

Calendar No. 304

119TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 119-99

CHILDREN AND TEENS' ONLINE PRIVACY
PROTECTION ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 836



JANUARY 27, 2026.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

SECOND SESSION

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CHILDREN AND TEENS' ONLINE PRIVACY PROTECTION ACT

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Mr. CRUZ, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 836]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 836) to amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and teens, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

PURPOSE OF THE BILL

The purpose of S. 836 is to amend the Children's Online Privacy Protection Act (COPPA) of 1998¹ to strengthen and expand protections relating to the online collection, use, and disclosure of personal information of children and teens.

BACKGROUND AND NEEDS

When Congress was considering COPPA in 1998, the Committee on Commerce, Science, and Transportation of the Senate received written testimony regarding the need for children's online information to be protected, including from pervasive tracking and profiling for individualized marketing:

¹ Public Law 105–277; 112 Stat. 2681–728; 15 U.S.C. 6501–6506.

The Internet has an unprecedented ability to invade individual privacy. The emerging model of E-commerce is built on the concept of “one-to-one marketing,” which involves creating detailed personal profiles that are used to “micro-target” individual consumers. The interactive nature of the online medium makes it possible to obtain not only name, address, email and other personally identifiable information voluntarily, but also to track every move that an individual child makes online, including his/her response to various kinds of marketing and advertising appeals, or the kinds of Web pages that person accesses. Elaborate “psychographic” and other profiles can be created by merging the information obtained online with other information gathered from offline sources. All of these trends underscore the need for clear, enforceable safeguards now to protect children and families.²

The concern over the ability to track the online activities of children and collect their personal information, among other concerns regarding children’s online privacy, led Congress to enact COPPA in 1998. COPPA requires the Federal Trade Commission (FTC) to issue and enforce regulations protecting the personal information of children online.³ COPPA applies to operators of websites and online services that are directed to children or those operators that have actual knowledge that they are collecting personal information from a child.

COPPA gives parents control over the online collection, use, or disclosure of the personal information of a child under the age of 13. The law requires operators to post online their policies for collecting, using, and disclosing information they collect about children. COPPA also requires operators to provide parents with direct notice of their information practices and obtain verifiable parental consent before collecting personal information from children. It also requires operators to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

There are concerns that the “actual knowledge” standard can create an incentive for operators to look the other way, even where objective indicators demonstrate that they are collecting personal information from a child.⁴ There have been calls to eliminate or relax the knowledge standard to strengthen COPPA’s protections.

The internet has changed dramatically since COPPA’s enactment in 1998, and there is a strong argument for Congress updating the law.⁵ Given the prevalence of internet connected devices in our so-

²Prepared Statement of Kathryn Montgomery, submitted to the U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Communications, for hearing on “S. 2326, Children’s Online Privacy Protection Act of 1998,” 105th Congress, S. Hrg. 105–1089, at p. 39, September 23, 1998, <https://catalog.hathitrust.org/Record/009798364>.

³Public Law 105–227; 112 Stat. 2681 (1998).

⁴Statement of Laura Moy, taken from transcript on “The Future of the COPPA Rule: An FTC Workshop,” part 1, at p. 11, Federal Trade Commission, October 7, 2019, https://www.ftc.gov/system/files/documents/public_events/1535372/transcript_of_coppa_workshop_part_1_1.pdf.

⁵Rachel Lerman, “New Bill Would Update Decades-Old Law Governing Children’s Privacy Online, Add Protection for Teens,” *The Washington Post*, July 29, 2021, <https://www.washingtonpost.com/technology/2021/07/29/coppa-update-teenagers-online/>; Benjamin Din, “Markey Renews Call to Update Children’s Privacy Law,” *Politico*, May 11, 2021, <https://www.politico.com/newsletters/morning-tech/2021/05/11/markey-renews-call-to-update-childrens-privacy-law-795218>; “Diverse Coalition of Advocates Urges Congress to Pass Legislation to Protect Kids and Teens Online,” *Fairplay*, March 22, 2022, <https://fairplayforkids.org/>

ciety, children are often introduced to social media use at a young age. A May 2023 advisory by the U.S. Surgeon General stated that up to 95 percent of youth between ages 13–17 reported using social media, with over a third using it “almost constantly.”⁶ Numerous studies, as well as hearings held in prior Congresses before the Subcommittee on Consumer Protection, Product Safety, and Data Security of the Committee on Commerce, Science, and Transportation of the Senate, document the significant physical and mental health harms to children from social media use as well as safety concerns that arise when predators have access to children through their online accounts and activities.

During the 117th Congress, the Committee held a series of hearings relating to digital safety for children and teens. On May 18, 2021, the Subcommittee on Consumer Protection, Product Safety, and Data Security held a hearing titled “Protecting Kids Online: Internet Privacy and Manipulative Marketing” to examine issues posed by websites, online platforms, and child-oriented apps, and to explore updates to COPPA to address these issues.⁷

On October 2, 2021, the subcommittee heard from a whistleblower and former Facebook (now Meta) employee who testified that Meta prioritized user engagement, which fueled growth and profit, over the wellbeing of young users. The witness further testified that Meta’s policies, practices, and the extent of its internal research on harms to youth on its platforms lack transparency, both to the public and independent researchers.⁸

The subcommittee held other hearings on September 30, 2021,⁹ October 26, 2021,¹⁰ and December 8, 2021,¹¹ to examine how online platforms—particularly social media platforms—harm young users. These hearings highlighted personal information used in algorithmic recommendation systems and targeted advertisements that push age-inappropriate, potentially life-threatening content on youth. They also revealed how children and teens need protection online from platforms and businesses seeking to profit from their

march-22-2022-diverse-coalition-of-advocates-urges-congress-to-pass-legislation-to-protect-kids-and-teens-online/.

⁶“Surgeon General Issues New Advisory About Effects Social Media Use Has on Youth Mental Health,” archived press release, Department of Health and Human Services, May 23, 2023 (content is available at <https://ehtrust.org/surgeon-general-issues-new-advisory-about-effects-social-media-use-has-on-youth-mental-health/>).

⁷Hearing on “Protecting Kids Online: Internet Privacy and Manipulative Marketing,” U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Protection, Product Safety, and Data Security, 117th Congress, May 18, 2021, <https://www.commerce.senate.gov/2021/5/protecting-kids-online-internet-privacy-and-manipulative-marketing>.

⁸Testimony of Frances Haugen, hearing on “Protecting Kids Online: Testimony from a Facebook Whistleblower,” U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Protection, Product Safety, and Data Security, 117th Congress, October 5, 2021, <https://www.commerce.senate.gov/2021/10/protecting%20kids%20online%20testimony%20from%20a%20facebook%20whistleblower>.

⁹Hearing on “Protecting Kids Online: Facebook, Instagram, and Mental Health Harms,” U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Protection, Product Safety, and Data Security, 117th Congress, September 30, 2021, <https://www.commerce.senate.gov/2021/9/protecting-kids-online-facebook-instagram-and-mental-health-harms>.

¹⁰Hearing on “Protecting Kids Online: Snapchat, TikTok, and YouTube,” U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Protection, Product Safety, and Data Security, 117th Congress, October 26, 2021, <https://www.commerce.senate.gov/2021/10/protecting-kids-online-snapchat-tiktok-and-youtube>.

¹¹Hearing on “Protecting Kids Online: Instagram and Reforms for Young Users,” U.S. Senate Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Protection, Product Safety, and Data Security, 117th Congress, December 8, 2021, <https://www.commerce.senate.gov/2021/12/protecting-kids-online-instagram-and-reforms-for-young-users>.

personal information by targeting them with advertisements. Finally, the hearings revealed that external oversight and regulation, including updating COPPA, is needed to ensure the safety of minors online because the platforms have not demonstrated success in doing so on their own.

S. 836 would respond to the evidence that Congress must update COPPA to better protect both children and teens online.

SUMMARY OF PROVISIONS

S. 836 would do the following:

- Expand the requirements under COPPA to individuals aged 13 to 16.
- Extend an operator’s scope of liability beyond actual knowledge that the operator is collecting personal information from a child to also include “knowledge fairly implied on the basis of objective circumstances” that they are collecting personal information from a child or teen.
- Update the definitions of the term “operator” and “personal information”.
- Prohibit individual-specific advertising that is targeted to children and teens.
- Prohibit transfer or storage of children’s or teens’ personal information outside the United States without disclosing such transfer or storage to the child or teen.
- Prohibit retention of personal information for longer than reasonably necessary to fulfill a transaction or provide a requested service except as authorized by Federal or State law.
- Direct the FTC to amend its regulations under COPPA to:
 - Require notice and consent for data collection of teens.
 - Require verifiable consent from the child or teen before using or disclosing a child or teen’s data for a reason not previously disclosed.
 - Allow parents or teens to request descriptions of the personal data collected by an operator and to request deletion of such information.
 - Allow parents or teens to challenge and request correction of inaccurate data from a child or teen.
 - Require reasonable security practices to protect children and teens’ personal information.
 - Require operators to delete personal information about a teen at the request of the teen; and prohibit the discontinuation of service to a child or teen based on the parent’s or teen’s exercise of the right to require deletion of personal information.
- Modify COPPA’s preemption clause to preempt any conflicting State laws or regulations while clarifying that the title does not prohibit States from enacting more protective laws or regulations.
- Direct the FTC to submit annual reports to Congress on actions brought, investigations or inquiries into violations or potential violations of COPPA, complaints received regarding alleged violations, and policy or legislative recommendations to strengthen online protections for children and teens.

- Direct the U.S. Comptroller General to conduct a study and submit a report to Congress on the privacy and mental health of teens who use financial technology products and include recommendations for legislation and administrative action as deemed appropriate.

LEGISLATIVE HISTORY

S. 836 was introduced on March 4, 2025, by Senator Markey (for himself and Senators Cassidy, Cantwell, Schatz, Capito, Klobuchar, Crapo, Wyden, Grassley, Luján, Blumenthal, Merkley, Welch, King, Kelly, Britt, and Heinrich) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Ossoff, Schumer, Cornyn, Kim, and McCormick are additional cosponsors. On June 25, 2025, the Committee met in open Executive Session and, by voice vote, ordered S. 836 reported favorably with amendments.

118th Congress

S. 1418, the Children and Teens' Online Privacy Protection Act, was introduced on May 3, 2023, by Senator Markey (for himself and Senator Cassidy) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On July 27, 2023, the Committee met in open Executive Session and, by voice vote, ordered S. 1418 reported favorably with an amendment (in the nature of a substitute). Senators Cantwell, Cruz, Crapo, Blumenthal, Butler, Capito, King, Klobuchar, Luján, Manchin, Peters, Schatz, Welch, Wyden, Heinrich, Lee, Britt, Cornyn, Ossoff, Merkley, and Grassley were later added as cosponsors.

After S. 1418 was reported favorably with an amendment (in the nature of a substitute), that bill was bundled with the text of S. 1409, the Kids Online Safety Act, into a new standalone bill: S. 2073, the Kids Online Safety and Privacy Act. On July 30, 2024, the Senate passed S. 2073 by a vote of 91–3.

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S. 1628, the Children and Teens' Online Privacy Protection Act, was introduced on May 13, 2021, by Senator Markey (for himself and Senator Cassidy) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Blumenthal and Lummis were additional cosponsors. On July 27, 2022, the Committee met in open Executive Session and, by voice vote, ordered S. 1628 reported favorably with an amendment (in the nature of a substitute).

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

At a Glance

S. 836, Children and Teens’ Online Privacy Protection Act

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 25, 2025

By Fiscal Year, Millions of Dollars	2026	2026-2030	2026-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	45	164
Increase or Decrease (-) in the Deficit	0	-45	-164
Spending Subject to Appropriation (Outlays)	*	16	not estimated

Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	Yes
	Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Mandate Effects
Contains intergovernmental mandate?			Yes, Under Threshold
Contains private-sector mandate?			Yes, Cannot Determine Costs

* = between zero and \$500,000.

The bill would:

- Establish or expand online protections for some minors and require the Federal Trade Commission (FTC) to supervise providers and enforce violations of the bill's provisions
- Direct the FTC and the Government Accountability Office to study and report to the Congress on the online privacy of some minors
- Impose intergovernmental and private-sector mandates

Estimated budgetary effects would mainly stem from:

- Increases in revenues from additional collections of civil monetary penalties
- Spending subject to appropriation for the FTC to supervise and enforce the bill's privacy protections

Bill summary: S. 836 would amend provisions of the Children's Online Privacy Protection Act (COPPA) to establish new protections for children under the age of 13 and to extend protections to teenagers under the age of 17. Operators of websites, online services, and mobile applications that collect or maintain user data, allow others to collect such data, or allow users to publicly disclose personal information would be subject to the bill's requirements.

The bill would prohibit operators from collecting, using, maintaining, or disclosing to third parties the personal information of any user under the age of 17 for the purpose of direct advertising. S. 836 also would prohibit operators from storing or transferring such information outside the United States without notification and from retaining such information for longer than reasonably necessary. Operators that fail to meet those requirements could be subject to civil monetary penalties.

Operators also would need to obtain verifiable consent from a parent of any user under the age of 13, or the teenager under the age of 17, before using or disclosing that information for any purpose other than originally disclosed. Upon request, operators would need to provide those parents or teenagers with a means to access

the information and an opportunity for the information to be deleted.

S. 836 would direct the Federal Trade Commission (FTC) to study and report on the feasibility of allowing a single operator to obtain verifiable consent from a parent of users under the age of 13, or teenagers under the age of 17, on behalf of multiple operators that provide related services. If the FTC determines that such common, verifiable consent is viable, the commission would be required to issue regulations permitting its use.

The bill would instruct the FTC to report to the Congress, within three years of enactment, on how platforms directed at children under the age of 13 comply with the bill and to report annually on investigations or enforcement undertaken in the prior year.

Finally, S. 836 would require the Government Accountability Office to study and report to the Congress on the effects of the use of financial technology products on the privacy and mental health of teenagers under the age of 17.

Estimated Federal cost: The estimated budgetary effect of S. 836 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 836

	By fiscal year, millions of dollars—											
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026– 2030	2026– 2035
INCREASES IN REVENUES												
Estimated Revenues	0	0	7	15	23	23	24	24	24	24	45	164
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization	*	3	4	5	4	n.e.	n.e.	n.e.	n.e.	n.e.	16	n.e.
Estimated Outlays	*	3	4	5	4	n.e.	n.e.	n.e.	n.e.	n.e.	16	n.e.

n.e. = not estimated; * = between zero and \$500,000.

Basis of estimate: CBO assumes that S. 836 will be enacted in fiscal year 2026.

Revenues: S. 836 would authorize the FTC to collect civil monetary penalties from businesses found to violate the bill's provisions, along with pursuing other remedies. Civil monetary penalties are generally remitted to the Treasury and recorded as revenues.

The bill would expand the scope of COPPA and nearly double the covered population by adding teenagers under the age of 17, who tend to use online services and applications more intensively than do younger children. CBO estimates, based on a review of past enforcement actions reported by the FTC, that civil monetary penalties ordered for violations of COPPA averaged \$50 million per year over the last 10 years. On that basis, and accounting for the estimated number of newly covered online and application users and for anticipated inflation, CBO estimates that the FTC would collect an additional \$164 million in revenues from penalties collected over the 2026–2035 period.

Spending subject to appropriation: Using information from the FTC and based on the costs of similar activities, CBO estimates that, in total, implementing S. 836 would cost \$16 million over the 2026–2030 period. Any related spending would be subject to the availability of appropriated funds. Those costs, detailed below, are based on information from the FTC, including the average cost of

an employee in 2026 (\$240,000), and account for anticipated inflation.

- CBO expects that the FTC would need seven employees in 2026 and 2027 to issue the required rules and guidance at a cost of \$2 million.
- CBO estimates that the FTC would need 15 new employees to supervise the bill's implementation and enforce its requirements starting in 2028, at a total cost of \$11 million over the 2026–2030 period.
- CBO also estimates that it would cost the FTC and the Government Accountability Office \$3 million over the 2026–2030 period to complete the required studies and reports.

CBO cannot determine whether the FTC will consider common, verifiable consent to be feasible, so the costs associated with potential rulemaking for that activity are not reflected in this estimate. If the FTC issues such regulations, CBO expects that the amounts estimated for spending subject to appropriation would be higher than shown here.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term net direct spending and deficits: CBO estimates that enacting S. 836 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2036.

Mandates: S. 836 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on operators of websites, online services, and mobile applications. CBO estimates that the cost of the intergovernmental mandates would not exceed the threshold established in UMRA (\$103 million in 2025, adjusted annually for inflation). Because much of the data on users of online services is proprietary, CBO cannot determine if the costs to comply with the private-sector mandates would exceed the UMRA threshold (\$206 million in 2025, adjusted annually for inflation).

Preemption of state laws: S. 836 would impose an intergovernmental mandate by explicitly preempting state laws that conflict with the bill's provisions unless those laws provide greater protection to people under the age of 17 than would be provided under the bill. Although it would limit the application of state and local laws, CBO estimates that the preemption would impose no costs.

Collection and storage of data: The bill would impose private-sector mandates by regulating the collection and storage of some minors' data by operators of websites, online services, and mobile applications. The bill would expand existing rules for children under the age of 13 to cover teenagers under the age of 17. The bill also would prohibit operators from collecting personal information from those users for the purpose of direct advertising. CBO estimates that the cost for operators to stop collecting the data would be small. Under UMRA, the cost of lost advertising revenue is not considered a direct cost of complying with a mandate.

S. 836 would require operators to implement reasonable security practices to protect the personal information of children and teen-

agers under the age of 17. Based on discussion with industry experts, CBO expects that the cost for operators to comply with that requirement would be small because the data industry already follows various federal and state laws governing collection and storage of some types of data (such as Social Security numbers and health information). To be competitive in the business of data storage and collection, most operators already follow reasonable security practices.

Finally, the bill would prohibit operators from collecting, storing, or transferring the personal information of children and teenagers under the age of 17 to a site outside of the United States, without notifying a parent of the child or the teenager. More than 200 million websites and mobile applications are available worldwide, but information about where they store data is proprietary as is information about the ages of users and the volume of their interactions with those sites and applications. Because of the significant uncertainty that surrounds the number of users, mobile applications and websites that would be subject to the requirement, CBO cannot determine whether the cost of the required notifications would exceed the threshold established for private-sector mandates.

Estimate prepared by: Federal costs: Sean Christensen; Revenues: Jennifer Shand; Mandates: Rachel Austin.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Joshua Shakin, Chief, Revenue Projections Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The number of persons covered by S. 836 would equal the sum of the following individuals and entities and any employees retained by them: (1) operators of internet websites, online services, online applications, or mobile applications; (2) the Federal Trade Commission; (3) State Attorneys General; and (4) the U.S. Comptroller General.

ECONOMIC IMPACT

S. 836 is not expected to have significant economic impact out- side of any costs to or changes in revenue for operators that result from: (1) expanding COPPA's requirements to teens ages 13 to 16; (2) prohibiting individual-specific advertising directed at children or teens; (3) allowing parents, children, or teens to request information on, corrections to, or deletion of a child or teen's personal information; or (4) complying with the notice and disclosure requirements provided in the bill.

PRIVACY

S. 836 is expected to strengthen the privacy of children and teens online. It would do so by strengthening and expanding protections relating to the online collection, use, and disclosure of personal information of children and teens.

PAPERWORK

Operators of online systems would be required to provide clear and conspicuous notice on their websites regarding the rights and opportunities available to the parent of a child or teen to ensure that personal information is collected in accordance with the regulations promulgated under this Act.

The FTC would be required to submit two reports to Congress on: (1) the processes of platforms that offer mobile and online applications for ensuring that, of those applications that are websites, online services, online applications, or mobile applications directed to children, the applications operate in accordance with COPPA, COPPA's rules, and any rules relating to unfair or deceptive acts or practices in marketing; and (2) the number of actions, investigations, and complaints brought under COPPA as well as future policy or legislative recommendations to strengthen online protections for children and teens.

Finally, the Comptroller General of the United States would be required to conduct a study on the privacy and mental health of teens who use financial technology products, including the types of financial technology products used by teens, teen privacy and mental health risks for such products, and consider whether existing laws are sufficient to address such risks.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents.

This section would provide that the bill may be cited as the "Children and Teens' Online Privacy Protection Act". It would also provide a table of contents for the bill.

Section 2. Online collection, use, disclosure, and deletion of personal information of children and teens.

This section would amend the Children's Online Privacy Protection Act of 1998 (COPPA) by updating the current statutory definitions for the terms "operator", "personal information", and "verifiable consent". Notably, it would update the definition of the term "personal information" to expressly exclude an audio file that contains a child's or teen's voice, which is consistent with the FTC's 2017 Policy Enforcement Statement. Further, this section would update the definition of website or online service directed to children (renamed website, online service, online application, or mobile application directed to children) to codify the totality of cir-

cumstances test that is currently used by FTC when determining whether an operator meets this definition.

This section would also add the following new definitions to COPPA: the terms “connected device”, “online application”, “mobile application”, “geolocation information”, “teen”, “individual-specific advertising to children or teens”, and “educational agency or institution”. Notably the term “individual-specific advertising to children or teens” would exclude advertising or marketing based on an individual’s response to a specific request for information or feedback, contextual advertising not based on personal information, processing personal information solely for measuring or reporting advertising or content performance, or advertising or marketing directed to a connected device used by both adult and child or teen members of a household where such advertising or marketing is directed to the profile of the adult. It would also provide that such term “individual-specific advertising to children or teens” shall not be construed to prohibit an operator from delivering advertising or marketing that is age-appropriate and intended for a child or teen audience, so long as the operator does not use any personal information other than whether the user is under the age of 17.

This section would also expand certain requirements under COPPA (and those new requirements added by this Act) to also apply to teens ages 13 to 16 (in addition to children under 13). Additionally, this section would amend the knowledge standard to be actual knowledge or knowledge fairly implied on the basis of objective circumstances. It would also make it unlawful for an operator of an online system (website, service, or online or mobile application) directed at a child or any operator of an online system with actual knowledge or knowledge fairly implied on the basis of objective circumstances that a user is a child or teen to:

- Collect personal information that violates this Act;
- Collect, use, maintain or disclose personal information of a child or teen for purposes of individual-specific advertising to children or teens;
- Collect personal information of a child or teen except in specified circumstances;
- Store or transfer the personal information of a child or teen outside of the United States without notice to the parent; or
- Retain the personal information of a child or teen for longer than reasonably necessary to fulfill a transaction or provide a service as requested.

This section would also provide the requirements for how an operator may comply with the verifiable consent requirements under COPPA when acting under a written agreement with an educational agency or institution.

This section would require that operators provide clear and conspicuous notice on their websites regarding the rights and opportunities available to the parent of a child or teen to ensure that personal information is collected in accordance with the regulations promulgated under this Act. This section would further require that the operator provide a child, parents of the child, or teen with the opportunity to delete, or modify for accuracy, personal information collected from the teen or child. Such deletion would not limit the authority of a law enforcement agency or require an operator

to delete information of another user information required to be retained by law.

This section would also expand COPPA's existing data security requirement for operators to protect the confidentiality, integrity, and accessibility of personal information of children or teens collected by the operator and to protect such information from unauthorized access.

This section would also require the FTC to assess the feasibility of allowing operators the option to use a common verifiable consent mechanism that fully meets the requirements of this title.

This section would amend section 1304 of COPPA to expand COPPA's safe harbor to include teens and to require the FTC to publish any report or documentation required by regulation to carry out this Act unless otherwise specified.

This section would also amend COPPA's existing preemption provision to preempt any conflicting State laws or regulations, while clarifying that the title does not prohibit States from enacting more protective laws or regulations. It would also amend section 1305 of COPPA to allow States to take the same actions as the FTC related to the online collection, use, disclosure, and deletion of personal information of children and teens.

This section would amend section 1306 of COPPA to clarify that an appropriate Federal banking agency has jurisdiction over bank compliance with the Act and the updated sections.

This section would require the FTC to provide guidance within 180 days on best practices and examples for operators to understand the FTC determination of whether an operator has knowledge fairly implied on the basis of objective circumstances that a user is a child or teen. This standard would require the FTC or respective State attorney general, when making a determination, to rely on competent and reliable empirical evidence taking into account the totality of circumstances, including whether a reasonable and prudent person under the circumstances would have known that the user was a child or teen. Such a determination could not be construed to require an operator to collect additional information on a child or teen or to implement an age gating or age verification functionality.

Finally, this section would restrict the ability of the FTC or State attorneys general to use non-compliance with the guidance as evidence that an act or practice violates this title.

Section 3. Study and reports of mobile and online application oversight and enforcement.

This section would direct the FTC to submit to Congress a report within 3 years of the effective date on mobile app and online app compliance with this Act and rules promulgated by the FTC. It would further direct the FTC to submit annual reports to Congress on the number of actions and open investigations by the FTC brought under COPPA, the nature of the complaints related to COPPA, and policy or legislative recommendations to strengthen online protections for children and teens.

Section 4. GAO study.

This section would require the Comptroller General of the United States to conduct a study on the privacy and mental health of teens

who use financial technology products, noting the types of financial technology products used by teens, teen privacy and mental health risks from using such products, and considering whether existing laws are sufficient to address such risks. No later than 1 year after enactment, the Comptroller General would be required to submit to Congress a report of the results of the study along with recommendations for legislative and administrative actions as appropriate.

Section 5. Severability.

This section would require that if any provision of this Act is determined to be unenforceable or invalid, the remaining provisions of this Act shall not be affected.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in roman):

**CHILDREN’S ONLINE PRIVACY
PROTECTION ACT OF 1998**

* * * * *

DIVISION C—OTHER MATTERS

* * * * *

**TITLE XIII—CHILDREN’S ONLINE
PRIVACY PROTECTION**

* * * * *

[15 U.S.C. 6501]

SEC. 1302. DEFINITIONS.

In this title:

(1) CHILD.—The term “child” means an individual under the age of 13.

[(2) OPERATOR.—The term “operator”—

[(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

[(i) among the several States or with 1 or more foreign nations;

[(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

[(I) another such territory; or

[(II) any State or foreign nation; or

[(iii) between the District of Columbia and any State, territory, or foreign nation; but

[(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).]

(2) OPERATOR.—The term “operator”—

(A) means any person—

(i) who, for commercial purposes, in interstate or foreign commerce operates or provides a website on the internet, an online service, an online application, or a mobile application; and

(ii) who—

(I) collects or maintains, either directly or through a service provider, personal information from or about the users of that website, service, or application;

(II) allows another person to collect personal information directly from users of that website, service, or application (in which case, the operator is deemed to have collected the information); or

(III) allows users of that website, service, or application to publicly disclose personal information (in which case, the operator is deemed to have collected the information); and

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

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

(4) DISCLOSURE.—The term “disclosure” means, with respect to personal information—

[(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and]

(A) the release of personal information collected from a child or teen by an operator for any purpose, except where the personal information is provided to a person other than an operator who—

(i) provides support for the internal operations of the website, online service, online application, or mobile application of the operator, excluding any activity relating to individual-specific advertising to children or teens; and

(ii) does not disclose or use that personal information for any other purpose; and

(B) making personal information collected from a child or teen by a [website or online service] website, online

service, online application, or mobile application directed to children or with [actual knowledge] actual knowledge or knowledge fairly implied on the basis of objective circumstances that such information was collected from a child or teen, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

- (i) a home page of a website;
- (ii) a pen pal service;
- (iii) an electronic mail service;
- (iv) a message board; or
- (v) a chat room.

(5) **FEDERAL AGENCY.**—The term “Federal agency” means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) **INTERNET.**—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

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

[(8) **PERSONAL INFORMATION.**—The term “personal information” means individually identifiable information about an individual collected online, including—

[(A) a first and last name;

[(B) a home or other physical address including street name and name of a city or town;

[(C) an e-mail address;

[(D) a telephone number;

[(E) a Social Security number;

[(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

[(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.]]

(8) **PERSONAL INFORMATION.**—

(A) **IN GENERAL.**—The term “personal information” means individually identifiable information about an individual collected online, including—

(i) a first and last name;

(ii) a home or other physical address including street name and name of a city or town;

(iii) an e-mail address;

(iv) a telephone number;

(v) a Social Security number;

(vi) any other identifier that the Commission determines permits the physical or online contacting of a specific individual;

(vii) a persistent identifier that can be used to recognize a specific child or teen over time and across different websites, online services, online applications, or

mobile applications, including but not limited to a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier, but excluding an identifier that is used by an operator solely for providing support for the internal operations of the website, online service, online application, or mobile application;

(viii) a photograph, video, or audio file where such file contains a specific child's or teen's image or voice;

(ix) geolocation information;

(x) information generated from the measurement or technological processing of an individual's biological, physical, or physiological characteristics that is used to identify an individual, including—

(I) fingerprints;

(II) voice prints;

(III) iris or retina imagery scans;

(IV) facial templates;

(V) deoxyribonucleic acid (DNA) information;

or

(VI) gait; or

(xi) information linked or reasonably linkable to a child or teen or the parents of that child or teen (including any unique identifier) that an operator collects online from the child or teen and combines with an identifier described in this subparagraph.

(B) *EXCLUSION.*—The term “personal information” shall not include an audio file that contains a child's or teen's voice so long as the operator—

(i) does not request information via voice that would otherwise be considered personal information under this paragraph;

(ii) provides clear notice of its collection and use of the audio file and its deletion policy in its privacy policy;

(iii) only uses the voice within the audio file solely as a replacement for written words, to perform a task, or engage with a website, online service, online application, or mobile application, such as to perform a search or fulfill a verbal instruction or request; and

(iv) only maintains the audio file long enough to complete the stated purpose and then immediately deletes the audio file and does not make any other use of the audio file prior to deletion.

(C) *Support for the internal operations of a website, online service, online application, or mobile application.*—

(i) *IN GENERAL.*—For purposes of subparagraph (A)(vii), the term “support for the internal operations of a website, online service, online application, or mobile application” means those activities necessary to—

(I) maintain or analyze the functioning of the website, online service, online application, or mobile application;

(II) perform network communications;

(III) *authenticate users of, or personalize the content on, the website, online service, online application, or mobile application;*

(IV) *serve contextual advertising, provided that any persistent identifier is only used as necessary for technical purposes to serve the contextual advertisement, or cap the frequency of advertising;*

(V) *protect the security or integrity of the user, website, online service, online application, or mobile application;*

(VI) *ensure legal or regulatory compliance, or*

(VII) *fulfill a request of a child or teen as permitted by subparagraphs (A) through (C) of section 1303(b)(2).*

(ii) *CONDITION.—Except as specifically permitted under clause (i), information collected for the activities listed in clause (i) cannot be used or disclosed to contact a specific individual, including through individual-specific advertising to children or teens, to amass a profile on a specific individual, in connection with processes that encourage or prompt use of a website or online service, or for any other purpose.*

[(9) **VERIFIABLE PARENTAL CONSENT.**—The term “verifiable parental consent” means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator’s personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.]

(9) *VERIFIABLE CONSENT.—The term “verifiable consent” means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that, in the case of a child, a parent of the child, or, in the case of a teen, the teen—*

(A) receives direct notice of the personal information collection, use, and disclosure practices of the operator; and

(B) before the personal information of the child or teen is collected, freely and unambiguously authorizes—

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

(ii) any subsequent use of that personal information.

(10) **[WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN]**
WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION DIRECTED TO CHILDREN.—

(A) **IN GENERAL.**—The term “website, online service, online application, or mobile application [“website or online service] directed to children” means—]

(i) a commercial **【website or online service】** *website, online service, online application, or mobile application* that is targeted to children; or

(ii) that portion of a commercial **【website or online service】** *website, online service, online application, or mobile application* that is targeted to children.

(B) **LIMITATION.**—A commercial **【website or online service】** *website, online service, online application, or mobile application*, or a portion of a commercial **【website or online service】** *website, online service, online application, or mobile application*, shall not be deemed directed to children solely for referring or linking to a commercial **【website or online service】** *website, online service, online application, or mobile application* directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(C) **RULE OF CONSTRUCTION.**—*In considering whether a website, online service, online application, or mobile application, or portion thereof, is directed to children, the Commission shall apply a totality of circumstances test and will also consider competent and reliable empirical evidence regarding audience composition and evidence regarding the intended audience of the website, online service, online application, or mobile application.*

(11) **PERSON.**—The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) **ONLINE CONTACT INFORMATION.**—The term “online contact information” means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

(13) **CONNECTED DEVICE.**—*The term “connected device” means a device that is capable of connecting to the internet, directly or indirectly, or to another connected device.*

(14) **ONLINE APPLICATION.**—*The term “online application”—*

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

(B) *includes a service or application offered via a connected device.*

(15) **MOBILE APPLICATION.**—*The term “mobile application”—*

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

(i) *a cellular telephone;*

(ii) *a tablet computer; or*

(iii) *a similar portable computing device that transmits data over a wireless connection; and*

(B) *includes a service or application offered via a connected device.*

(16) **GEOLOCATION INFORMATION.**—*The term “geolocation information” means information sufficient to identify a street name and name of a city or town.*

(17) **TEEN.**—*The term “teen” means an individual who has attained age 13 and is under the age of 17.*

(18) **INDIVIDUAL-SPECIFIC ADVERTISING TO CHILDREN OR TEENS.**—

(A) *IN GENERAL.*—The term “individual-specific advertising to children or teens” means advertising or any other effort to market a product or service that is directed to a specific child or teen or a connected device that is linked or reasonably linkable to a child or teen based on—

(i) the personal information from—

(I) the child or teen; or

(II) a group of children or teens who are similar in sex, age, household income level, race, or ethnicity to the specific child or teen to whom the product or service is marketed;

(ii) profiling of a child or teen or group of children or teens; or

(iii) a unique identifier of the connected device.

(B) *EXCLUSIONS.*—The term “individual-specific advertising to children or teens” shall not include—

(i) advertising or marketing to an individual or the device of an individual in response to the individual’s specific request for information or feedback, such as a child’s or teen’s current search query;

(ii) contextual advertising, such as when an advertisement is displayed based on the content of the website, online service, online application, mobile application, or connected device in which the advertisement appears and does not vary based on personal information related to the viewer; or

(iii) processing personal information solely for measuring or reporting advertising or content performance, reach, or frequency, including independent measurement; or

(iv) advertising or marketing directed to a connected device used by both adult and child or teen members of a household where such advertising or marketing is directed to the profile of the adult user.

(C) *RULE OF CONSTRUCTION.*—Nothing in subparagraph (A) shall be construed to prohibit an operator with actual knowledge or knowledge fairly implied on the basis of objective circumstances that a user is under the age of 17 from delivering advertising or marketing that is age-appropriate and intended for a child or teen audience, so long as the operator does not use any personal information other than whether the user is under the age of 17.

(19) *EDUCATIONAL AGENCY OR INSTITUTION.*—The term “educational agency or institution” means—

(A) a State educational agency or local educational agency, as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); or

(B) an institutional day or residential school, including a public school (including a charter school) or private school, that provides elementary or secondary education, as determined under State law.

SEC. 1303. [REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.] ONLINE COLLECTION, USE, DISCLOSURE, AND DELETION OF PERSONAL INFORMATION OF CHILDREN AND TEENS.

(a) ACTS PROHIBITED.—

[(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).]

(1) IN GENERAL.—It is unlawful for an operator of a website, online service, online application, or mobile application directed to children or for any operator of a website, online service, online application, or mobile application with actual knowledge or knowledge fairly implied on the basis of objective circumstances that a user is a child or teen—

(A) to collect personal information from a child or teen in a manner that violates the regulations prescribed under subsection (b);

(B) except as provided in subparagraphs (B) and (C) of section 1302(18), to collect, use, disclose to third parties, or maintain personal information of a child or teen for purposes of individual-specific advertising to children or teens (or to allow another person to collect, use, disclose, or maintain such information for such purpose);

(C) to collect the personal information of a child or teen except when the collection of the personal information is—

(i) consistent with the context of a particular transaction or service or the relationship of the child or teen with the operator, including collection necessary to fulfill a transaction or provide a product or service requested by the child or teen; or

(ii) required or specifically authorized by Federal or State law; or

(D) to store or transfer the personal information of a child or teen outside of the United States unless the operator provides direct notice to the parent of the child, in the case of a child, or to the teen, in the case of a teen, that the child's or teen's personal information is being stored or transferred outside of the United States; or

(E) to retain the personal information of a child or teen for longer than is reasonably necessary to fulfill a transaction or provide a service requested by the child or teen except as required or specifically authorized by Federal or State law.

(2) DISCLOSURE TO [PARENT] PARENT OR TEEN PROTECTED.—[Notwithstanding paragraph (1)] Notwithstanding paragraph (1)(A), neither an operator [of such a website or online service] nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under [sub-

section (b)(1)(B)(iii) to the parent of a child] *subsection (b)(1)(B)(iv) to the parent of a child or under subsection (b)(1)(C)(iv) to a teen.*

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the [operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child] *operator of a website, online service, online application, or mobile application directed to children or that has actual knowledge or knowledge fairly implied on the basis of objective circumstances that a user is a child or teen—*

(i) to provide [notice on the website] *clear and conspicuous notice on the website* of what information is collected from children or teens by the operator, how the operator uses such information[, and the operator's], *the operator's* disclosure practices for such information[; and], *the rights and opportunities available to the parent of the child or teen under subparagraphs (B) and (C), and the procedures or mechanisms the operator uses to ensure that personal information is not collected from children or teens except in accordance with the regulations promulgated under this paragraph;*

(ii) to obtain verifiable [parental] consent for the collection, use, or disclosure of personal information from children or teens[;]; *and*

(iii) *to obtain verifiable consent from a parent of a child or from a teen before using or disclosing personal information of the child or teen for any purpose that is a material change from the original purposes and disclosure practices specified to the parent of the child or the teen under clause (i);*

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that [website or online service] *operator*, upon proper identification of that parent, to such parent—

(i) *a description of the specific types of personal information collected from the child by that operator and the method by which the operator obtained the personal information, and the purposes for which the operator collects, uses, discloses, and retains the personal information;*

(ii) *the opportunity at any time to delete personal information collected from the child or content or information submitted by the child to a website, online service, online application, or mobile application and to refuse to permit the operator's further use or mainte-*

nance in retrievable form, or future online collection, of personal information from that child[; and];

(iii) *the opportunity to challenge the accuracy of the personal information and, if the parent of the child establishes the inaccuracy of the personal information, to have the inaccurate personal information corrected;*

[(iii)] (iv) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child, *if such information is available to the operator at the time the parent makes the request;*

(C) *require the operator to provide, upon the request of a teen under this subparagraph who has provided personal information to the operator, upon proper identification of that teen—*

(i) *a description of the specific types of personal information collected from the teen by the operator, the method by which the operator obtained the personal information, and the purposes for which the operator collects, uses, discloses, and retains the personal information;*

(ii) *the opportunity at any time to delete personal information collected from the teen or content or information submitted by the teen to a website, online service, online application, or mobile application and to refuse to permit the operator's further use or maintenance in retrievable form, or online collection, of personal information from the teen;*

(iii) *the opportunity to challenge the accuracy of the personal information and, if the teen establishes the inaccuracy of the personal information, to have the inaccurate personal information corrected; and*

(iv) *a means that is reasonable under the circumstances for the teen to obtain any personal information collected from the teen, if such information is available to the operator at the time the teen makes the request;*

[(C)] (D) prohibit conditioning [a child's] *a child's or teen's participation in a game, the offering of a prize, or another activity on the child or teen disclosing more personal information than is reasonably necessary to participate in such activity; and*

[(D)] (E) [require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.] *require the operator to establish, implement, and maintain reasonable security practices to protect the confidentiality, integrity, and accessibility of personal information of children or teens collected by the operator, and to protect such personal information against unauthorized access.*

(2) When consent not required.—The regulations shall provide that [verifiable parental consent] *verifiable consent* under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child or teen that is used only to respond directly on a one-time basis to a specific request from the child or teen and is not used to recontact the child or teen or to contact another child or teen and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a [parent or child] *parent or teen* that is used for the sole purpose of obtaining [parental consent] *verifiable consent* or providing notice under this section and where such information is not maintained in retrievable form by the operator if [parental consent] *verifiable consent* is not obtained after a reasonable time;

(C) online contact information collected from a child or teen that is used only to respond more than once directly to a specific request from the child or teen and is not used to recontact the child or teen beyond the scope of that request—

(i) if, before any additional response after the initial response to the child or teen, the operator uses reasonable efforts to provide a parent or teen, *as applicable*, notice of the online contact information collected from the child or teen, the purposes for which it is to be used, and an opportunity for the parent or teen, *as applicable*, to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) [without notice to the parent] *without notice to the parent or teen, as applicable*, in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child or teen of access to information and services, and risks to the security and privacy of the child or teen, in regulations promulgated under this subsection;

(D) the name of the child or teen and online contact information (to the extent reasonably necessary to protect the safety of a child or teen participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or teen or for any other purpose; and

(iii) not disclosed on the site, if the operator uses reasonable efforts to provide a parent or teen, *as applicable*, notice of the name and online contact information collected from the child or teen, the purposes for which it is to be used, and an opportunity for the parent or teen, *as applicable*, to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

- (iii) to respond to judicial process; or
- (iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) *APPLICATION TO OPERATORS ACTING UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES OR INSTITUTIONS.*—*The regulations may provide that verifiable consent under paragraph (1)(A)(ii) is not required for an operator that is acting under a written agreement with an educational agency or institution that, at a minimum, requires the—*

(A) *operator to—*

(i) *limit its collection, use, and disclosure of the personal information from a child or teen to solely educational purposes and for no other commercial purposes;*

(ii) *provide the educational agency or institution with a notice of the specific types of personal information the operator will collect from the child or teen, the method by which the operator will obtain the personal information, and the purposes for which the operator will collect, use, disclose, and retain the personal information;*

(iii) *provide the educational agency or institution with a link to the operator's online notice of information practices as required under subsection (b)(1)(A)(i); and*

(iv) *provide the educational agency or institution, upon request, with a means to review the personal information collected from a child or teen, to prevent further use or maintenance or future collection of personal information from a child or teen, and to delete personal information collected from a child or teen or content or information submitted by a child or teen to the operator's website, online service, online application, or mobile application;*

(B) *representative of the educational agency or institution to acknowledge and agree that they have authority to authorize the collection, use, and disclosure of personal information from children or teens on behalf of the educational agency or institution, along with such authorization, their name, and title at the educational agency or institution; and*

(C) *educational agency or institution to—*

(i) *provide on its website a notice that identifies the operator with which it has entered into a written agreement under this subsection and provides a link to the operator's online notice of information practices as required under paragraph (1)(A)(i);*

(ii) *provide the operator's notice regarding its information practices, as required under subparagraph (A)(ii), upon request, to a parent, in the case of a child, or a parent or teen, in the case of a teen; and*

(iii) *upon the request of a parent, in the case of a child, or a parent or teen, in the case of a teen, request*

the operator provide a means to review the personal information from the child or teen and provide the parent, in the case of a child, or parent or teen, in the case of the teen, a means to review the personal information.

[(3)] (4) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child.] *TERMINATION OF SERVICE.*—*The regulations shall permit the operator of a website, online service, online application, or mobile application to terminate service provided to a child whose parent has refused, or a teen who has refused, under the regulations prescribed under paragraphs (1)(B)(ii) and (1)(C)(ii), to permit the operator’s further use or maintenance in retrievable form, or future online collection of, personal information from that child or teen.*

(5) **CONTINUATION OF SERVICE.**—*The regulations shall prohibit an operator from discontinuing service provided to a child or teen on the basis of a request by the parent of the child or by the teen, under the regulations prescribed under subparagraph (B) or (C) of paragraph (1), respectively, to delete personal information collected from the child or teen, to the extent that the operator is capable of providing such service without such information.*

(6) **RULE OF CONSTRUCTION.**—*A request made pursuant to subparagraph (B) or (C) of paragraph (1) to delete or correct personal information of a child or teen shall not be construed—*

(A) to limit the authority of a law enforcement agency to obtain any content or information from an operator pursuant to a lawfully executed warrant or an order of a court of competent jurisdiction;

(B) to require an operator or third party delete or correct information that—

(i) any other provision of Federal or State law requires the operator or third party to maintain; or

(ii) was submitted to the website, online service, online application, or mobile application of the operator by any person other than the user who is attempting to erase or otherwise eliminate the content or information, including content or information submitted by the user that was republished or resubmitted by another person; or

(C) to prohibit an operator from—

(i) retaining a record of the deletion request and the minimum information necessary for the purposes of ensuring compliance with a request made pursuant to subparagraph (B) or (C);

(ii) preventing, detecting, protecting against, or responding to security incidents, identity theft, or fraud, or reporting those responsible for such actions;

(iii) protecting the integrity or security of a website, online service, online application or mobile application; or

(iv) *ensuring that the child's or teen's information remains deleted.*

(7) **COMMON VERIFIABLE CONSENT MECHANISM.**—

(A) **IN GENERAL.**—

(i) **FEASIBILITY OF MECHANISM.**—*The Commission shall assess the feasibility, with notice and public comment, of allowing operators the option to use a common verifiable consent mechanism that fully meets the requirements of this title.*

(ii) **REQUIREMENTS.**—*The feasibility assessment described in clause (i) shall consider whether a single operator could use a common verifiable consent mechanism to obtain verifiable consent, as required under this title, from a parent of a child or from a teen on behalf of multiple, listed operators that provide a joint or related service.*

(B) **REPORT.**—*Not later than 1 year after the date of enactment of this paragraph, the Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with the findings of the assessment required by subparagraph (A).*

(C) **REGULATIONS.**—*If the Commission finds that the use of a common verifiable consent mechanism is feasible and would meet the requirements of this title, the Commission shall issue regulations to permit the use of a common verifiable consent mechanism in accordance with the findings outlined in such report.*

(c) **ENFORCEMENT.**—Subject to sections 1304 and 1306, a violation of **§** a regulation prescribed under subsection (a) **§** subparagraph (B), (C), (D), or (E) of subsection (a)(1), or of a regulation prescribed under subsection (b), shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ (d) **INCONSISTENT STATE LAW.**—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section. **§**

(d) **RELATIONSHIP TO STATE LAW.**—*The provisions of this title shall preempt any State law, rule, or regulation only to the extent that such State law, rule, or regulation conflicts with a provision of this title. Nothing in this title shall be construed to prohibit any State from enacting a law, rule, or regulation that provides greater protection to children or teens than the provisions of this title.*

[15 U.S.C. 6503]

SEC. 1304. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 1303(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) **INCENTIVES.**—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 1303, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children *and teens* under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 1303 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 1303.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

(d) PUBLICATION.—

(1) *IN GENERAL.*—*Subject to the restrictions described in paragraph (2), the Commission shall publish on the internet website of the Commission any report or documentation required by regulation to be submitted to the Commission to carry out this section.*

(2) *RESTRICTIONS ON PUBLICATION.*—*The restrictions described in section 6(f) and section 21 of the Federal Trade Commission Act (15 U.S.C. 46(f), 57b–2) applicable to the disclosure of information obtained by the Commission shall apply in same manner to the disclosure under this subsection of information obtained by the Commission from a report or documentation described in paragraph (1).*

[15 U.S.C. 6504]

SEC. 1305. 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 violates *section 1303(a)(1)* or any regulation of the Commission prescribed under section 1303(b), 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 appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with *section 1303(a)(1)* or the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) 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 Commission—

- (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.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(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 general 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 Commission for violation of *section 1303(a)(1)* or any regulation prescribed under section 1303, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of *section 1303(a)(1)* or that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements 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.

[15 U.S.C. 6505]

SEC. 1306. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) **], in the case of—] by the appropriate Federal banking agency, with respect to any insured depository institution (as those terms are defined in section 3 of that Act (12 U.S.C. 1813));**

[(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 Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), 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 Directors of the Federal Deposit Insurance Corporation;

[(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 association the deposits of which are insured by the Federal Deposit Insurance Corporation;]

[(3)] (2) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

[(4)] (3) 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)] (4) 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)] (5) 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 (a) of its powers

under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be 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 (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) **ACTIONS BY THE COMMISSION.**—The Commission shall prevent any person from violating *section 1303(a)(1)* or a rule of the Commission under section 1303 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 [such rule] *section 1303(a)(1)* or a rule of the Commission under section 1303 shall be 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 this title.

(e) **EFFECT ON OTHER LAWS.**—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

(f) **DETERMINATION OF WHETHER AN OPERATOR HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF OBJECTIVE CIRCUMSTANCES.**—

(1) **RULE OF CONSTRUCTION.**—*For purposes of enforcing this title or a regulation promulgated under this title, in making a determination as to whether an operator has knowledge fairly implied on the basis of objective circumstances that a specific user is a child or teen, the Commission or State attorneys general shall rely on competent and reliable evidence, taking into account the totality of the circumstances, including whether a reasonable and prudent person under the circumstances would have known that the user is a child or teen. Nothing in this title, including a determination described in the preceding sentence, shall be construed to require an operator to—*

(A) *affirmatively collect any personal information with respect to the age of a child or teen that an operator is not already collecting in the normal course of business; or*

(B) *implement an age gating or age verification functionality.*

(2) **COMMISSION GUIDANCE.**—

(A) **IN GENERAL.**—*Within 180 days of enactment, the Commission shall issue guidance to provide information, including best practices and examples for operators to understand the Commission's determination of whether an operator has knowledge fairly implied on the basis of objective circumstances that a user is a child or teen.*

(B) **LIMITATION.**—*No guidance issued by the Commission with respect to this title shall confer any rights on any person, State, or locality, nor shall operate to bind the Commission or any person to the approach recommended in*

such guidance. In any enforcement action brought pursuant to this title, the Commission or State attorney general, as applicable, shall allege a specific violation of a provision of this title. The Commission or State attorney general, as applicable, may not base an enforcement action on, or execute a consent order based on, practices that are alleged to be inconsistent with any such guidance, unless the practices allegedly violate this title. For purposes of enforcing this title or a regulation promulgated under this title, State attorneys general shall take into account any guidance issued by the Commission under subparagraph (A).

(g) ADDITIONAL REQUIREMENT.—Any regulations issued under this title shall include a description and analysis of the impact of proposed and final Rules on small entities per the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.).

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