

118TH CONGRESS
2D SESSION

H. R. 9126

To require digital social companies to adopt terms of service that meet certain minimum requirements.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2024

Ms. PORTER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require digital social companies to adopt terms of service that meet certain minimum requirements.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Digital Social Platform
5 Transparency Act”.

6 **SEC. 2. TERMS OF SERVICE REQUIREMENT.**

7 (a) TERMS OF SERVICE.—Not later than 180 days
8 after the date of enactment of this Act, digital social com-
9 panies shall post terms of service for each digital social
10 platform owned or operated by the company in a manner

1 reasonably designed to inform all users of the digital social
2 platform of the existence and contents of the terms of
3 service. The terms of service posted pursuant to this sec-
4 tion shall include each of the following:

5 (1) Contact information for the purpose of al-
6 lowing users to ask the digital social company ques-
7 tions about the terms of service.

8 (2) A description of the process that users must
9 follow to flag content, groups, or other users that
10 they believe violate the terms of service, and the dig-
11 ital social company's commitments on response and
12 resolution time.

13 (3) A list of potential actions the digital social
14 company may take against an item of content or a
15 user, including demonetization, deprioritization,
16 muting, or banning.

17 (b) TRANSLATIONS.—The terms of service posted
18 pursuant to this section shall be made available in all lan-
19 guages in which the digital social platform offers product
20 features, including menus and prompts.

21 **SEC. 3. REPORTING REQUIREMENT.**

22 (a) TERMS OF SERVICE REPORT.—Not later than
23 360 days after the date of enactment of this Act, and on
24 a semiannual basis thereafter, each digital social company

1 shall electronically submit to the Attorney General a terms
2 of service report.

3 (b) CONTENTS OF TERMS OF SERVICE REPORT.—

4 The terms of service report shall include, for each digital
5 social platform owned or operated by the company, each
6 of the following:

7 (1) The version of the terms of service of the
8 digital social platform in effect on the date of the re-
9 port.

10 (2) If applicable, a complete and detailed de-
11 scription of any changes to the terms of service since
12 the previous report.

13 (3) A statement of whether the version of the
14 terms of service in effect on the date of the report
15 defines each of the following categories of content
16 (or any substantially similar categories), and, if so,
17 the definitions of those categories, including any
18 subcategories:

19 (A) Hate speech or racism.

20 (B) Extremism or radicalization.

21 (C) Disinformation or misinformation.

22 (D) Harassment.

23 (E) Foreign political interference.

1 (4) A detailed description of content moderation
2 practices used by the digital social company for that
3 platform, including each of the following:

4 (A) Any existing policies intended to ad-
5 dress the categories of content described in
6 paragraph (3).

7 (B) How automated content moderation
8 systems enforce terms of service of the digital
9 social platform and when these systems involve
10 human review.

11 (C) How the digital social company re-
12 sponds to user reports of violations of the terms
13 of service.

14 (D) What standards, policies, or decision-
15 making systems the digital social company em-
16 ploys when deciding to action individual pieces
17 of content, users, or groups.

18 (5) Information on content that was flagged to
19 the digital social company as belonging to any of the
20 categories described in paragraph (3), including each
21 of the following:

22 (A) The total number of flagged items of
23 content.

24 (B) The total number of actioned items of
25 content.

1 (C) The total number of actioned items of
2 content that were removed, demonetized,
3 deprioritized, muted, or banned by the digital
4 social company, disaggregated by each type of
5 action.

6 (D) The number of times actioned items of
7 content were viewed by users.

8 (E) The number of times actioned items of
9 content were shared, and the number of users
10 that viewed the content before it was actioned.

11 (F) The number of times users appealed
12 digital social company actions taken on that
13 platform.

14 (G) The number of reversals of digital so-
15 cial company actions on appeal disaggregated
16 by each type of action.

17 (6) All information required by paragraphs (4)
18 and (5) shall be disaggregated into the following cat-
19 egories:

20 (A) The category of content, including any
21 relevant categories described in paragraph (3).

22 (B) The type of content, including posts,
23 comments, messages, in-game structures or ob-
24 jects, or profiles of users, or groups of users.

1 (C) The type of media of the content, in-
2 cluding text, images, videos, and audio.

3 (D) How the content was flagged, includ-
4 ing flagged by company employees or contrac-
5 tors, flagged by artificial intelligence software,
6 flagged by community moderators, flagged by
7 civil society partners, and flagged by users.

8 (E) How the content was actioned, includ-
9 ing actioned by company employees or contrac-
10 tors, actioned by artificial intelligence software,
11 or actioned by community moderators.

12 (c) ACTIVITY REPORT.—A digital social company
13 shall report—

14 (1) activity within the third and fourth quarters
15 of the preceding calendar year, to the Attorney Gen-
16 eral no later than April 1 of each year; and

17 (2) activity within the first and second quarters
18 of the current calendar year, to the Attorney Gen-
19 eral no later than October 1 of each year.

20 (d) REPOSITORY.—The Attorney General shall make
21 all terms of service reports submitted pursuant to this sec-
22 tion available to the public in a searchable repository on
23 its official internet website.

1 **SEC. 4. PENALTIES FOR LACK OF SUBMISSION.**

2 (a) ADMINISTRATIVE ASSESSMENT.—A digital social
3 company that violates the provisions of this Act shall be
4 liable for an administrative assessment not to exceed
5 \$15,000 per violation per day.

6 (b) VIOLATIONS.—A digital social company shall be
7 considered in violation of the provisions of this Act for
8 each day the digital social company does any of the fol-
9 lowing:

10 (1) Fails to post terms of service in accordance
11 with section 2.

12 (2) Fails to timely submit to the Attorney Gen-
13 eral a report required pursuant to section 3.

14 (3) Materially omits or misrepresents required
15 information in a report submitted pursuant to sec-
16 tion 3.

17 (c) RELIEF.—The Attorney General has the exclusive
18 authority to bring an action in any court of competent
19 jurisdiction, upon their own complaint or upon the com-
20 plaint of any board, officer, person, corporation, or asso-
21 ciation, to enjoin a violation of this Act by a digital social
22 company.

23 (d) DEPOSITS INTO FUND.—

24 (1) ESTABLISHMENT.—There is established in
25 the Treasury a separate account to be known as the

1 Digital Social Platform Terms of Service Fund
2 (hereinafter referred to as the “Fund”).

3 (2) DEPOSITS.—There shall be deposited in the
4 Fund one-half of the administrative assessment
5 funds collected pursuant to this section, which funds
6 may be used to maintain the reporting website and
7 support the enforcement of this Act.

8 **SEC. 5. DUTIES AND OBLIGATIONS; REMEDIES AND PEN-**
9 **ALTIES.**

10 (a) DUTIES AND OBLIGATIONS.—The duties and obli-
11 gations authorized under this Act are cumulative to any
12 other duties or obligations imposed under local, State, or
13 Federal law and shall not be construed to relieve any party
14 from any duties or obligations imposed under law.

15 (b) REMEDIES AND PENALTIES.—Remedies or pen-
16 alties authorized under this Act are cumulative to any
17 other remedies or penalties available under local law, State
18 law, this Act or any other Federal law.

19 **SEC. 6. RULES OF CONSTRUCTION.**

20 (a) LIMITATION ON APPLICATION.—This Act may
21 not be construed to apply to an internet-based service or
22 application for which interactions between users are lim-
23 ited to direct messages, commercial transactions, con-
24 sumer reviews of products, sellers, services, events, or
25 places, or any combination thereof.

1 (b) END-TO-END ENCRYPTION.—This Act may not
2 be construed to require or encourage any internet-based
3 service or application to change the effectiveness of end-
4 to-end encryption of that service or application.

5 **SEC. 7. DEFERENCE TO AGENCY INTERPRETATIONS.**

6 Notwithstanding section 706 of title 5, United States
7 Code, the Attorney General may make such interpreta-
8 tions and determinations as are reasonable and necessary
9 to carry out this Act, with respect to which courts shall
10 defer.

11 **SEC. 8. DEFINITIONS.**

12 In this Act:

13 (1) ACTIONED.—The term “actioned” means
14 that a digital social company, due to a suspected or
15 confirmed violation of the terms of service, has
16 taken some form of action, including removal, de-
17 monetization, deprioritization, muting, suspending,
18 or banning, against a relevant user or relevant item
19 of content.

20 (2) CONTENT.—The term “content” means
21 statements, posts, comments, messages, videos,
22 audio, images, in-game structures or other user-cre-
23 ated objects, or profiles of users or groups of users,
24 or structures that are created, posted, shared, or
25 otherwise interacted with by users on an internet-

1 based service or application. The term “content”
2 does not include media put on a service or applica-
3 tion exclusively for the purpose of cloud storage,
4 transmitting files, or file collaboration.

5 (3) DIGITAL SOCIAL COMPANY.—The term
6 “digital social company” means a person or entity
7 that owns or operates one or more digital social plat-
8 forms, including social media platforms and online
9 games.

10 (4) DIGITAL SOCIAL PLATFORM.—

11 (A) IN GENERAL.—The term “digital so-
12 cial platform” means a public or semipublic
13 internet-based service or application that has
14 users in the United States and that meets the
15 following criteria:

16 (i) A substantial function of the serv-
17 ice or application is to introduce users in
18 order to allow users to interact socially
19 with each other within the service or appli-
20 cation.

21 (ii) The service or application allows
22 users to do each of the following:

23 (I) Construct a public or
24 semipublic profile for purposes of

1 signing into and using the service or
2 application.

3 (II) Populate a list of other users
4 with whom an individual shares a so-
5 cial connection within the system.

6 (III) Create or post content
7 viewable by other groups or commu-
8 nities of users, including on message
9 boards, in chat rooms, or through a
10 landing page or main feed.

11 (iii) A service or application that gen-
12 erates more than \$100,000,000 in gross
13 revenue during the preceding calendar
14 year.

15 (B) EXCLUSION.—The term “digital social
16 platform” does not include a service or applica-
17 tion that provides email or direct messages,
18 commercial transactions, consumer reviews of
19 products, sellers, services, events, or places, or
20 any combination thereof on the basis of that
21 function alone.

22 (5) END-TO-END ENCRYPTION.—The term
23 “end-to-end encryption” means communications
24 encryption in which data is encrypted when being

1 passed through a network, but routing information
2 remains visible.

3 (6) PUBLIC OR SEMIPUBLIC INTERNET-BASED
4 SERVICE OR APPLICATION.—The term “public or
5 semipublic internet-based service or application” ex-
6 cludes a service or application used to facilitate com-
7 munication within a business or enterprise among
8 employees or affiliates of the business or enterprise,
9 provided that access to the service or application is
10 restricted to employees or affiliates of the business
11 or enterprise using the service or application.

12 (7) TERMS OF SERVICE.—The term “terms of
13 service” means a policy or set of policies adopted by
14 a digital social company that specifies, at least, the
15 user behavior and activities that are permitted on
16 the internet-based service owned or operated by the
17 digital social company, and the user behavior and
18 activities that may subject the user or an item of
19 content to being actioned.

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