

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address trafficking of persons, including children under the age of 18, on the platforms of such companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address trafficking of persons, including children under the age of 18, on the platforms of such companies, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the [“_____ Act
5 of 2021”].

1 **SEC. 2. REASONABLE CONTENT MODERATION POLICIES**
2 **AND PRACTICES TO ADDRESS TRAFFICKING**
3 **OF PERSONS.**

4 (a) IN GENERAL.—Each covered company shall im-
5 plement and maintain reasonable content moderation poli-
6 cies and practices to address trafficking of persons, includ-
7 ing children under the age of 18, on such covered com-
8 pany’s platform, taking into consideration—

9 (1) the size of, and the nature, scope, and com-
10 plexity of the activities engaged in by, such covered
11 company; and

12 (2) the current state of the art in administra-
13 tive, technical, and technological means for moder-
14 ating such content.

15 (b) MATTERS REQUIRED TO BE INCLUDED.—Each
16 covered company shall maintain content moderation poli-
17 cies and practices that include the following:

18 (1) A written content moderation policy with re-
19 spect to identifying and removing content regarding
20 the trafficking of persons, including children under
21 the age of 18, on such covered company’s platform.

22 (2) The identification of an officer or other in-
23 dividual as the point of contact with responsibility
24 for the management of the covered company’s con-
25 tent moderation policies and practices regarding the

1 trafficking of persons, including children under the
2 age of 18.

3 (3) A process for identifying content regarding
4 the trafficking of persons, including children under
5 the age of 18, on such covered company's platform.

6 (4) A process for taking preventive measures to
7 mitigate against reasonably foreseeable content re-
8 garding the trafficking of persons, including children
9 under the age of 18, on such covered company's
10 platform.

11 (5) A process for employee training and super-
12 vision for implementation of the policies, practices,
13 and procedures required by this Act.

14 (c) MONITORING, EVALUATION, AND ADJUST-
15 MENT.—Not less frequently than every 12 months, each
16 covered company shall monitor, evaluate, and adjust, as
17 appropriate, the content moderation policies and practices
18 of such covered company in light of any relevant changes
19 in—

20 (1) technology; and

21 (2) the changing business arrangements of the
22 covered company, such as—

23 (A) mergers and acquisitions;

24 (B) alliances and joint ventures;

25 (C) outsourcing arrangements;

1 (D) bankruptcy; and
2 (E) changes to personal information sys-
3 tems.

4 **SEC. 3. FTC-APPROVED COMPLIANCE GUIDELINES.**

5 (a) IN GENERAL.—A covered company or group of
6 covered companies may apply to the Commission for ap-
7 proval of one or more sets of self-regulatory guidelines re-
8 lated to content moderation policies and practices to ad-
9 dress trafficking of persons, including children under the
10 age of 18, on such covered company’s platform or such
11 group of covered companies’ platforms.

12 (b) COMMISSION REVIEW.—

13 (1) INITIAL APPROVAL.—

14 (A) OPPORTUNITY FOR PUBLIC COM-
15 MENT.—As soon as feasible after the receipt of
16 proposed guidelines submitted under subsection
17 (a), the Commission shall provide an oppor-
18 tunity for public comment on such proposed
19 guidelines.

20 (B) REQUIREMENTS FOR APPROVAL.—The
21 Commission shall approve an application re-
22 garding proposed guidelines under subsection
23 (a) if the applicant demonstrates that such
24 guidelines—

1 (i) meet or exceed the requirements of
2 this Act;

3 (ii) provide for the regular review and
4 validation by an independent organization
5 not associated with the covered company or
6 group of covered companies and approved
7 by the Commission to conduct such reviews
8 of the content moderation policies and
9 practices of such covered company or
10 group of covered companies to ensure that
11 such covered company or group of covered
12 companies continues to meet or exceed the
13 requirements of this Act; and

14 (iii) include a means of enforcement if
15 the covered company or group of covered
16 companies does not meet or exceed the re-
17 quirements of this Act, which may include
18 referral to the Commission for enforcement
19 consistent with section 4.

20 (C) DEADLINE.—Not later than **180**
21 **days** after receiving an application for ap-
22 proval of proposed guidelines submitted under
23 subsection (a), the Commission shall issue a de-
24 termination approving or denying such applica-

1 tion and providing its reasons for approving or
2 denying such application.

3 (2) APPROVAL OF MODIFICATIONS.—

4 (A) APPROVAL REQUIRED.—If a covered
5 company or group of covered companies makes
6 material changes to guidelines previously ap-
7 proved by the Commission, such covered com-
8 pany or group of covered companies shall sub-
9 mit the updated guidelines to the Commission
10 for approval.

11 (B) DEADLINE.—Not later than **90**
12 **days**] after a covered company or group of cov-
13 ered companies submits to the Commission up-
14 dated guidelines under subparagraph (A), the
15 Commission shall approve or deny any material
16 change to the guidelines.

17 (3) WITHDRAWAL OF APPROVAL.—If at any
18 time the Commission determines that the guidelines
19 previously approved no longer meet the requirements
20 of this Act or that compliance with the approved
21 guidelines is insufficiently enforced by the covered
22 company or group of covered companies, the Com-
23 mission shall notify such covered company or group
24 of covered companies of its intention to withdraw
25 approval of such guidelines and the basis for doing

1 so. If, not later than 90 days after receipt of such
2 notice, such covered company or group of covered
3 companies cures any such alleged deficiency, the
4 Commission may not withdraw approval of such
5 guidelines.

6 (c) **SAFE HARBOR.**—A covered company shall be
7 deemed in compliance with this Act if such covered com-
8 pany is in compliance with guidelines approved by the
9 Commission under this section. If such covered company
10 is not in compliance with guidelines approved under this
11 section, such covered company is subject to enforcement
12 under section 4.

13 **SEC. 4. ENFORCEMENT.**

14 (a) **ENFORCEMENT BY FEDERAL TRADE COMMIS-**
15 **SION.**—

16 (1) **UNFAIR OR DECEPTIVE ACTS OR PRAC-**
17 **TICES.**—A violation of this Act shall be treated as
18 a violation of a rule defining an unfair or deceptive
19 act or practice prescribed under section 18(a)(1)(B)
20 of the Federal Trade Commission Act (15 U.S.C.
21 57a(a)(1)(B)).

22 (2) **ACTIONS BY THE COMMISSION.**—The Com-
23 mission shall enforce this Act in the same manner,
24 by the same means, and with the same jurisdiction,
25 powers, and duties as though all applicable terms

1 and provisions of the Federal Trade Commission Act
2 (15 U.S.C. 41 et seq.) were incorporated into and
3 made a part of this Act, and any covered company
4 that violates this Act shall be subject to the pen-
5 alties and entitled to the privileges and immunities
6 provided in the Federal Trade Commission Act.

7 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
8 ERAL.—

9 (1) IN GENERAL.—If the attorney general of a
10 State has reason to believe that any covered com-
11 pany has violated or is violating this Act that affects
12 one or more residents of that State, the attorney
13 general of the State may bring a civil action exclu-
14 sively in an appropriate district court of the United
15 States to—

16 (A) enjoin further such violation by the de-
17 fendant;

18 (B) enforce compliance with this Act;

19 (C) obtain civil penalties in the amount
20 provided for under subsection (a);

21 (D) obtain other remedies permitted under
22 State law; or

23 (E) obtain damages, restitution, or other
24 compensation on behalf of residents of the
25 State.

1 (2) NOTICE.—The attorney general of a State
2 shall provide prior written notice of any action under
3 paragraph (1) to the Commission and provide the
4 Commission with a copy of the complaint in the ac-
5 tion, except in any case in which such prior notice
6 is not feasible, in which case the attorney general
7 shall serve such notice immediately upon instituting
8 such action.

9 (3) INTERVENTION BY THE FTC.—Upon receiv-
10 ing notice under paragraph (2), the Commission
11 shall have the right—

12 (A) to intervene in the action;

13 (B) upon so intervening, to be heard on all
14 matters arising therein; and

15 (C) to file petitions for appeal.

16 (4) LIMITATION ON STATE ACTION WHILE FED-
17 ERAL ACTION IS PENDING.—If the Commission has
18 instituted a civil action for violation of this Act, no
19 State attorney general may bring a separate action
20 under paragraph (1) during the pendency of the ac-
21 tion of the Commission against any defendant
22 named in the complaint of the Commission for any
23 violation of this Act that is alleged in the complaint.
24 A State attorney general may join a civil action for
25 a violation of this Act filed by the Commission.

1 (5) RULE OF CONSTRUCTION.—For purposes of
2 bringing a civil action under paragraph (1), nothing
3 in this Act shall be construed to prevent the attor-
4 ney general of a State from exercising the powers
5 conferred on such attorney general by the laws of
6 the State to conduct investigations, administer oaths
7 or affirmations, or compel the attendance of wit-
8 nesses or the production of documentary and other
9 evidence.

10 (6) ACTIONS BY OTHER STATE OFFICIALS.—

11 (A) IN GENERAL.—In addition to civil ac-
12 tions brought by attorneys general under para-
13 graph (1), any other officer of a State who is
14 authorized by the State to do so, except for any
15 private person on behalf of the State, may bring
16 a civil action under paragraph (1), subject to
17 the same requirements and limitations that
18 apply under this subsection to civil actions
19 brought by attorneys general.

20 (B) SAVINGS PROVISION.—Nothing in this
21 subsection may be construed to prohibit an au-
22 thorized official of a State from initiating or
23 continuing any proceeding in a court of the
24 State for a violation of any civil or criminal law
25 of the State.

1 **SEC. 5. RELATIONSHIP BETWEEN FEDERAL AND STATE**
2 **LAW.**

3 No State or political subdivision of a State may
4 adopt, maintain, enforce, or continue in effect any law,
5 regulation, rule, requirement, or standard that conflicts
6 with the requirements of this Act.

7 **SEC. 6. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—The term “Commission”
10 means the Federal Trade Commission.

11 [(2) COVERED COMPANY.—The term “covered
12 company” means a company that provides any inter-
13 net platform that—]

14 [(A) generates \$1,000,000,000 or more in
15 annual revenue; and]

16 [(B) has 100,000,000 or more global ac-
17 tive users.]

18 [(3) TRAFFICKING OF PERSONS.—The term
19 “trafficking of persons” means conduct that would
20 constitute a violation of section 1591 of title 18,
21 United States Code, except that, in determining for
22 purposes of this paragraph whether conduct would
23 constitute such a violation, the matter following
24 paragraph (2) of subsection (a) of such section shall
25 be applied by striking “has not attained the age of
26 18 years and”.]