

**[DISCUSSION DRAFT]**117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R.** \_\_\_\_\_

To require app store operators to submit to the Federal Trade Commission annual filings regarding the app store conduct policies of such operators, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. SCALISE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To require app store operators to submit to the Federal Trade Commission annual filings regarding the app store conduct policies of such operators, 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. FILINGS REGARDING APP STORE CONDUCT POLI-**  
2 **CIES.**

3 (a) ANNUAL FILINGS.—Each app store operator shall  
4 submit to the Commission, on an annual basis, a detailed  
5 description of such operator’s app store conduct policies  
6 that includes the following:

7 (1) How such operator determines whether an  
8 application is approved to be offered for download  
9 on its app store, including—

10 (A) the criteria for approval;

11 (B) whether such determination is made by  
12 humans, automated technology, or a combina-  
13 tion thereof; and

14 (C) how the app developer receives notice  
15 of such determination.

16 (2) How such operator determines whether an  
17 application violates its app store conduct policies, in-  
18 cluding—

19 (A) the criteria used to determine whether  
20 an application has violated such policies;

21 (B) whether such determination is made by  
22 humans, automated technology, or a combina-  
23 tion thereof; and

24 (C) the category of employees who make  
25 the final determination to remove an application  
26 from the app store of such operator.

1           (3) In the case of an application that such oper-  
2           ator determines is in violation of its app store con-  
3           duct policies—

4                   (A) how the app developer receives notice  
5                   of such violation and (if applicable) removal of  
6                   the application from the app store;

7                   (B) whether there is a conditional period  
8                   for the app developer to address such violation  
9                   before the application is removed; and

10                   (C) whether there is a process for appeal-  
11                   ing such determination, including the steps an  
12                   app developer must take for the application to  
13                   be reinstated on the app store.

14           (4) The process such operator undertakes to de-  
15           velop, maintain, and update its app store conduct  
16           policies, including—

17                   (A) any individuals involved in such pro-  
18                   cess;

19                   (B) how often such policies are reviewed  
20                   for updates and, if applicable, how often such  
21                   policies are updated; and

22                   (C) how such operator enforces changes  
23                   made to such policies and notifies app devel-  
24                   opers of any such changes.

1 (b) PUBLIC AVAILABILITY.—The Commission shall  
2 make publicly available on the website of the Commission  
3 the disclosures required under subsection (a). The app  
4 store operator filing such disclosures may claim any infor-  
5 mation included in such filing to be privileged and con-  
6 fidential and, upon coordination with the Commission,  
7 such information shall be treated as such for purposes of  
8 section 552(b)(4) of title 5, United States Code. If the  
9 Commission withholds any information included in the fil-  
10 ing, the Commission shall make publicly available on the  
11 website the category of information withheld and the pur-  
12 poses for doing so.

13 **SEC. 3. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

14 (a) IN GENERAL.—This Act shall be enforced by the  
15 Commission under the Federal Trade Commission Act (15  
16 U.S.C. 41 et seq.).

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

22 (c) ACTIONS BY THE COMMISSION.—

23 (1) IN GENERAL.—The Commission shall pre-  
24 vent any person from violating this Act in the same  
25 manner, by the same means, and with the same ju-

1 jurisdiction, powers, and duties as though all applica-  
2 ble terms and provisions of the Federal Trade Com-  
3 mission Act (15 U.S.C. 41 et seq.) were incor-  
4 porated into and made a part of this Act.

5 (2) PENALTIES AND PRIVILEGES.—Any person  
6 who violates this Act shall be subject to the penalties  
7 and entitled to the privileges and immunities pro-  
8 vided in the Federal Trade Commission Act (15  
9 U.S.C. 41 et seq.).

#### 10 **SEC. 4. DEFINITIONS.**

11 In this Act:

12 (1) APPLICATION.—The term “application”  
13 means a software application that may be  
14 downloaded by a consumer to a personal electronic  
15 device.

16 (2) APP DEVELOPER.—The term “app devel-  
17 oper” means, with respect to an application, the in-  
18 dividual or entity that created or owns the applica-  
19 tion.

20 (3) APP STORE.—The term “app store” means  
21 a digital distribution platform or marketplace that  
22 makes available for download by consumers at least  
23 400,000 applications.

1           (4) APP STORE OPERATOR.—The term “app  
2           store operator” means an entity that owns a major-  
3           ity interest in an app store.

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