of the Federal Trade Commission Act were incorporated
into and made a part of that section.

(e) PRESERVATION OF COMMISSION AUTHORITY.—
Nothing contained in this section shall be construed to
limit the authority of the Commission under any other
provision of law.

SEC. 304. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the
attorney general of a State has reason to believe
that an interest of the residents of that State has
been or is threatened or adversely affected by the
engagement of any person in a practice that section
302 of this title, the State, as parens patriae, may
bring a civil action on behalf of the residents of the
State in a district court of the United States of ap-
appropriate jurisdiction—

(A) to enjoin that practice;
(B) to enforce compliance with the rule;
(C) to obtain damage, restitution, or other
compensation on behalf of residents of the
State; or
(D) to obtain such other relief as the court
may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action
under paragraph (1), the attorney general of
the State involved shall provide to the Commiss-
ion—

(i) written notice of that action; and
(ii) a copy of the complaint for that
action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A)
shall not apply with respect to the filing of
an action by an attorney general of a State
under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State
from exercising the powers conferred on the attorney gen-
eral by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the
production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in
which an action is instituted by or on behalf of the Com-
mission for violation of section 302 of this title, no State
may, during the pendency of that action, institute an ac-
tion under subsection (a) against any defendant named
in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under sub-
section (a) may be brought in the district court of
the United States that meets applicable require-
ments relating to venue under section 1391 of title
28, United States Code.

(2) SERVICE OF PROCESS.—In an action
brought under subsection (a), process may be served
in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 305. DEFINITIONS.

In this title:
(1) CHILD.—The term “child” means an individual under the age of 16.

(2) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(3) EXPRESS CONSENT.—

   (A) IN GENERAL.—The term “express consent” means an affirmative indication of permission in writing or electronic form. The term “express consent” does not include consent inferred from a failure to indicate affirmatively that consent is denied or withheld.

   (B) PREREQUISITES.—Express consent is not valid unless—

       (i) before granting the consent the individual granting the consent was informed of the purpose for which the information would be sold, purchased, or used; and

       (ii) consent was not granted as a condition for making a product, service, or warranty available to the individual or the child to which the information pertains.

(4) MARKETING.—The term “marketing” means making a communication to encourage the purchase or use of a commercial product or service. For purposes of this paragraph, a product or service
shall be considered to be commercial if some or all of the proceeds from the sale inure to the benefit of an enterprise conducted for profit.

(5) PARENT.—The term “parent” includes a legal guardian.

(6) PERSONAL INFORMATION.—The term “personal information” means identifiable information about an individual, including—

(A) a name;
(B) a home or other physical address including street name and name of a city or town;
(C) an e-mail address or online username;
(D) a telephone number;
(E) a Social Security number; or
(F) any other information that permits a specific individual to be identified.

(7) PURCHASE; SELL; SALE.—In section 303, the terms “purchase”, “sell”, and “sale” include the purchase and sale of the right to use personal information, without regard to whether—

(A) the right is limited or unlimited;
(B) the transaction is characterized as a purchase, sale, lease, or otherwise; and
(C) the consideration for the transaction is monetary, goods, or services.
SEC. 306. EFFECTIVE DATE.

This title takes effect 6 months after the date of enactment.