

114TH CONGRESS  
1ST SESSION

# S. 1563

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 11, 2015

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

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## 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 2015”.

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

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

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

8 “(2) OPERATOR.—The term ‘operator’—

9 “(A) means any person who, for commer-  
10 cial purposes, in interstate or foreign commerce,  
11 operates or provides a website on the Internet,  
12 online service, online application, or mobile ap-  
13 plication, and who—

14 “(i) collects or maintains, either di-  
15 rectly or through a service provider, per-  
16 sonal information from or about the users  
17 of such website, service, or application;

18 “(ii) allows another person to collect  
19 personal information directly from users of  
20 such website, service, or application (in  
21 which case the operator is deemed to have  
22 collected the information); or

23 “(iii) allows users of such website,  
24 service, or application to publicly disclose  
25 personal information (in which case the op-

1 erator is deemed to have collected the in-  
2 formation); and

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

7 (2) in paragraph (4)—

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

10 “(A) the release of personal information  
11 for any purpose, except where such information  
12 is provided to a person other than an operator  
13 who provides support for the internal operations  
14 of the website, online service, online application,  
15 or mobile application of the operator and does  
16 not disclose or use that information for any  
17 other purpose; and”;

18 (B) in subparagraph (B), by striking  
19 “website or online service” and inserting  
20 “website, online service, online application, or  
21 mobile application”;

22 (3) in paragraph (8)—

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

1           “(G) information concerning a child or the  
2           parents of that child (including any unique or  
3           substantially unique identifier, such as a cus-  
4           tomer number) that an operator collects online  
5           from the child and combines with an identifier  
6           described in subparagraphs (A) through (G).”;

7           (B) by redesignating subparagraphs (F)  
8           and (G) as subparagraphs (G) and (H), respec-  
9           tively; and

10          (C) by inserting after subparagraph (E)  
11          the following new subparagraph:

12           “(F) information (including an Internet  
13           protocol address) that permits the identification  
14           of an individual, the computer of an individual,  
15           or any other device used by an individual to ac-  
16           cess the Internet or an online service, online ap-  
17           plication, or mobile application;”;

18          (4) by striking paragraph (10) and redesign-  
19          nating paragraphs (11) and (12) as paragraphs (10)  
20          and (11), respectively; and

21          (5) by adding at the end the following new  
22          paragraph:

23           “(12) ONLINE, ONLINE SERVICE, ONLINE AP-  
24           PLICATION, MOBILE APPLICATION, DIRECTED TO  
25           CHILDREN.—The terms ‘online’, ‘online service’, ‘on-

1 line application’, ‘mobile application’, and ‘directed  
2 to children’ shall have the meanings given such  
3 terms by the Commission by regulation. Not later  
4 than 1 year after the date of the enactment of the  
5 Do Not Track Kids Act of 2015, the Commission  
6 shall promulgate, under section 553 of title 5,  
7 United States Code, regulations that define such  
8 terms broadly enough so that they are not limited to  
9 current technology, consistent with the principles ar-  
10 ticulated by the Commission regarding the definition  
11 of the term ‘Internet’ in its statement of basis and  
12 purpose on the final rule under this title promul-  
13 gated on November 3, 1999 (64 Fed. Reg. 59891).  
14 The definition of the term ‘online service’ in such  
15 regulations shall include broadband Internet access  
16 service (as defined in the Report and Order of the  
17 Federal Communications Commission relating to the  
18 matter of preserving the open Internet and  
19 broadband industry practices (FCC 10–201, adopted  
20 by the Commission on December 21, 2010)).”.

21 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF  
22 PERSONAL INFORMATION OF CHILDREN.—Section 1303  
23 of the Children’s Online Privacy Protection Act of 1998  
24 (15 U.S.C. 6502) is amended—

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

5 (2) in subsection (a)—

6 (A) by amending paragraph (1) to read as  
7 follows:

8 “(1) IN GENERAL.—It is unlawful for an oper-  
9 ator of a website, online service, online application,  
10 or mobile application directed to children, or an op-  
11 erator having actual knowledge that personal infor-  
12 mation being collected is from a child, to collect per-  
13 sonal information from a child in a manner that vio-  
14 lates the regulations prescribed under subsection  
15 (b).”; and

16 (B) in paragraph (2)—

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

19 (ii) by striking “subsection  
20 (b)(1)(B)(iii)” and inserting “subsection  
21 (b)(1)(C)(iii)”; and

22 (3) in subsection (b)—

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

1           “(1) IN GENERAL.—Not later than 1 year after  
2           the date of the enactment of the Do Not Track Kids  
3           Act of 2015, the Commission shall promulgate,  
4           under section 553 of title 5, United States Code,  
5           regulations to require an operator of a website, on-  
6           line service, online application, or mobile application  
7           directed to children, or an operator having actual  
8           knowledge that personal information being collected  
9           is from a child—

10                   “(A) to provide clear and conspicuous no-  
11                   tice in clear and plain language of the types of  
12                   personal information the operator collects, how  
13                   the operator uses such information, whether the  
14                   operator discloses such information, and the  
15                   procedures or mechanisms the operator uses to  
16                   ensure that personal information is not col-  
17                   lected from children except in accordance with  
18                   the regulations promulgated under this para-  
19                   graph;

20                   “(B) to obtain verifiable parental consent  
21                   for the collection, use, or disclosure of personal  
22                   information of a child;

23                   “(C) to provide to a parent whose child  
24                   has provided personal information to the oper-

1           ator, upon request by and proper identification  
2           of the parent—

3                   “(i) a description of the specific types  
4                   of personal information collected from the  
5                   child by the operator;

6                   “(ii) the opportunity at any time to  
7                   refuse to permit the further use or mainte-  
8                   nance in retrievable form, or future collec-  
9                   tion, by the operator of personal informa-  
10                  tion collected from the child; and

11                  “(iii) a means that is reasonable  
12                  under the circumstances for the parent to  
13                  obtain any personal information collected  
14                  from the child, if such information is avail-  
15                  able to the operator at the time the parent  
16                  makes the request;

17                  “(D) not to condition participation in a  
18                  game, or use of a website, service, or applica-  
19                  tion, by a child on the provision by the child of  
20                  more personal information than is reasonably  
21                  required to participate in the game or use the  
22                  website, service, or application; and

23                  “(E) to establish and maintain reasonable  
24                  procedures to protect the confidentiality, secu-



1 rity, and integrity of personal information col-  
2 lected from children.”;

3 (B) in paragraph (2)—

4 (i) in the matter preceding subpara-  
5 graph (A), by striking “paragraph  
6 (1)(A)(ii)” and inserting “paragraph  
7 (1)(B)”;

8 (ii) in subparagraph (A), by inserting  
9 “or to contact a different child” after “to  
10 recontact the child”;

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

13 “(3) CONTINUATION OF SERVICE.—The regula-  
14 tions shall prohibit an operator from discontinuing  
15 service provided to a child on the basis of refusal by  
16 the parent of the child, under the regulations pre-  
17 scribed under paragraph (1)(C)(ii), to permit the  
18 further use or maintenance in retrievable form, or  
19 future collection, by the operator of personal infor-  
20 mation collected from the child, to the extent that  
21 the operator is capable of providing such service  
22 without such information.”; and

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

24 “(4) RULE FOR TREATMENT OF USERS OF  
25 WEBSITES, SERVICES, AND APPLICATIONS DIRECTED

1 TO CHILDREN.—An operator of a website, online  
2 service, online application, or mobile application that  
3 is directed to children shall treat all users of such  
4 website, service, or application as children for pur-  
5 poses of this title, except as permitted by the Com-  
6 mission by a regulation promulgated under this  
7 title.”.

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

11 (1) in subsection (b)—

12 (A) in paragraph (1), by striking “, in the  
13 case of” and all that follows and inserting the  
14 following: “by the appropriate Federal banking  
15 agency with respect to any insured depository  
16 institution (as such terms are defined in section  
17 3 of such Act (12 U.S.C. 1813));”; and

18 (B) by striking paragraph (2) and redesignig-  
19 nating paragraphs (3) through (6) as para-  
20 graphs (2) through (5), respectively; and

21 (2) by adding at the end the following new sub-  
22 section:

23 “(f) 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 title 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  
9 extent that sections 222, 338(i), and 631 of the  
10 Communications Act of 1934 (47 U.S.C. 222;  
11 338(i); 551) are inconsistent with this title, this title  
12 controls.”.

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

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

15           (1) an operator of a website, online service, on-  
16 line application, or mobile application directed to  
17 children, or an operator having actual knowledge  
18 that personal information being collected is from a  
19 child, to use, disclose to third parties, or compile  
20 personal information for targeted marketing pur-  
21 poses without verifiable parental consent; or

22           (2) an operator of a website, online service, on-  
23 line application, or mobile application directed to mi-  
24 nors, or an operator having actual knowledge that  
25 personal information being collected is from a minor,

1 to use, disclose to third parties, or compile personal  
2 information for targeted marketing purposes without  
3 the consent of the minor.

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

8 **SEC. 4. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS**  
9 **AND FAIR INFORMATION PRACTICES PRIN-**  
10 **CIPLES.**

11 (a) ACTS PROHIBITED.—It is unlawful for an oper-  
12 ator of a website, online service, online application, or mo-  
13 bile application directed to minors, or an operator having  
14 actual knowledge that personal information being collected  
15 is from a minor, to collect personal information from a  
16 minor unless such operator has adopted and complies with  
17 a Digital Marketing Bill of Rights for Teens that is con-  
18 sistent with the Fair Information Practices Principles de-  
19 scribed in subsection (b).

20 (b) FAIR INFORMATION PRACTICES PRINCIPLES.—  
21 The Fair Information Practices Principles described in  
22 this subsection are the following:

23 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-  
24 cept as provided in paragraph (3), personal informa-

1       tion should be collected from a minor only when col-  
2       lection of the personal information is—

3               (A) consistent with the context of a par-  
4               ticular transaction or service or the relationship  
5               of the minor with the operator, including collec-  
6               tion necessary to fulfill a transaction or provide  
7               a service requested by the minor; or

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

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

15           (3) PURPOSE SPECIFICATION PRINCIPLE.—The  
16           purposes for which personal information is collected  
17           should be specified to the minor not later than at  
18           the time of the collection of the information. The  
19           subsequent use or disclosure of the information  
20           should be limited to—

21               (A) fulfillment of the transaction or service  
22               requested by the minor;

23               (B) support for the internal operations of  
24               the website, service, or application, as described

1 in section 312.2 of title 16, Code of Federal  
2 Regulations;

3 (C) compliance with legal process or other  
4 purposes expressly authorized under specific  
5 legal authority; or

6 (D) other purposes—

7 (i) that are specified in a notice to the  
8 minor; and

9 (ii) to which the minor has consented  
10 under paragraph (7) before the informa-  
11 tion is used or disclosed for such other  
12 purposes.

13 (4) RETENTION LIMITATION PRINCIPLE.—The  
14 personal information of a minor should not be re-  
15 tained for longer than is necessary to fulfill a trans-  
16 action or provide a service requested by the minor  
17 or such other purposes specified in subparagraphs  
18 (A) through (D) of paragraph (3). The operator  
19 should implement a reasonable and appropriate data  
20 disposal policy based on the nature and sensitivity of  
21 such personal information.

22 (5) SECURITY SAFEGUARDS PRINCIPLE.—The  
23 personal information of a minor should be protected  
24 by reasonable and appropriate security safeguards

1 against risks such as loss or unauthorized access,  
2 destruction, use, modification, or disclosure.

3 (6) OPENNESS PRINCIPLE.—

4 (A) IN GENERAL.—The operator should  
5 maintain a general policy of openness about de-  
6 velopments, practices, and policies with respect  
7 to the personal information of a minor. The op-  
8 erator should provide each minor using the  
9 website, online service, online application, or  
10 mobile application of the operator with a clear  
11 and prominent means—

12 (i) to identify and contact the oper-  
13 ator, by, at a minimum, disclosing, clearly  
14 and prominently, the identity of the oper-  
15 ator and—

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

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

1           (ii) to determine whether the operator  
2           possesses any personal information of the  
3           minor, the nature of any such information,  
4           and the purposes for which the information  
5           was collected and is being retained;

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

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

17          (v) if the minor establishes the inaccu-  
18          racy of personal information in a challenge  
19          under clause (iv), to have such information  
20          erased, corrected, completed, or otherwise  
21          amended.

22          (B) LIMITATION.—Nothing in this para-  
23          graph shall be construed to permit an operator  
24          to erase or otherwise modify personal informa-



1           tion requested by a law enforcement agency  
2           pursuant to legal authority.

3           (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

4           The operator should—

5                   (A) obtain consent from a minor before  
6           using or disclosing the personal information of  
7           the minor for any purpose other than the pur-  
8           poses described in subparagraphs (A) through  
9           (C) of paragraph (3); and

10                   (B) obtain affirmative express consent  
11           from a minor before using or disclosing pre-  
12           viously collected personal information of the  
13           minor for purposes that constitute a material  
14           change in practice from the original purposes  
15           specified to the minor under paragraph (3).

16           (c) REGULATIONS.—Not later than 1 year after the  
17           date of the enactment of this Act, the Commission shall  
18           promulgate, under section 553 of title 5, United States  
19           Code, regulations to implement this section, including reg-  
20           ulations further defining the Fair Information Practices  
21           Principles described in subsection (b).

22           **SEC. 5. ONLINE COLLECTION OF GEOLOCATION INFORMA-**  
23   **TION OF CHILDREN AND MINORS.**

24           (a) ACTS PROHIBITED.—

1           (1) IN GENERAL.—It is unlawful for an oper-  
2           ator 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, to collect geolocation information  
7           from a child or minor in a manner that violates the  
8           regulations prescribed under subsection (b).

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

17          (b) REGULATIONS.—

18               (1) IN GENERAL.—Not later than 1 year after  
19               the date of the enactment of this Act, the Commis-  
20               sion shall promulgate, under section 553 of title 5,  
21               United States Code, regulations that require an op-  
22               erator of a website, online service, online application,  
23               or mobile application directed to children or minors,  
24               or an operator having actual knowledge that

1 geolocation information being collected is from a  
2 child or minor—

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

8 (B) to establish procedures or mechanisms  
9 to ensure that geolocation information is not  
10 collected from children or minors except in ac-  
11 cordance with regulations promulgated under  
12 this paragraph;

13 (C) in the case of collection of geolocation  
14 information from a child—

15 (i) prior to collecting such informa-  
16 tion, to obtain verifiable parental consent;  
17 and

18 (ii) after collecting such information,  
19 to provide to the parent of the child, upon  
20 request by and proper identification of the  
21 parent—

22 (I) a description of the  
23 geolocation information collected from  
24 the child by the operator;

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

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

14 (D) in the case of collection of geolocation  
15 information from a minor—

16 (i) prior to collecting such informa-  
17 tion, to obtain affirmative express consent  
18 from such minor; and

19 (ii) after collecting such information,  
20 to provide to the minor, upon request—

21 (I) a description of the  
22 geolocation information collected from  
23 the minor by the operator;

24 (II) the opportunity at any time  
25 to refuse to permit the further use or

1 maintenance in retrievable form, or  
2 future collection, by the operator of  
3 geolocation information from the  
4 minor; and

5 (III) a means that is reasonable  
6 under the circumstances for the minor  
7 to obtain any geolocation information  
8 collected from the minor, if such in-  
9 formation is available to the operator  
10 at the time the minor makes the re-  
11 quest.

12 (2) WHEN CONSENT NOT REQUIRED.—The reg-  
13 ulations promulgated under paragraph (1) shall pro-  
14 vide that verifiable parental consent under subpara-  
15 graph (C)(i) of such paragraph or affirmative ex-  
16 press consent under subparagraph (D)(i) of such  
17 paragraph is not required when the collection of the  
18 geolocation information of a child or minor is nec-  
19 essary, to the extent permitted under other provi-  
20 sions of law, to provide information to law enforce-  
21 ment agencies or for an investigation on a matter re-  
22 lated to public safety.

23 (3) CONTINUATION OF SERVICE.—The regula-  
24 tions promulgated under paragraph (1) shall pro-

1       hibit an operator from discontinuing service provided  
2       to—

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

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

19       (c) INCONSISTENT STATE LAW.—No State or local  
20       government may impose any liability for commercial ac-  
21       tivities or actions by operators in interstate or foreign  
22       commerce in connection with an activity or action de-  
23       scribed in this section that is inconsistent with the treat-  
24       ment of those activities or actions under this section.

1 **SEC. 6. REMOVAL OF CONTENT.**

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

9 (b) REGULATIONS.—

10 (1) IN GENERAL.—Not later than 1 year after  
11 the date of the enactment of this Act, the Commis-  
12 sion shall promulgate, under section 553 of title 5,  
13 United States Code, regulations that require an op-  
14 erator—

15 (A) to the extent technologically feasible,  
16 to implement mechanisms that permit a user of  
17 the website, service, or application of the oper-  
18 ator to erase or otherwise eliminate content or  
19 information submitted to the website, service, or  
20 application by such user that is publicly avail-  
21 able through the website, service, or application  
22 and contains or displays personal information of  
23 children or minors; and

24 (B) to take appropriate steps to make  
25 users aware of such mechanisms and to provide  
26 notice to users that such mechanisms do not

1 necessarily provide comprehensive removal of  
2 the content or information submitted by such  
3 users.

4 (2) EXCEPTION.—The regulations promulgated  
5 under paragraph (1) may not require an operator or  
6 third party to erase or otherwise eliminate content  
7 or information that—

8 (A) any other provision of Federal or State  
9 law requires the operator or third party to  
10 maintain; or

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

18 (3) LIMITATION.—Nothing in this section shall  
19 be construed to limit the authority of a law enforce-  
20 ment agency to obtain any content or information  
21 from an operator as authorized by law or pursuant  
22 to an order of a court of competent jurisdiction.

23 **SEC. 7. ENFORCEMENT AND APPLICABILITY.**

24 (a) ENFORCEMENT BY THE COMMISSION.—



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

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

13          (3) ACTIONS BY THE COMMISSION.—Subject to  
14          subsection (b), and except as provided in subsection  
15          (d)(1), the Commission shall prevent any person  
16          from violating this Act or a regulation prescribed  
17          under this Act in the same manner, by the same  
18          means, and with the same jurisdiction, powers, and  
19          duties as though all applicable terms and provisions  
20          of the Federal Trade Commission Act (15 U.S.C. 41  
21          et seq.) were incorporated into and made a part of  
22          this Act, and any person who violates this Act or  
23          such regulation shall be subject to the penalties and  
24          entitled to the privileges and immunities provided in  
25          the Federal Trade Commission Act.

1 (b) ENFORCEMENT BY CERTAIN OTHER AGEN-  
2 CIES.—Notwithstanding subsection (a), compliance with  
3 the requirements imposed under this Act shall be enforced  
4 as follows:

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

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

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

18 (4) Under the Packers and Stockyards Act,  
19 1921 (7 U.S.C. 181 et seq.) (except as provided in  
20 section 406 of such Act (7 U.S.C. 226; 227)) by the  
21 Secretary of Agriculture, with respect to any activi-  
22 ties subject to such Act.

23 (5) Under the Farm Credit Act of 1971 (12  
24 U.S.C. 2001 et seq.) by the Farm Credit Adminis-  
25 tration, with respect to any Federal land bank, Fed-

1       eral land bank association, Federal intermediate  
2       credit bank, or production credit association.

3       (c) ENFORCEMENT BY STATE ATTORNEYS GEN-  
4       ERAL.—

5             (1) IN GENERAL.—

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

17                             (i) enjoin that practice;

18                             (ii) enforce compliance with this Act  
19             or such regulation;

20                             (iii) obtain damages, restitution, or  
21             other compensation on behalf of residents  
22             of the State; or

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

25             (B) NOTICE.—

1 (i) IN GENERAL.—Before filing an ac-  
2 tion under subparagraph (A), the attorney  
3 general of the State involved shall provide  
4 to the Commission—

5 (I) written notice of that action;

6 and

7 (II) a copy of the complaint for  
8 that action.

9 (ii) EXEMPTION.—

10 (I) IN GENERAL.—Clause (i)  
11 shall not apply with respect to the fil-  
12 ing of an action by an attorney gen-  
13 eral of a State under this paragraph,  
14 if the attorney general determines  
15 that it is not feasible to provide the  
16 notice described in that clause before  
17 the filing of the action.

18 (II) NOTIFICATION.—In an ac-  
19 tion described in subclause (I), the at-  
20 torney general of a State shall provide  
21 notice and a copy of the complaint to  
22 the Commission at the same time as  
23 the attorney general files the action.

24 (2) INTERVENTION.—

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

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

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

10                   (ii) to file a petition for appeal.

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

17                   (A) conduct investigations;

18                   (B) administer oaths or affirmations; or

19                   (C) compel the attendance of witnesses or  
20           the production of documentary and other evi-  
21           dence.

22           (4) ACTIONS BY THE COMMISSION.—In any  
23           case in which an action is instituted by or on behalf  
24           of the Commission for violation of this Act or a reg-  
25           ulation prescribed under this Act, no State may,

1 during the pendency of that action, institute an ac-  
2 tion under paragraph (1) against any defendant  
3 named in the complaint in the action instituted by  
4 or on behalf of the Commission for that violation.

5 (5) VENUE; SERVICE OF PROCESS.—

6 (A) VENUE.—Any action brought under  
7 paragraph (1) may be brought in the district  
8 court of the United States that meets applicable  
9 requirements relating to venue under section  
10 1391 of title 28, United States Code.

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

14 (i) is an inhabitant; or

15 (ii) may be found.

16 (d) TELECOMMUNICATIONS CARRIERS AND CABLE  
17 OPERATORS.—

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

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

6 **SEC. 8. RULE FOR TREATMENT OF USERS OF WEBSITES,**  
 7                           **SERVICES, AND APPLICATIONS DIRECTED TO**  
 8                           **CHILDREN OR MINORS.**

9           An operator of a website, online service, online appli-  
 10          cation, or mobile application that is directed to children  
 11          or minors shall treat all users of such website, service, or  
 12          application as children or minors (as the case may be) for  
 13          purposes of this Act, except as permitted by the Commis-  
 14          sion by a regulation promulgated under this Act.

15 **SEC. 9. DEFINITIONS.**

16          (a) IN GENERAL.—In this Act:

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

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

23                       (A) based on the personal information of  
 24                       the individual or a unique identifier of the de-  
 25                       vice; and

1 (B) as a result of use by the individual, or  
2 access by the device, of a website, online serv-  
3 ice, online application, or mobile application.

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

18 (c) OTHER DEFINITIONS.—The definitions set forth  
19 in section 1302 of the Children’s Online Privacy Protec-  
20 tion Act of 1998 (15 U.S.C. 6501), as amended by section  
21 2(a), shall apply in this Act, except to the extent the Com-  
22 mission provides otherwise by regulations issued under  
23 section 553 of title 5, United States Code.



1 **SEC. 10. EFFECTIVE DATES.**

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

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

9 (1) The amendments made by subsections  
10 (a)(5) and (b)(3)(A) of section 2.

11 (2) Sections 3(b), 4(c), 5(b), and 6(b).

12 (3) Subsections (b) and (c) of section 9.

13 (c) DIGITAL MARKETING BILL OF RIGHTS FOR  
14 TEENS.—Section 4, except for subsection (c) of such sec-  
15 tion, shall take effect on the date that is 180 days after  
16 the promulgation of regulations under such subsection.

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