

117TH CONGRESS  
2D SESSION

# S. 4201

To establish a new Federal body to provide reasonable oversight and regulation of digital platforms.

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IN THE SENATE OF THE UNITED STATES

MAY 12, 2022

Mr. BENNET 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 establish a new Federal body to provide reasonable oversight and regulation of digital platforms.

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

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

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Digital Platform Commission Act of 2022”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; sense of Congress.
- Sec. 3. Definitions.
- Sec. 4. Establishment of Federal Digital Platform Commission.
- Sec. 5. Jurisdiction.
- Sec. 6. Organization and general powers.
- Sec. 7. Organization and functioning of the Commission.

- Sec. 8. Code Council.
- Sec. 9. Rulemaking authority, requirements, and considerations.
- Sec. 10. Systemically important digital platforms.
- Sec. 11. Inter-agency support.
- Sec. 12. Petitions.
- Sec. 13. Research.
- Sec. 14. Investigative authority.
- Sec. 15. HSR filings.
- Sec. 16. Enforcement by private persons and governmental entities.
- Sec. 17. Enforcement by Commission and Department of Justice.
- Sec. 18. Proceedings to enjoin, set aside, annul, or suspend orders of the Commission.
- Sec. 19. Report to Congress.
- Sec. 20. Authorization of appropriations.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) In the United States and around the world,  
 4 digital platforms and online services play a central  
 5 role in modern life by providing new tools for com-  
 6 munication, commerce, entrepreneurship, and de-  
 7 bate.

8 (2) The United States takes pride in the suc-  
 9 cess of its technology sector, which leads the world  
 10 in innovation and dynamism, provides valuable serv-  
 11 ices to the people of the United States, and supports  
 12 thousands of good-paying jobs in the United States.

13 (3) In recent years, a few digital platforms have  
 14 benefitted from the combination of economies of  
 15 scale, network effects, and unique characteristics of  
 16 the digital marketplace to achieve vast power over  
 17 the economy, society, and democracy of the United  
 18 States.

1           (4) The last time Congress enacted legislation  
2           to meaningfully regulate the technology or tele-  
3           communications sector was the Telecommunications  
4           Act of 1996 (Public Law 104–104; 110 Stat 56.),  
5           years before many of today’s largest digital plat-  
6           forms even existed.

7           (5) Digital platforms remain largely unregu-  
8           lated and are left to write their own rules without  
9           meaningful democratic input or accountability.

10          (6) The unregulated policies and operations of  
11          some of the most powerful digital platforms have at  
12          times produced demonstrable harm, including—

13                   (A) undercutting small businesses;

14                   (B) abetting the collapse of trusted local  
15                   journalism;

16                   (C) enabling addiction and other harms to  
17                   the mental health of the people of the United  
18                   States, especially minors;

19                   (D) disseminating disinformation and hate  
20                   speech;

21                   (E) undermining privacy and monetizing  
22                   the personal data of individuals in the United  
23                   States without their informed consent; and

24                   (F) in some cases, radicalizing individuals  
25                   to violence.

1           (7) The failure of the United States Govern-  
2           ment to establish appropriate regulations for digital  
3           platforms cedes to foreign competitors the historic  
4           role played by the United States in setting reason-  
5           able rules of the road and technical standards for  
6           emerging technologies.

7           (8) Throughout the history of the United  
8           States, Congress has often responded to the emer-  
9           gence of powerful and complex new sectors of the  
10          economy by empowering sector-specific expert Fed-  
11          eral regulators.

12          (9) Throughout the history of the United  
13          States, the Federal Government has established rea-  
14          sonable regulation, consistent with the First Amend-  
15          ment to the Constitution of the United States, to  
16          promote a diversity of viewpoints, support civic en-  
17          gagement, and preserve the right of citizens to com-  
18          municate with each other, which is foundational to  
19          self-governance.

20          (10) The unique power and complexity of sev-  
21          eral digital platforms, combined with the absence of  
22          modern Federal regulations, reinforces the need for  
23          a new Federal body equipped with the authorities,  
24          tools, and expertise to regulate digital platforms to

1       ensure their operations remain consistent, where ap-  
2       propriate, with the public interest.

3       (b) SENSE OF CONGRESS.—It is the sense of Con-  
4       gress that the Federal agency established under this Act  
5       should—

6               (1) develop appropriate regulations and policies  
7       grounded in the common law principles of the duty  
8       of care and the duty to deal, insofar as those prin-  
9       ciples are relevant and practical; and

10              (2) adopt, where relevant and practical, a risk  
11       management regulatory approach that prioritizes an-  
12       ticipating, limiting, and balancing against other in-  
13       terests the broad economic, societal, and political  
14       risks of harm posed by the activities and operations  
15       of a person or class of persons.

16 **SEC. 3. DEFINITIONS.**

17       In this Act:

18              (1) ALGORITHMIC PROCESS.—The term “algo-  
19       rithmic process” means a computational process, in-  
20       cluding one derived from machine learning or other  
21       artificial intelligence techniques, that processes per-  
22       sonal information or other data for the purpose of  
23       determining the order or manner in which a set of  
24       information is provided, recommended to, or with-  
25       held from a user of a digital platform, including—

1 (A) the provision of commercial content;

2 (B) the display of social media posts;

3 (C) the display of search results or  
4 rankings; or

5 (D) any other method of automated deci-  
6 sion making, content selection, or content am-  
7 plification.

8 (2) COMMISSION.—The term “Commission”  
9 means the Federal Digital Platform Commission es-  
10 tablished under section 4.

11 (3) COUNCIL.—The term “Council” means the  
12 Code Council established under section 8(a).

13 (4) DIGITAL PLATFORM.—

14 (A) IN GENERAL.—The term “digital plat-  
15 form” means an online service that serves as an  
16 intermediary facilitating interactions—

17 (i) between users; and

18 (ii) between users and—

19 (I) entities offering goods and  
20 services through the online service; or

21 (II) the online service with re-  
22 spect to goods and services offered di-  
23 rectly by the online service.

24 (B) DE MINIMIS EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (A)(ii)(II), the term “digital platform” does not include an entity that offers goods and services to the public online if the offering of goods and services online is a de minimis part of the entity’s overall business.

(ii) ONLINE SERVICES THAT DO NOT QUALIFY FOR DE MINIMIS EXCEPTION.—Notwithstanding clause (i), if an online service described in subparagraph (A)(ii)(II) is owned by an entity but is offered through an affiliate, partnership, or joint venture of, or is otherwise segregable from, the entity—

(I) the online service shall be considered a digital platform; and

(II) the entity shall not be considered a digital platform.

(C) SMALL DIGITAL PLATFORM BUSINESSES.—

(i) IN GENERAL.—The term “digital platform” does not include a small digital platform business, except as provided in clause (iii).

1                   (ii) SBA RULEMAKING.—Not later  
 2                   than 180 days after the date of enactment  
 3                   of this Act, the Administrator of the Small  
 4                   Business Administration shall by regula-  
 5                   tion define the term “small digital plat-  
 6                   form business” for purposes of clause (i).

7                   (iii) NON-APPLICABILITY TO SYSTEM-  
 8                   ICALLY IMPORTANT DIGITAL PLAT-  
 9                   FORMS.—Clause (i) shall not apply to a  
 10                  systemically important digital platform.

11               (D) NEWS ORGANIZATIONS.—The term  
 12               “digital platform” does not include an entity  
 13               whose primary purpose is the delivery to the  
 14               public of news that the entity writes, edits, and  
 15               reports.

16               (5) IMMEDIATE FAMILY MEMBER.—The term  
 17               “immediate family member”, with respect to an indi-  
 18               vidual, means a spouse, parent, sibling, or child of  
 19               the individual.

20               (6) ONLINE SERVICE.—The term “online serv-  
 21               ice” includes a consumer-facing website, back-end  
 22               online-support system, or other facilitator of online  
 23               transactions and activities.

24               (7) SYSTEMICALLY IMPORTANT DIGITAL PLAT-  
 25               FORM.—The term “systemically important digital

1 platform” means a digital platform that the Com-  
2 mission has designated as a systemically important  
3 digital platform under section 10.

4 **SEC. 4. ESTABLISHMENT OF FEDERAL DIGITAL PLATFORM**  
5 **COMMISSION.**

6 (a) ESTABLISHMENT.—There is established a com-  
7 mission to be known as the “Federal Digital Platform  
8 Commission”, which shall—

9 (1) be constituted as provided in this Act; and

10 (2) execute and enforce the provisions of this  
11 Act.

12 (b) PURPOSES OF COMMISSION.—The purpose of the  
13 Commission is to regulate digital platforms, consistent  
14 with the public interest, convenience, and necessity, to pro-  
15 mote to all the people of the United States, so far as pos-  
16 sible, the following:

17 (1) Access to digital platforms for civic engage-  
18 ment and economic and educational opportunities.

19 (2) Access to government services and public  
20 safety.

21 (3) Competition to encourage the creation of  
22 new online services and innovation, and to provide to  
23 consumers benefits such as lower prices and better  
24 quality of service.

1           (4) Prevention of harmful levels of concentra-  
2           tion of private power over critical digital infrastruc-  
3           ture.

4           (5) A robust and competitive marketplace of  
5           ideas with a diversity of views at the local, State,  
6           and national levels.

7           (6) Protection for consumers from deceptive,  
8           unfair, unjust, unreasonable, or abusive practices  
9           committed by digital platforms.

10          (7) Assurance that the algorithmic processes of  
11          digital platforms are fair, transparent, and safe.

12          (c) RULE OF CONSTRUCTION.—Nothing in this Act,  
13          or any amendment made by this Act, shall be construed  
14          to modify, impair, or supersede the applicability of any  
15          antitrust laws.

16          **SEC. 5. JURISDICTION.**

17          (a) PLENARY JURISDICTION.—The Commission shall  
18          have jurisdiction over any digital platform, the services of  
19          which—

20                (1) originate or are received within the United  
21                States; and

22                (2) affect interstate or foreign commerce.

23          (b) PROVISIONS RELATIVE TO SYSTEMICALLY IM-  
24          PORTANT DIGITAL PLATFORMS.—Not later than 180 days  
25          after the earliest date as of which not fewer than 3 Com-

1 missioners have been confirmed, the Commission shall de-  
2 termine whether to issue rules, with input from the Code  
3 Council as appropriate, to establish for systemically impor-  
4 tant digital platforms—

5 (1) commercial and technical standards for—

6 (A) data portability; and

7 (B) interoperability, which shall be defined  
8 as the functionality of information systems to—

9 (i) exchange data; and

10 (ii) enable sharing of information;

11 (2) requirements for recommendation systems  
12 and other algorithmic processes of systemically im-  
13 portant digital platforms to ensure that the algo-  
14 rithmic processes are fair, transparent, and without  
15 harmful, abusive, anticompetitive, or deceptive bias;

16 (3) transparency requirements for terms of  
17 service, including content moderation policies;

18 (4) requirements for regular public risk assess-  
19 ments of the distribution of harmful content on a  
20 systemically important digital platform and steps the  
21 systemically important digital platform has taken, or  
22 plans to take, to mitigate those harms;

23 (5) transparency and disclosure obligations to  
24 enable—

25 (A) oversight by the Commission;

1 (B) third-party audits to ensure the accu-  
2 racy of any public risk assessments required  
3 under paragraph (4); and

4 (C) trusted third-party research in the  
5 public interest; and

6 (6) commercial and technical standards to en-  
7 sure accessibility to individuals with a disability, as  
8 defined in section 3 of the Americans with Disabil-  
9 ities Act of 1990 (42 U.S.C. 12102), including to  
10 provide the ability for an individual who has a hear-  
11 ing impairment, speech impairment, or vision im-  
12 pairment to engage with systemically important dig-  
13 ital platforms in a manner that is functionally equiv-  
14 alent to the ability of an individual who does not  
15 have a hearing impairment, speech impairment, or  
16 vision impairment to engage with systemically im-  
17 portant digital platforms.

18 (c) FORBEARANCE.—

19 (1) IN GENERAL.—The Commission may for-  
20 bear from exercising jurisdiction over a digital plat-  
21 form or class of digital platforms based on size, rev-  
22 enue, market share, or other attributes the Commis-  
23 sion determines appropriate.

24 (2) FLEXIBILITY.—The Commission may re-  
25 assert jurisdiction over a digital platform or class of

1 digital platform over which the Commission forbore  
 2 from exercising jurisdiction under paragraph (1).

3 **SEC. 6. ORGANIZATION AND GENERAL POWERS.**

4 (a) IN GENERAL.—The Commission shall be com-  
 5 posed of 5 Commissioners appointed by the President, by  
 6 and with the advice and consent of the Senate, one of  
 7 whom the President shall designate as chair.

8 (b) QUALIFICATIONS.—

9 (1) CITIZENSHIP.—Each member of the Com-  
 10 mission shall be a citizen of the United States.

11 (2) CONFLICTS OF INTEREST.—

12 (A) IN GENERAL.—Subject to subpara-  
 13 graphs (B) and (C), no member of the Commis-  
 14 sion or person employed by the Commission,  
 15 and no immediate family member thereof,  
 16 shall—

17 (i) be financially interested in—

18 (I) any person significantly regu-  
 19 lated by the Commission under this  
 20 Act; or

21 (II) a third party in direct and  
 22 substantial competition with a person  
 23 described in subclause (I); or

24 (ii) be employed by, hold any official  
 25 relation to, or own any stocks, bonds, or

1 other securities of, any person or third  
2 party described in clause (i).

3 (B) SIGNIFICANT INTEREST.—The prohibi-  
4 tions under subparagraph (A) shall apply only  
5 to financial interests in any company or other  
6 entity that has a significant interest in activi-  
7 ties subject to regulation by the Commission.

8 (C) WAIVER.—

9 (i) IN GENERAL.—Subject to section  
10 208 of title 18, United States Code, the  
11 Commission may waive, from time to time,  
12 the application of the prohibitions under  
13 subparagraph (A) to persons employed by  
14 the Commission, or immediate family  
15 members thereof, if the Commission deter-  
16 mines that the financial interests of a per-  
17 son that are involved in a particular case  
18 are minimal.

19 (ii) NO WAIVER FOR COMMIS-  
20 SIONERS.—The waiver authority under  
21 clause (i) shall not apply with respect to  
22 members of the Commission.

23 (iii) PUBLICATION.—If the Commis-  
24 sion exercises the waiver authority under  
25 clause (i), the Commission shall publish

1 notice of that action in the Federal Reg-  
2 ister.

3 (3) DETERMINATION OF SIGNIFICANT INTER-  
4 EST.—The Commission, in determining for purposes  
5 of paragraph (2) whether a company or other entity  
6 has a significant interest in activities that are sub-  
7 ject to regulation by the Commission, shall consider,  
8 without excluding other relevant factors—

9 (A) the revenues, investments, profits, and  
10 managerial efforts directed to the related activi-  
11 ties of the company or other entity, as com-  
12 pared to the other aspects of the business of the  
13 company or other entity;

14 (B) the extent to which the Commission  
15 regulates and oversees the activities of the com-  
16 pany or other entity;

17 (C) the degree to which the economic inter-  
18 ests of the company or other entity may be af-  
19 fected by any action of the Commission; and

20 (D) the perceptions held by the public re-  
21 garding the business activities of the company  
22 or other entity.

23 (4) NO OTHER EMPLOYMENT.—A member of  
24 the Commission may not engage in any other busi-

1       ness, vocation, profession, or employment while serv-  
2       ing as a member of the Commission.

3           (5) POLITICAL PARTIES.—The maximum num-  
4       ber of commissioners who may be members of the  
5       same political party shall be a number equal to the  
6       least number of commissioners that constitutes a  
7       majority of the full membership of the Commission.

8       (c) TERM.—

9           (1) IN GENERAL.—A commissioner—

10           (A) shall be appointed for a term of 5  
11       years; and

12           (B) may continue to serve after the expira-  
13       tion of the fixed term of office of the commis-  
14       sioner until a successor is appointed and has  
15       been confirmed and taken the oath of office.

16           (2) FILLING OF VACANCIES.—Any person cho-  
17       sen to fill a vacancy in the Commission—

18           (A) shall be appointed for the unexpired  
19       term of the commissioner that the person suc-  
20       ceeds;

21           (B) except as provided in subparagraph  
22       (C), may continue to serve after the expiration  
23       of the fixed term of office of the commissioner  
24       that the person succeeds until a successor is ap-

1 pointed and has been confirmed and taken the  
2 oath of office; and

3 (C) may not continue to serve after the ex-  
4 piration of the session of Congress that begins  
5 after the expiration of the fixed term of office  
6 of the commissioner that the person succeeds.

7 (3) EFFECT OF VACANCY ON POWERS OF COM-  
8 MISSION.—Except as provided in section 9(e) (relat-  
9 ing to repeal of prior rules), no vacancy in the Com-  
10 mission shall impair the right of the remaining com-  
11 missioners to exercise all the powers of the Commis-  
12 sion.

13 (d) SALARY OF COMMISSIONERS.—

14 (1) IN GENERAL.—Each Commissioner shall re-  
15 ceive an annual salary at the annual rate payable  
16 from time to time for grade 16 of the pay scale of  
17 the Securities and Exchange Commission, payable in  
18 monthly installments.

19 (2) CHAIR.—The Chair of the Commission,  
20 during the period of service as Chair, shall receive  
21 an annual salary at the annual rate payable from  
22 time to time for grade 17 of the pay scale of the Se-  
23 curities and Exchange Commission.

24 (e) PRINCIPAL OFFICE.—

1           (1) GENERAL SESSIONS.—The principal office  
2           of the Commission shall be in the District of Colum-  
3           bia, where its general sessions shall be held.

4           (2) SPECIAL SESSIONS.—Whenever the conven-  
5           ience of the public or of the parties may be pro-  
6           moted or delay or expense prevented thereby, the  
7           Commission may hold special sessions in any part of  
8           the United States.

9           (f) EMPLOYEES.—

10           (1) IN GENERAL.—The Commission may, sub-  
11           ject to the civil service laws and the Classification  
12           Act of 1949, as amended, appoint such officers, en-  
13           gineers, accountants, attorneys, inspectors, exam-  
14           iners, and other employees as are necessary in the  
15           exercise of its functions.

16           (2) ASSISTANTS.—

17           (A) PROFESSIONAL ASSISTANTS; SEC-  
18           RETARY.—Without regard to the civil-service  
19           laws, but subject to the Classification Act of  
20           1949, each commissioner may appoint profes-  
21           sional assistants and a secretary, each of whom  
22           shall perform such duties as the commissioner  
23           shall direct.

24           (B) ADMINISTRATIVE ASSISTANT TO  
25           CHAIR.—In addition to the authority under sub-

1 paragraph (A), the Chair of the Commission  
 2 may appoint, without regard to the civil-service  
 3 laws, but subject to the Classification Act of  
 4 1949, an administrative assistant who shall per-  
 5 form such duties as the Chair shall direct.

6 (3) USE OF VOLUNTEERS TO MONITOR VIOLA-  
 7 TIONS RELATING TO ONLINE SERVICES.—

8 (A) RECRUITMENT AND TRAINING OF VOL-  
 9 UNTEERS.—The Commission, for purposes of  
 10 monitoring violations of any provision of this  
 11 Act (and of any regulation prescribed by the  
 12 Commission under this Act), may—

13 (i) recruit and train any software en-  
 14 gineer, computer scientist, data scientist,  
 15 or other individual with skills or expertise  
 16 relevant to the responsibilities of the Com-  
 17 mission; and

18 (ii) accept and employ the voluntary  
 19 and uncompensated services of individuals  
 20 described in clause (i).

21 (B) NO LIMITATIONS ON VOLUNTARY  
 22 SERVICES.—The authority of the Commission  
 23 under subparagraph (A) shall not be subject to  
 24 or affected by—

1 (i) part III of title 5, United States  
2 Code; or

3 (ii) section 1342 of title 31, United  
4 States Code.

5 (C) NO FEDERAL EMPLOYMENT.—Any in-  
6 dividual who provides services under this para-  
7 graph or who provides goods in connection with  
8 such services shall not be considered a Federal  
9 or special government employee.

10 (D) BROAD REPRESENTATION.—The Com-  
11 mission, in accepting and employing services of  
12 individuals under subparagraph (A), shall seek  
13 to achieve a broad representation of individuals  
14 and organizations.

15 (E) RULES OF CONDUCT.—The Commis-  
16 sion may establish rules of conduct and other  
17 regulations governing the service of individuals  
18 under this paragraph.

19 (F) REGULATIONS FOR PERSONNEL PRAC-  
20 TICES.—The Commission may prescribe regula-  
21 tions to select, oversee, sanction, and dismiss  
22 any individual authorized under this paragraph  
23 to be employed by the Commission.

24 (g) EXPENDITURES.—

1           (1) IN GENERAL.—The Commission may make  
2       such expenditures (including expenditures for rent  
3       and personal services at the seat of government and  
4       elsewhere, for office supplies, online subscriptions,  
5       electronics, law books, periodicals, subscriptions, and  
6       books of reference), as may be necessary for the exe-  
7       cution of the functions vested in the Commission  
8       and as may be appropriated for by Congress in ac-  
9       cordance with the authorizations of appropriations  
10      under section 20.

11          (2) REIMBURSEMENT.—All expenditures of the  
12      Commission, including all necessary expenses for  
13      transportation incurred by the commissioners or by  
14      their employees, under their orders, in making any  
15      investigation or upon any official business in any  
16      other places than in the city of Washington, shall be  
17      allowed and paid on the presentation of itemized  
18      vouchers therefor approved by the Chair of the Com-  
19      mission or by such other members or officer thereof  
20      as may be designated by the Commission for that  
21      purpose.

22          (3) GIFTS.—

23              (A) IN GENERAL.—Notwithstanding any  
24              other provision of law, in furtherance of its  
25              functions the Commission is authorized to ac-

cept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5, United States Code).

(B) TAXES.—For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

(C) REGULATIONS.—

(i) IN GENERAL.—The Commission shall promulgate regulations to carry out this paragraph.

(ii) CONFLICTS OF INTEREST.—The regulations promulgated under clause (i) shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.

(h) QUORUM; SEAL.—

(1) QUORUM.—Three members of the Commission shall constitute a quorum thereof.

1           (2) SEAL.—The Commission shall have an offi-  
2           cial seal which shall be judicially noticed.

3           (i) DUTIES AND POWERS.—The Commission may  
4           perform any and all acts, including collection of any infor-  
5           mation from digital platforms under the jurisdiction of the  
6           Commission as the Commission determines necessary,  
7           without regard to any final determination of the Office  
8           on Management and Budget under chapter 35 of title 44,  
9           United States Code (commonly referred to as the “Paper-  
10          work Reduction Act”), make such rules and regulations,  
11          and issue such orders, not inconsistent with this Act, as  
12          may be necessary in the execution of its functions.

13          (j) CONDUCT OF PROCEEDINGS; HEARINGS.—

14               (1) IN GENERAL.—The Commission may con-  
15               duct its proceedings in such manner as will best con-  
16               duce to the proper dispatch of business and to the  
17               ends of justice.

18               (2) CONFLICT OF INTEREST.—No commissioner  
19               shall participate in any hearing or proceeding in  
20               which he has a pecuniary interest.

21               (3) OPEN TO ALL PARTIES.—Any party may  
22               appear before the Commission and be heard in per-  
23               son or by attorney.

24               (4) RECORD OF PROCEEDINGS.—

1 (A) IN GENERAL.—Subject to subpara-  
2 graph (B)—

3 (i) every vote and official act of the  
4 Commission shall be entered of record; and

5 (ii) the Commission shall endeavor to  
6 make each proceeding public, while recog-  
7 nizing the occasional need for private con-  
8 vening and deliberation.

9 (B) DEFENSE INFORMATION.—The Com-  
10 mission may withhold publication of records or  
11 proceedings containing secret information af-  
12 fecting the national defense.

13 (k) RECORD OF REPORTS.—All reports of investiga-  
14 tions made by the Commission shall be entered of record,  
15 and a copy thereof shall be furnished to the party who  
16 may have complained, and to any digital platform or li-  
17 censee that may have been complained of.

18 (l) PUBLICATION OF REPORTS; ADMISSIBILITY AS  
19 EVIDENCE.—The Commission shall provide for the publi-  
20 cation of its reports and decisions in such form and man-  
21 ner as may be best adapted for public information and  
22 use, and such authorized publications shall be competent  
23 evidence of the reports and decisions of the Commission  
24 therein contained in all courts of the United States and

1 of the several States without any further proof or authen-  
 2 tication thereof.

3 (m) COMPENSATION OF APPOINTEES.—Rates of  
 4 compensation of persons appointed under this section shall  
 5 be subject to the reduction applicable to officers and em-  
 6 ployees of the Federal Government generally.

7 (n) MEMORANDA OF UNDERSTANDING.—The Com-  
 8 mission shall enter into memoranda of understanding with  
 9 the Federal Communications Commission, the Federal  
 10 Trade Commission, and the Department of Justice to en-  
 11 sure, to the greatest extent possible, coordination, collabo-  
 12 ration, and the effective use of Federal resources con-  
 13 cerning areas of overlapping jurisdiction.

14 **SEC. 7. ORGANIZATION AND FUNCTIONING OF THE COM-**  
 15 **MISSION.**

16 (a) CHAIR; DUTIES; VACANCY.—

17 (1) IN GENERAL.—The member of the Commis-  
 18 sion designated by the President as Chair shall be  
 19 the chief executive officer of the Commission.

20 (2) DUTIES.—The Chair of the Commission  
 21 shall—

22 (A) preside at all meetings and sessions of  
 23 the Commission;

24 (B) represent the Commission in all mat-  
 25 ters relating to legislation and legislative re-

1 ports, except that any commissioner may  
2 present the commissioner's own or minority  
3 views or supplemental reports;

4 (C) represent the Commission in all mat-  
5 ters requiring conferences or communications  
6 with other governmental officers, departments,  
7 or agencies; and

8 (D) generally coordinate and organize the  
9 work of the Commission in such manner as to  
10 promote prompt and efficient disposition of all  
11 matters within the jurisdiction of the Commis-  
12 sion.

13 (3) VACANCY.—In the case of a vacancy in the  
14 office of the Chair of the Commission, or the ab-  
15 sence or inability of the Chair to serve, the Commis-  
16 sion may temporarily designate a member of the  
17 Commission to act as Chair until the cause or cir-  
18 cumstance requiring the designation is eliminated or  
19 corrected.

20 (b) ORGANIZATION OF STAFF.—

21 (1) IN GENERAL.—From time to time as the  
22 Commission may find necessary, the Commission  
23 shall organize its staff into—

1 (A) bureaus, to function on the basis of  
 2 the Commission's principal workload operations;  
 3 and

4 (B) such other divisional organizations as  
 5 the Commission may determine necessary.

6 (2) INTEGRATION.—The Commission, to the ex-  
 7 tent practicable, shall organize the bureaus and  
 8 other divisions of the Commission to—

9 (A) promote collaboration and cross-cut-  
 10 ting subject matter and technical expertise; and

11 (B) avoid organization silos.

12 (3) PERSONNEL.—Each bureau established  
 13 under paragraph (1)(A) shall include such legal, en-  
 14 gineering, accounting, administrative, clerical, and  
 15 other personnel as the Commission may determine to  
 16 be necessary to perform its functions.

17 (4) EXPERT PERSONNEL.—The Commission  
 18 shall prioritize, to the extent practicable, the hiring  
 19 of staff with a demonstrated academic or profes-  
 20 sional background in computer science, data science,  
 21 application development, technology policy, and  
 22 other areas the Commission may determine nec-  
 23 essary to perform its functions.

24 (c) DELEGATION OF FUNCTIONS; EXCEPTIONS TO  
 25 INITIAL ORDERS; FORCE, EFFECT, AND ENFORCEMENT

1 OF ORDERS; ADMINISTRATIVE AND JUDICIAL REVIEW;  
 2 QUALIFICATIONS AND COMPENSATION OF DELEGATES;  
 3 ASSIGNMENT OF CASES; SEPARATION OF REVIEW AND  
 4 INVESTIGATIVE OR PROSECUTING FUNCTIONS; SEC-  
 5 RETARY; SEAL.—

6 (1) DELEGATION OF FUNCTIONS.—

7 (A) IN GENERAL.—When necessary to the  
 8 proper functioning of the Commission and the  
 9 prompt and orderly conduct of its business, the  
 10 Commission may, by published rule or by order,  
 11 delegate any of its functions to a panel of com-  
 12 missioners, an individual commissioner, an em-  
 13 ployee board, or an individual employee, includ-  
 14 ing functions with respect to hearing, deter-  
 15 mining, ordering, certifying, reporting, or other-  
 16 wise acting as to any work, business, or matter;  
 17 except that in delegating review functions to  
 18 employees in cases of adjudication (as defined  
 19 in the Administrative Procedure Act), the dele-  
 20 gation in any such case may be made only to  
 21 an employee board consisting of 2 or more em-  
 22 ployees referred to in paragraph (7).

23 (B) MINIMUM VOTE.—Any rule or order  
 24 described in subparagraph (A) may be adopted,  
 25 amended, or rescinded only by a vote of a ma-

1           jority of the members of the Commission then  
2           holding office.

3           (2) FORCE, EFFECT, AND ENFORCEMENT OF  
4           ORDERS.—Any order, decision, report, or action  
5           made or taken pursuant to a delegation under para-  
6           graph (1), unless reviewed as provided in paragraph  
7           (3), shall have the same force and effect, and shall  
8           be made, evidenced, and enforced in the same man-  
9           ner, as orders, decisions, reports, or other actions of  
10          the Commission.

11          (3) ADMINISTRATIVE AND JUDICIAL REVIEW.—

12                (A) AGGRIEVED PERSONS.—Any person  
13                aggrieved by an order, decision, report, or ac-  
14                tion described in paragraph (1) may file an ap-  
15                plication for review by the Commission within  
16                such time and in such manner as the Commis-  
17                sion shall prescribe, and every such application  
18                shall be passed upon by the Commission.

19                (B) INITIATIVE OF COMMISSION.—The  
20                Commission, on its own initiative, may review  
21                in whole or in part, at such time and in such  
22                manner as it shall determine, any order, deci-  
23                sion, report, or action made or taken pursuant  
24                to any delegation under paragraph (1).

25          (4) REVIEW.—

1 (A) IN GENERAL.—In passing upon an ap-  
 2 plication for review filed under paragraph (3),  
 3 the Commission may grant, in whole or in part,  
 4 or deny the application without specifying any  
 5 reasons therefor.

6 (B) QUESTIONS OF FACT OR LAW.—No ap-  
 7 plication for review filed under paragraph  
 8 (3)(A) shall rely on questions of fact or law  
 9 upon which the panel of commissioners, indi-  
 10 vidual commissioner, employee board, or indi-  
 11 vidual employee has been afforded no oppor-  
 12 tunity to pass.

13 (5) GRANT OF APPLICATION.—If the Commis-  
 14 sion grants an application for review filed under  
 15 paragraph (3)(A), the Commission may—

16 (A) affirm, modify, or set aside the order,  
 17 decision, report, or action; or

18 (B) order a rehearing upon the order, deci-  
 19 sion, report, or action.

20 (6) APPLICATION REQUIRED FOR JUDICIAL RE-  
 21 VIEW.—The filing of an application for review under  
 22 paragraph (3)(A) shall be a condition precedent to  
 23 judicial review of any order, decision, report, or ac-  
 24 tion made or taken pursuant to a delegation under  
 25 paragraph (1).

1           (7) QUALIFICATIONS AND COMPENSATION OF  
2       DELEGATES; ASSIGNMENT OF CASES; SEPARATION  
3       OF REVIEW AND INVESTIGATIVE OR PROSECUTING  
4       FUNCTIONS.—

5           (A) QUALIFICATIONS OF DELEGATES.—

6       The employees to whom the Commission may  
7       delegate review functions in any case of adju-  
8       dication (as defined in the Administrative Pro-  
9       cedure Act)—

10           (i) shall be qualified, by reason of  
11           their training, experience, and competence,  
12           to perform such review functions; and

13           (ii) shall perform no duties incon-  
14           sistent with such review functions.

15           (B) COMPENSATION.—An employee de-  
16       scribed in subparagraph (A) shall be in a grade  
17       classification or salary level commensurate with  
18       the important duties of the employee, and in no  
19       event less than the grade classification or salary  
20       level of the employee or employees whose ac-  
21       tions are to be reviewed.

22           (C) SEPARATION.—In the performance of  
23       review functions described in subparagraph (A),  
24       employees described in that subparagraph—

1 (i) shall be assigned to cases in rota-  
2 tion so far as practicable; and

3 (ii) shall not be responsible to or sub-  
4 ject to the supervision or direction of any  
5 officer, employee, or agent engaged in the  
6 performance of investigative or prosecuting  
7 functions for any agency.

8 (8) SECRETARY; SEAL.—The secretary and seal  
9 of the Commission shall be the secretary and seal of  
10 each panel of the Commission, each individual com-  
11 missioner, and each employee board or individual  
12 employee exercising functions delegated pursuant to  
13 paragraph (1) of this subsection.

14 (d) MEETINGS.—Meetings of the Commission shall  
15 be held at regular intervals, not less frequently than once  
16 each calendar month, at which times the functioning of  
17 the Commission and the handling of its workload shall be  
18 reviewed and such orders shall be entered and other action  
19 taken as may be necessary or appropriate to expedite the  
20 prompt and orderly conduct of the business of the Com-  
21 mission with the objective of rendering a final decision in  
22 a timely fashion.

23 (e) MANAGING DIRECTOR.—

1           (1) IN GENERAL.—The Commission shall have  
 2           a Managing Director who shall be appointed by the  
 3           Chair subject to the approval of the Commission.

4           (2) FUNCTIONS.—The Managing Director,  
 5           under the supervision and direction of the Chair,  
 6           shall perform such administrative and executive  
 7           functions as the Chair shall delegate.

8           (3) PAY.—The Managing Director shall be paid  
 9           at a rate equal to the rate then payable for grade  
 10          15 of the pay scale of the Securities and Exchange  
 11          Commission.

12 **SEC. 8. CODE COUNCIL.**

13          (a) ESTABLISHMENT.—The Commission shall estab-  
 14          lish a Code Council that shall develop proposed voluntary  
 15          or enforceable behavioral codes, technical standards, or  
 16          other policies for digital platforms through the code proc-  
 17          ess under subsection (e).

18          (b) MEMBERSHIP.—

19               (1) IN GENERAL.—The Council shall consist of  
 20          18 members, of whom—

21                   (A) 6 shall be representatives of digital  
 22                   platforms or associations of digital platforms,  
 23                   not fewer than 3 of whom shall be representa-  
 24                   tives of systemically important digital platforms

or associations that include systemically important digital platforms;

(B) 6 shall be representatives of nonprofit public interest groups, academics, and other experts not affiliated with commercial enterprises, with demonstrated expertise in technology policy, law, consumer protection, privacy, competition, disinformation, or another area the Chair determines relevant; and

(C) 6 shall be technical experts in engineering, application development, computer science, data science, machine learning, communications, media studies, and any other discipline the Chair determines relevant.

(2) APPOINTMENT.—The Chair shall appoint each member of the Council, subject to approval by the Commission.

(3) TERMS.—

(A) IN GENERAL.—A member of the Council shall be appointed for a term of 3 years.

(B) STAGGERED TERMS.—The terms of members of the Council shall be staggered such that one-third of the membership of the Council changes each year.

1 (c) MEETINGS.—The Council shall meet publicly not  
2 less frequently than once a month.

3 (d) CHAIR AND VICE CHAIR.—

4 (1) IN GENERAL.—There shall be a Chair and  
5 Vice Chair of the Council—

6 (A) one of whom shall be a member de-  
7 scribed in subparagraph (A) of subsection  
8 (b)(1); and

9 (B) one of whom shall be a member de-  
10 scribed in subparagraph (B) of subsection  
11 (b)(1).

12 (2) ANNUAL ROTATION.—The Chair or Vice  
13 Chair for a calendar year shall be a member de-  
14 scribed in a different subparagraph of subsection  
15 (b)(1) than the member who served as Chair or Vice  
16 Chair, respectively, for the preceding calendar year.

17 (e) CODE PROCESS.—

18 (1) IN GENERAL.—The Commission may, at  
19 any time, initiate a process to develop a voluntary or  
20 enforceable behavioral code, technical standard, or  
21 other policy for digital platforms or a class of digital  
22 platforms.

23 (2) INITIATION BASED ON PETITION OR COUN-  
24 CIL VOTE.—The Commission may initiate the proc-  
25 ess described in paragraph (1) if—

1 (A) the Commission receives a petition  
 2 from the public, including from a digital plat-  
 3 form or an association of digital platforms; or

4 (B) the Council votes to initiate the proc-  
 5 ess.

6 (3) COUNCIL EXAMINATION AND VOTE.—If the  
 7 process described in paragraph (1) is initiated, the  
 8 Council—

9 (A) shall consider and develop, if appro-  
 10 priate, a proposed behavioral code, technical  
 11 standard, or other policy for digital platforms  
 12 or a class of digital platforms;

13 (B) in considering and developing a pro-  
 14 posed code, standard, or policy under subpara-  
 15 graph (A), shall—

16 (i) allow for submission of feedback by  
 17 any interested party; and

18 (ii) make available to the public a fac-  
 19 tual record, developed during the consider-  
 20 ation and development of the proposed  
 21 code, standard, or policy, that includes any  
 22 submission received under clause (i);

23 (C) not earlier than 180 days and not later  
 24 than 360 days after the date on which the proc-  
 25 ess is initiated, shall vote on whether to submit

1 a recommendation for the proposed code, stand-  
 2 ard, or policy to the Commission; and

3 (D) may submit minority views along with  
 4 a recommendation under subparagraph (C), as  
 5 appropriate.

6 (4) PUBLIC REVIEW; COMMISSION EXAMINATION  
 7 AND VOTE.—Upon receipt of a recommendation for  
 8 a proposed behavioral code, technical standard, or  
 9 other policy from the Council under paragraph (3),  
 10 the Commission shall—

11 (A) allow for submission of comments on  
 12 the proposed code, standard, or policy by any  
 13 interested party for a period of not fewer than  
 14 45 days and not more than 90 days, and pub-  
 15 licly disclose any comments received;

16 (B) examine the proposed code, standard,  
 17 or policy, along with comments received under  
 18 subparagraph (A);

19 (C) determine whether to adopt, reject, or  
 20 adopt with modifications the proposed code,  
 21 standard, or policy;

22 (D) provide a public rationale for the de-  
 23 termination under subparagraph (C); and

24 (E) promulgate rules to carry out the de-  
 25 termination under subparagraph (C) in accord-

1           ance with section 553 of title 5, United States  
2           Code.

3           (5) UPDATES.—Not less frequently than once  
4           every 5 years, the Commission shall review and up-  
5           date, as necessary, any behavioral code, technical  
6           standard, or other policy established by rule under  
7           paragraph (4).

8           (6) RULE OF CONSTRUCTION.—Nothing in this  
9           subsection shall be construed to affect the authority  
10          of the Commission to promulgate rules under section  
11          9.

12         (f) QUALIFICATIONS.—

13                 (1) CITIZENSHIP.—Each member of the Council  
14                 shall be a United States citizen or an alien lawfully  
15                 admitted for permanent residence to the United  
16                 States.

17                 (2) CONFLICTS OF INTEREST.—

18                         (A) IN GENERAL.—Subject to subpara-  
19                         graphs (B) and (C), no member of the Council  
20                         other than a member appointed under sub-  
21                         section (b)(1)(A) shall—

22                                 (i) be financially interested in any  
23                                 company or other entity engaged in the  
24                                 business of providing online services;

1           (ii) be financially interested in any  
2           company or other entity that controls any  
3           company or other entity specified in clause  
4           (i), or that derives a significant portion of  
5           its total income from ownership of stocks,  
6           bonds, or other securities of any such com-  
7           pany or other entity; or

8           (iii) be employed by, hold any official  
9           relation to, or own any stocks, bonds, or  
10          other securities of, any person significantly  
11          regulated by the Commission under this  
12          Act.

13          (B) SIGNIFICANT INTEREST.—The prohibi-  
14          tions under subparagraph (A) shall apply only  
15          to financial interests in any company or other  
16          entity that has a significant interest in activi-  
17          ties subject to regulation by the Commission.

18          (C) WAIVER.—

19               (i) IN GENERAL.—Subject to section  
20               208 of title 18, United States Code, the  
21               Commission may waive, from time to time,  
22               the application of the prohibitions under  
23               subparagraph (A) to a member of the  
24               Council if the Commission determines that  
25               the financial interests of the member that

1           are involved in a particular case are mini-  
2           mal.

3                   (ii) PUBLICATION.—If the Commis-  
4           sion exercises the waiver authority under  
5           clause (i), the Commission shall publish  
6           notice of that action in the Federal Reg-  
7           ister.

8           (3) DETERMINATION OF SIGNIFICANT INTER-  
9           EST.—The Commission, in determining for purposes  
10          of paragraph (2) whether a company or other entity  
11          has a significant interest in activities that are sub-  
12          ject to regulation by the Commission, shall consider,  
13          without excluding other relevant factors—

14                   (A) the revenues, investments, profits, and  
15           managerial efforts directed to the related activi-  
16           ties of the company or other entity, as com-  
17           pared to the other aspects of the business of the  
18           company or other entity;

19                   (B) the extent to which the Commission  
20           regulates and oversees the activities of the com-  
21           pany or other entity;

22                   (C) the degree to which the economic inter-  
23           ests of the company or other entity may be af-  
24           fected by any action of the Commission; and

1 (D) the perceptions held by the public re-  
2 garding the business activities of the company  
3 or other entity.

4 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
5 tion shall be construed to authorize the Council to promul-  
6 gate rules.

7 **SEC. 9. RULEMAKING AUTHORITY, REQUIREMENTS, AND**  
8 **CONSIDERATIONS.**

9 The Commission—

10 (1) may promulgate rules to carry out this Act  
11 in accordance with section 553 of title 5, United  
12 States Code; and

13 (2) shall tailor the rules promulgated under  
14 paragraph (1), as appropriate, based on the size,  
15 dominance, and other attributes of particular digital  
16 platforms.

17 **SEC. 10. SYSTEMICALLY IMPORTANT DIGITAL PLATFORMS.**

18 (a) DESIGNATION OF SIDPs; RULEMAKING AUTHOR-  
19 ITY.—The Commission may—

20 (1) designate systemically important digital  
21 platforms in accordance with this section; and

22 (2) promulgate rules specific to systemically im-  
23 portant digital platforms, consistent with the pur-  
24 poses of the Commission under section 4(b).

1 (b) MANDATORY CRITERIA.—The Commission shall  
2 designate a digital platform a systemically important dig-  
3 ital platform if the platform—

4 (1) is open to the public on one side;

5 (2) has significant engagement among users,  
6 which may take the form of private groups, public  
7 groups, and the sharing of posts visible to some or  
8 all users;

9 (3) conducts business primarily at the inter-  
10 state or international level, as opposed to the intra-  
11 state level; and

12 (4) has operations with significant nationwide  
13 economic, social, or political impacts, as defined by  
14 the Commission for purposes of this paragraph  
15 through notice-and-comment rulemaking under sec-  
16 tion 553 of title 5, United States Code, which may  
17 include—

18 (A) the ability of the platform to signifi-  
19 cantly shape the national dissemination of  
20 news;

21 (B) the ability of the platform to cause a  
22 person significant, immediate, and demon-  
23 strable economic, social, or political harm by ex-  
24 clusion from the platform;

25 (C) the market power of the platform;

1 (D) the number of unique daily users of  
2 the platform; and

3 (E) the dependence of business users, espe-  
4 cially small business users, on the platform to  
5 reach customers.

6 (c) ANNUAL AND OTHER REPORTS.—

7 (1) AUTHORITY TO REQUIRE REPORTS.—The  
8 Commission may—

9 (A) require annual reports from system-  
10 ically important digital platforms subject to this  
11 Act, and from persons directly or indirectly con-  
12 trolling or controlled by, or under direct or indi-  
13 rect control with, any such platform;

14 (B) prescribe the content expected in such  
15 reports;

16 (C) prescribe the manner in which such re-  
17 ports shall be made; and

18 (D) require from such persons specific an-  
19 swers to all questions upon which the Commis-  
20 sion may need information.

21 (2) ADMINISTRATION.—

22 (A) TIME PERIOD COVERED; FILING.—A  
23 report under paragraph (1)—

24 (i) shall be for such 12 months' period  
25 as the Commission shall designate; and

1                   (ii) shall be filed with the Commission  
2                   at its office in Washington not later than  
3                   3 months after the close of the year for  
4                   which the report is made, unless additional  
5                   time is granted in any case by the Com-  
6                   mission.

7                   (B) FAILURE TO MEET DEADLINE.—If a  
8                   person subject to this subsection fails to make  
9                   and file an annual report within the time speci-  
10                  fied under subparagraph (A), or within the time  
11                  extended by the Commission, for making and  
12                  filing the report, or fails to make specific an-  
13                  swer to any question authorized by this sub-  
14                  section within 30 days after the time the person  
15                  is lawfully required so to do, the person shall  
16                  forfeit to the United States—

17                  (i) \$10,000 for each day the person  
18                  continues to be in default with respect  
19                  thereto, for the first 30 days of such de-  
20                  fault; and

21                  (ii) an amount determined appropriate  
22                  by the Commission for each subsequent  
23                  day that the person continues to be in de-  
24                  fault with respect thereto, which may not

1                   exceed 1 percent of the total global revenue  
2                   of the person during the preceding year.

3 **SEC. 11. INTER-AGENCY SUPPORT.**

4       (a) **EXPERT SUPPORT.**—Upon request from any  
5 other Federal agency for expertise, technical assistance,  
6 or other support from the Commission, the Commission  
7 shall provide that support.

8       (b) **REQUIRED CONSULTATION BY OTHER FEDERAL**  
9 **AGENCIES.**—Any Federal agency, including the Federal  
10 Trade Commission and the Antitrust Division of the De-  
11 partment of Justice, engaged in investigation, regulation,  
12 or oversight with respect to the impact of digital platforms  
13 on consumer protection, competition, civic engagement, or  
14 democratic values and institutions shall consult with the  
15 Commission in carrying out that investigation, regulation,  
16 or oversight.

17       (c) **REQUIRED CONSULTATION WITH OTHER FED-**  
18 **ERAL AGENCIES.**—The Commission, in carrying out inves-  
19 tigation, regulation, or oversight with respect to the im-  
20 pact of digital platforms on consumer protection, competi-  
21 tion, civic engagement, or democratic values and institu-  
22 tions, shall consult with each other Federal agency, includ-  
23 ing the Federal Trade Commission and the Antitrust Divi-  
24 sion of the Department of Justice, that is engaged in in-  
25 vestigation, regulation, or oversight with respect to the im-

1 pact of digital platforms on consumer protection, competi-  
2 tion, civic engagement, or democratic values and institu-  
3 tions.

4 **SEC. 12. PETITIONS.**

5 (a) PETITION FOR FORBEARANCE.—

6 (1) SUBMISSION.—

7 (A) IN GENERAL.—Any digital platform or  
8 association of digital platforms may submit a  
9 petition to the Commission requesting that the  
10 Commission forbear the application and en-  
11 forcement of a rule promulgated under this Act,  
12 including a behavioral code of conduct, tech-  
13 nical standard, or other policy established by  
14 rule under section 8.

15 (B) PUBLICATION.—

16 (i) IN GENERAL.—Subject to clause  
17 (ii), the Commission shall make a petition  
18 submitted under subparagraph (A) avail-  
19 able to the public.

20 (ii) WAIVER.—The Commission may  
21 waive the requirement under clause (i) if  
22 the Commission makes the rationale for  
23 the waiver available to the public.

24 (2) DISMISSAL WITHOUT PREJUDICE.—

1 (A) IN GENERAL.—Any petition submitted  
2 under paragraph (1) shall be deemed dismissed  
3 without prejudice if the Commission does not  
4 grant the petition within 18 months after the  
5 date on which the Commission receives the peti-  
6 tion, unless the Commission extends the 18-  
7 month period under subparagraph (B) of this  
8 paragraph.

9 (B) EXTENSION.—The Commission may  
10 extend the initial 18-month period under sub-  
11 paragraph (A) by an additional 3 months.

12 (3) SCOPE OF GRANT AUTHORITY; WRITTEN  
13 EXPLANATION.—The Commission may grant or deny  
14 a petition submitted under paragraph (1) in whole  
15 or in part and shall explain its decision in writing.

16 (4) NOTICE AND COMMENT REQUIREMENTS.—  
17 Section 553 of title 5, United States Code, shall  
18 apply to any determination of the Commission to  
19 forbear the application and enforcement of a rule  
20 under paragraph (1) of this subsection.

21 (b) STATE ENFORCEMENT AFTER COMMISSION FOR-  
22 BEARANCE.—A State commission may not continue to  
23 apply or enforce any rule, including any behavioral code,  
24 technical standard, or other policy established by rule, that

1 the Commission has determined to forbear from applying  
2 under subsection (a).

3 **SEC. 13. RESEARCH.**

4 (a) RESEARCH OFFICE.—In order to carry out the  
5 purposes of this Act, the Commission shall establish an  
6 office with not fewer than 20 dedicated employees to con-  
7 duct internal research, and collaborate with outside aca-  
8 demics and experts, as appropriate, to further the pur-  
9 poses of the Commission under section 4(b).

10 (b) RESEARCH GRANTS.—

11 (1) IN GENERAL.—The office established under  
12 subsection (a) may competitively award grants to  
13 academic institutions and experts to conduct re-  
14 search consistent with the purposes of the Commis-  
15 sion under section 4(b).

16 (2) PUBLIC AVAILABILITY.—A recipient of a  
17 grant awarded under paragraph (1) shall make the  
18 findings of the research conducted using the grant  
19 publicly available.

20 (c) PILOT RESEARCH PROGRAM FOR SENSITIVE  
21 DATA.—The Commission shall by rule establish a pilot  
22 program that allows vetted, nonprofit, financially disin-  
23 terested academic institutions and experts to access data  
24 and other information collected from a digital platform by

1 the Commission for the purposes of research and analysis  
2 consistent with the public interest, while—

3 (1) ensuring that no personally identifiable in-  
4 formation of any user of the digital platform is pub-  
5 licly available; and

6 (2) making every effort to—

7 (A) avoid harm to the business interests of  
8 the digital platform; and

9 (B) ensure the safety and security of the  
10 private data and other information of the dig-  
11 ital platform.

12 **SEC. 14. INVESTIGATIVE AUTHORITY.**

13 (a) IN GENERAL.—The Commission may inquire into  
14 the management of the business of digital platforms sub-  
15 ject to this Act, and shall keep itself informed as to the  
16 manner and method in which that management is con-  
17 ducted and as to technical and business developments in  
18 the provision of online services.

19 (b) INFORMATION.—The Commission may obtain  
20 from digital platforms subject to this Act and from per-  
21 sons directly or indirectly controlling or controlled by, or  
22 under direct or indirect control with, those platforms full  
23 and complete information necessary, including data flows,  
24 to enable the Commission to perform the duties and carry  
25 out the objects for which it was created.

1 **SEC. 15. HSR FILINGS.**

2 Section 7A of the Clayton Act (15 U.S.C. 18a) is  
3 amended by adding at the end the following:

4 “(l)(1) In this subsection—

5 “(A) the terms ‘Commission’ and ‘systemically  
6 important digital platform’ have the meanings given  
7 the terms in section 3 of the Digital Platform Com-  
8 mission Act of 2022; and

9 “(B) the term ‘covered acquisition’ means an  
10 acquisition—

11 “(i) subject to this section; and

12 “(ii) in which the acquiring person or the  
13 person whose voting securities or assets are  
14 being acquired is a systemically important dig-  
15 ital platform.

16 “(2) Any notification required under subsection (a)  
17 for a covered acquisition shall be submitted to the Com-  
18 mission.

19 “(3) The Commission may request the submission of  
20 additional information or documentary material relevant  
21 to a covered acquisition.

22 “(4) The Commission may submit a recommendation  
23 to the Federal Trade Commission and the Assistant Attor-  
24 ney General on whether the covered acquisition violates  
25 any of the purposes of the Commission under section 4(b)  
26 of the Digital Platform Commission Act of 2022.

1       “(5) The Federal Trade Commission and the Assist-  
2   ant Attorney General—

3               “(A) shall cooperate with the Commission in de-  
4       termining whether a covered acquisition, if con-  
5       summated, would violate the antitrust laws or the  
6       purposes of the Commission under section 4(b) of  
7       the Digital Platform Commission Act of 2022;

8               “(B) may use the recommendation of the Com-  
9       mission as a basis for rejecting the covered acquisi-  
10      tion, or for imposing additional requirements to con-  
11      summate the acquisition, even if the covered acquisi-  
12      tion does not violate the antitrust laws but violates  
13      other purposes of the Commission under section 4(b)  
14      of the Digital Platform Commission Act of 2022;  
15      and

16              “(C) in making a determination described in  
17      subparagraphs (A), shall give substantial weight to  
18      the recommendation of the Commission.”.

19   **SEC. 16. ENFORCEMENT BY PRIVATE PERSONS AND GOV-**  
20                           **ERNMENTAL ENTITIES.**

21       (a) **RECOVERY OF DAMAGES.**—Any person claiming  
22   to be damaged by any digital platform subject to this Act  
23   may—

24              (1) make complaint to the Commission under  
25      subsection (b); or

1           (2) bring a civil action for enforcement of this  
2       Act, including the rules promulgated under this Act,  
3       in any district court of the United States of com-  
4       petent jurisdiction.

5       (b) COMPLAINTS TO THE COMMISSION.—

6           (1) IN GENERAL.—

7           (A) APPLICATION.—Any person, any body  
8       politic or municipal organization, or any State  
9       attorney general or State commission, com-  
10      plaining of anything done or omitted to be done  
11      by any digital platform subject to this Act, in  
12      contravention of the provisions thereof, may  
13      apply to the Commission by petition which shall  
14      briefly state the facts, whereupon a statement  
15      of the complaint thus made shall be forwarded  
16      by the Commission to the digital platform,  
17      which shall be called upon to satisfy the com-  
18      plaint or to answer the complaint in writing  
19      within a reasonable time to be specified by the  
20      Commission.

21          (B) RELIEF OF LIABILITY.—If a digital  
22      platform described in subparagraph (A) within  
23      the time specified makes reparation for the in-  
24      jury alleged to have been caused, the platform  
25      shall be relieved of liability to the complainant

1           only for the particular violation of law thus  
2           complained of.

3           (C) INVESTIGATION.—If a digital platform  
4           described in subparagraph (A) does not satisfy  
5           the complaint within the time specified or there  
6           shall appear to be any reasonable ground for in-  
7           vestigating the complaint, the Commission shall  
8           investigate the matters complained of in such  
9           manner and by such means as the Commission  
10          determines proper.

11          (D) DIRECT DAMAGE NOT REQUIRED.—No  
12          complaint shall at any time be dismissed be-  
13          cause of the absence of direct damage to the  
14          complainant.

15          (2) ORDER.—

16                (A) IN GENERAL.—The Commission shall,  
17                with respect to any investigation under this  
18                subsection of the lawfulness of a charge, classi-  
19                fication, regulation, or practice, issue an order  
20                concluding the investigation not later than 180  
21                days after the date on which the complaint was  
22                filed.

23                (B) FINAL ORDER.—Any order concluding  
24                an investigation under subparagraph (A) shall

1           be a final order and may be appealed under sec-  
2           tion 18.

3           (3) ORDERS FOR PAYMENT OF MONEY.—If,  
4           after hearing on a complaint under this paragraph,  
5           the Commission determines that any party complain-  
6           ant is entitled to an award of damages under this  
7           Act, the Commission shall make an order directing  
8           the digital platform to pay to the complainant the  
9           sum to which the complainant is entitled on or be-  
10          fore a day named.

11          (c) ENFORCEMENT BY STATE ATTORNEYS GEN-  
12          ERAL.—If the attorney general of a State has reason to  
13          believe that an interest of the residents of the State has  
14          been or is threatened or adversely affected by any person  
15          who violates this Act or a rule promulgated under this Act,  
16          the attorney general of the State, as *parens patrie*, may  
17          bring a civil action on behalf of the residents of the State  
18          in any district court of the United States of competent  
19          jurisdiction for enforcement of this Act, including the rules  
20          promulgated under this Act.

21          (d) LIABILITY OF DIGITAL PLATFORM FOR ACTS  
22          AND OMISSIONS OF AGENTS.—In construing and enforce-  
23          ing the provisions of this Act, the act, omission, or failure  
24          of any officer, agent, or other person acting for or em-  
25          ployed by any digital platform or user, acting within the

1 scope of his employment, shall in every case be also  
 2 deemed to be the act, omission, or failure of the platform  
 3 or user as well as that of the person.

4 **SEC. 17. ENFORCEMENT BY COMMISSION AND DEPART-**  
 5 **MENT OF JUSTICE.**

6 (a) ORDERS.—

7 (1) ADMINISTRATIVE ORDER.—If the Commis-  
 8 sion believes that a person has violated or will vio-  
 9 late this Act, the Commission may issue and cause  
 10 to be served on the person an order requiring the  
 11 person, as applicable—

12 (A) to cease and desist, or refrain, from  
 13 the violation; or

14 (B) to pay restitution to any victim of the  
 15 violation.

16 (2) CIVIL ACTION TO ENFORCE ORDER.—The  
 17 Commission or the Attorney General may bring a  
 18 civil action in an appropriate district court of the  
 19 United States to enforce an order issued under para-  
 20 graph (1).

21 (b) CIVIL PENALTY.—

22 (1) IN GENERAL.—Any digital platform that  
 23 knowingly violates this Act shall be liable to the  
 24 United States for a civil penalty.

1           (2) SEPARATE OFFENSES.—Each distinct viola-  
 2           tion described in paragraph (1) shall be a separate  
 3           offense, and in case of continuing violation each day  
 4           shall be deemed a separate offense.

5           (3) DETERRENCE.—The Commission shall es-  
 6           tablish a civil penalty for a violation of this Act in  
 7           an amount that the Commission determines appro-  
 8           priate to deter future violations of this Act.

9           (4) ANNUAL CAP.—The total amount of civil  
 10          penalties imposed on a digital platform during a  
 11          year under paragraph (1) may not exceed 15 percent  
 12          of the total global revenue of the digital platform  
 13          during the preceding year.

14   **SEC. 18. PROCEEDINGS TO ENJOIN, SET ASIDE, ANNUL, OR**  
 15                   **SUSPEND ORDERS OF THE COMMISSION.**

16          (a) RIGHT TO APPEAL.—An appeal may be taken  
 17          from any decision or order of the Commission, by any per-  
 18          son who is aggrieved or whose interests are adversely af-  
 19          fected by the decision or order, to the United States Court  
 20          of Appeals for the District of Columbia or the United  
 21          States court of appeals for the circuit in which the person  
 22          resides.

23          (b) FILING NOTICE OF APPEAL; CONTENTS; JURIS-  
 24          DICTION; TEMPORARY ORDERS.—

1           (1) FILING NOTICE OF APPEAL.—An appeal de-  
2       scribed in subsection (a) shall be taken by filing a  
3       notice of appeal with the appropriate United States  
4       court of appeals not later than 30 days after the  
5       date on which public notice is given of the decision  
6       or order complained of.

7           (2) CONTENTS.—A notice of appeal filed under  
8       paragraph (1) shall contain—

9           (A) a concise statement of the nature of  
10       the proceedings as to which the appeal is taken;

11          (B) a concise statement of the reasons on  
12       which the appellant intends to rely, separately  
13       stated and numbered; and

14          (C) proof of service of a true copy of the  
15       notice and statements upon the Commission.

16          (3) JURISDICTION.—Upon the filing of a notice  
17       of appeal with a United States court of appeals  
18       under paragraph (1), the court—

19          (A) shall have jurisdiction of the pro-  
20       ceedings and of the questions determined there-  
21       in; and

22          (B) shall have power, by order, directed to  
23       the Commission or any other party to the ap-  
24       peal, to grant such temporary relief as the  
25       court may deem just and proper.

1           (4) TEMPORARY ORDERS.—An order granting  
 2           temporary relief issued by the court under para-  
 3           graph (3)—

4                   (A) may be affirmative or negative in scope  
 5           and application so as to permit—

6                           (i) the maintenance of the status quo  
 7                           in the matter in which the appeal is taken;  
 8                           or

9                           (ii) the restoration of a position or  
 10                          status terminated or adversely affected by  
 11                          the order appealed from; and

12                   (B) shall, unless otherwise ordered by the  
 13                   court, be effective pending hearing and deter-  
 14                   mination of the appeal and compliance by the  
 15                   Commission with the final judgment of the  
 16                   court rendered in the appeal.

17           (c) NOTICE TO INTERESTED PARTIES; FILING OF  
 18           RECORD.—

19                   (1) NOTICE TO INTERESTED PARTIES.—Not  
 20                   later than 5 days after filing a notice of appeal  
 21                   under subsection (b), the appellant shall provide, to  
 22                   each person shown by the records of the Commission  
 23                   to be interested in the appeal, notice of—

24                           (A) the filing; and

25                           (B) the pendency of the appeal.

1           (2) FILING OF RECORD.—The Commission shall  
 2       file with the court the record upon which the order  
 3       complained of was entered, as provided in section  
 4       2112 of title 28, United States Code.

5       (d) INTERVENTION.—

6           (1) RIGHT TO INTERVENE.—Not later than 30  
 7       days after the filing of an appeal described in sub-  
 8       section (a), any interested party may intervene and  
 9       participate in the proceedings had upon the appeal  
 10      by filing with the court—

11           (A) a notice of intention to intervene and  
 12           a verified statement showing the nature of the  
 13           interest of the person; and

14           (B) proof of service of true copies of the  
 15           notice and statement described in subparagraph

16           (A) upon—

17                   (i) the appellant; and

18                   (ii) the Commission.

19           (2) INTERESTED PARTY.—For purposes of  
 20       paragraph (1), any person who would be aggrieved  
 21       or whose interest would be adversely affected by a  
 22       reversal or modification of the order of the Commis-  
 23       sion complained of shall be considered an interested  
 24       party.

1       (e) RECORD AND BRIEFS.—The record and briefs  
2 upon which an appeal described in subsection (a) shall be  
3 heard and determined by the court shall contain such in-  
4 formation and material, and shall be prepared within such  
5 time and in such manner, as the court may by rule pre-  
6 scribe.

7       (f) TIME OF HEARING; PROCEDURE.—The court  
8 shall hear and determine an appeal described in subsection  
9 (a) upon the record before it in the manner prescribed by  
10 section 706 of title 5, United States Code.

11       (g) REMAND.—If the court renders a decision and en-  
12 ters an order reversing the order of the Commission—

13               (1) the court shall remand the case to the Com-  
14 mission to carry out the judgment of the court; and

15               (2) the Commission, in the absence of pro-  
16 ceedings to review the judgment under paragraph  
17 (1) or (2) of subsection (i), shall forthwith give ef-  
18 fect to the judgment, and unless otherwise ordered  
19 by the court, shall do so upon the basis of—

20                       (A) the proceedings already had; and

21                       (B) the record upon which the appeal was  
22 heard and determined.

23       (h) JUDGMENT FOR COSTS.—The court may, in its  
24 discretion, enter judgment for costs in favor of or against  
25 an appellant, or other interested parties intervening in the

1 appeal, but not against the Commission, depending upon  
 2 the nature of the issues involved in the appeal and the  
 3 outcome of the appeal.

4 (i) FINALITY OF DECISION; REVIEW BY SUPREME  
 5 COURT.—The judgment of a court of appeals under this  
 6 section shall be final, subject to review by the Supreme  
 7 Court of the United States—

8 (1) upon writ of certiorari on petition therefor  
 9 under section 1254 of title 28, United States Code,  
 10 by—

11 (A) the appellant;

12 (B) the Commission; or

13 (C) any interested party intervening in the  
 14 appeal; or

15 (2) by certification by the court of appeals  
 16 under such section 1254.

17 **SEC. 19. REPORT TO CONGRESS.**

18 (a) IN GENERAL.—Not earlier than 5 years after the  
 19 date of enactment of this Act, the President shall establish  
 20 an independent panel to—

21 (1) comprehensively study the policies, oper-  
 22 ations, and regulations of the Commission; and

23 (2) submit an in-depth report to the congres-  
 24 sional committees of jurisdiction, including the Com-  
 25 mittee on Commerce, Science, and Transportation of

1 the Senate and the Committee on Energy and Com-  
 2 merce of the House of Representatives, that in-  
 3 cludes—

4 (A) an evaluation of the effectiveness of  
 5 the Commission in achieving the purposes  
 6 under section 4(b);

7 (B) recommended reforms to strengthen  
 8 the Commission; and

9 (C) a recommendation regarding whether  
 10 the Commission should continue in effect.

11 (b) MEMBERSHIP.—The independent panel estab-  
 12 lished under subsection (a) shall consist of 10 members,  
 13 of whom—

14 (1) 2 shall be appointed by the President;

15 (2) 2 shall be appointed by the majority leader  
 16 of the Senate;

17 (3) 2 shall be appointed by the minority leader  
 18 of the Senate;

19 (4) 2 shall be appointed by the Speaker of the  
 20 House of Representatives; and

21 (5) 2 shall be appointed by the minority leader  
 22 of the House of Representatives.

23 **SEC. 20. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated to the Com-  
 25 mission to carry out the functions of the Commission—

- 1           (1) \$100,000,000 for fiscal year 2023;
- 2           (2) \$200,000,000 for fiscal year 2024;
- 3           (3) \$300,000,000 for fiscal year 2025;
- 4           (4) \$450,000,000 for fiscal year 2026; and
- 5           (5) \$500,000,000 for each of fiscal years 2027
- 6           through 2032.

