

**[DISCUSSION DRAFT]**

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R.** \_\_\_\_\_

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address revenge porn on the platforms of such companies, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

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

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**A BILL**

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address revenge porn 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 REVENGE**  
3 **PORN.**

4 (a) IN GENERAL.—Each covered company shall im-  
5 plement and maintain reasonable content moderation poli-  
6 cies and practices to address revenge porn on such covered  
7 company’s platform, taking into consideration—

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

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

14 (b) MATTERS TO BE INCLUDED.—Each covered com-  
15 pany shall maintain content moderation policies and prac-  
16 tices that include the following:

17 (1) A written content moderation policy with re-  
18 spect to identifying and removing content regarding  
19 revenge porn on such covered company’s platform.

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

25 (3) A process for identifying content regarding  
26 revenge porn on such covered company’s platform.

1           (4) A process for taking preventive measures to  
2 mitigate against reasonably foreseeable content re-  
3 garding revenge porn on such covered company's  
4 platform.

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

8           (c) MONITORING, EVALUATION, AND ADJUST-  
9 MENT.—Not less frequently than every 12 months, each  
10 covered company shall monitor, evaluate, and adjust, as  
11 appropriate, the content moderation policies and practices  
12 of such covered company in light of any relevant changes  
13 in—

14           (1) technology; and

15           (2) the changing business arrangements of the  
16 covered entity, such as—

17           (A) mergers and acquisitions;

18           (B) alliances and joint ventures;

19           (C) outsourcing arrangements;

20           (D) bankruptcy; and

21           (E) changes to personal information sys-  
22 tems.

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

24           (a) IN GENERAL.—A covered company or group of  
25 covered companies may apply to the Commission for ap-

1 proval of one or more sets of self-regulatory guidelines re-  
2 lated to content moderation policies and practices to ad-  
3 dress revenge porn on such covered company's platform  
4 or such group of covered companies' platforms.

5 (b) COMMISSION REVIEW.—

6 (1) INITIAL APPROVAL.—

7 (A) OPPORTUNITY FOR PUBLIC COM-  
8 MENT.—As soon as feasible after the receipt of  
9 proposed guidelines submitted under subsection  
10 (a), the Commission shall provide an oppor-  
11 tunity for public comment on such proposed  
12 guidelines.

13 (B) REQUIREMENTS FOR APPROVAL.—The  
14 Commission shall approve an application re-  
15 garding proposed guidelines under subsection  
16 (a) if the applicant demonstrates that such  
17 guidelines—

18 (i) meet or exceed the requirements of  
19 this Act;

20 (ii) provide for the regular review and  
21 validation by an independent organization  
22 not associated with the covered company or  
23 group of covered companies and approved  
24 by the Commission to conduct such reviews  
25 of the content moderation policies and

1 practices of such covered company or  
2 group of covered companies to ensure that  
3 such covered company or group of covered  
4 companies continues to meet or exceed the  
5 requirements of this Act; and

6 (iii) include a means of enforcement if  
7 the covered company or group of covered  
8 companies does not meet or exceed the re-  
9 quirements of this Act, which may include  
10 referral to the Commission for enforcement  
11 consistent with section 4.

12 (C) DEADLINE.—Not later than **180**  
13 **days** after receiving an application for ap-  
14 proval of proposed guidelines submitted under  
15 subsection (a), the Commission shall issue a de-  
16 termination approving or denying such applica-  
17 tion and providing its reasons for approving or  
18 denying such application.

19 (2) APPROVAL OF MODIFICATIONS.—

20 (A) APPROVAL REQUIRED.—If a covered  
21 company or group of covered companies makes  
22 material changes to guidelines previously ap-  
23 proved by the Commission, such covered com-  
24 pany or group of covered companies shall sub-

1 mit the updated guidelines to the Commission  
2 for approval.

3 (B) DEADLINE.—Not later than [90  
4 days] after a covered company or group of cov-  
5 ered companies submits to the Commission up-  
6 dated guidelines under subparagraph (A), the  
7 Commission shall approve or deny any material  
8 change to the guidelines.

9 (3) WITHDRAWAL OF APPROVAL.—If at any  
10 time the Commission determines that the guidelines  
11 previously approved no longer meet the requirements  
12 of this Act or that compliance with the approved  
13 guidelines is insufficiently enforced by the covered  
14 company or group of covered companies, the Com-  
15 mission shall notify such covered company or group  
16 of covered companies of its intention to withdraw  
17 approval of such guidelines and the basis for doing  
18 so. If, not later than 90 days after receipt of such  
19 notice, such covered company or group of covered  
20 companies cures any such alleged deficiency, the  
21 Commission may not withdraw approval of such  
22 guidelines.

23 (c) SAFE HARBOR.—A covered company shall be  
24 deemed in compliance with this Act if such covered com-  
25 pany is in compliance with guidelines approved by the

1 Commission under this section. If such covered company  
2 is not in compliance with guidelines approved under this  
3 section, such covered company is subject to enforcement  
4 under section 4.

5 **SEC. 4. ENFORCEMENT.**

6 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
7 SION.—

8 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
9 TICES.—A violation of this Act shall be treated as  
10 a violation of a rule defining an unfair or deceptive  
11 act or practice prescribed under section 18(a)(1)(B)  
12 of the Federal Trade Commission Act (15 U.S.C.  
13 57a(a)(1)(B)).

14 (2) ACTIONS BY THE COMMISSION.—The Com-  
15 mission shall enforce this Act in the same manner,  
16 by the same means, and with the same jurisdiction,  
17 powers, and duties as though all applicable terms  
18 and provisions of the Federal Trade Commission Act  
19 (15 U.S.C. 41 et seq.) were incorporated into and  
20 made a part of this Act, and any covered company  
21 that violates this Act shall be subject to the pen-  
22 alties and entitled to the privileges and immunities  
23 provided in the Federal Trade Commission Act.

24 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-  
25 ERAL.—

1           (1) IN GENERAL.—If the attorney general of a  
2           State has reason to believe that any covered com-  
3           pany has violated or is violating this Act that affects  
4           one or more residents of that State, the attorney  
5           general of the State may bring a civil action exclu-  
6           sively in an appropriate district court of the United  
7           States to—

8                   (A) enjoin further such violation by the de-  
9                   fendant;

10                   (B) enforce compliance with this Act;

11                   (C) obtain civil penalties in the amount  
12                   provided for under subsection (a);

13                   (D) obtain other remedies permitted under  
14                   State law; or

15                   (E) obtain damages, restitution, or other  
16                   compensation on behalf of residents of the  
17                   State.

18           (2) NOTICE.—The attorney general of a State  
19           shall provide prior written notice of any action under  
20           paragraph (1) to the Commission and provide the  
21           Commission with a copy of the complaint in the ac-  
22           tion, except in any case in which such prior notice  
23           is not feasible, in which case the attorney general  
24           shall serve such notice immediately upon instituting  
25           such action.



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

4                   (A) to intervene in the action;

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

7                   (C) to file petitions for appeal.

8           (4) LIMITATION ON STATE ACTION WHILE FED-  
9           ERAL ACTION IS PENDING.—If the Commission has  
10          instituted a civil action for violation of this Act, no  
11          State attorney general may bring a separate action  
12          under paragraph (1) during the pendency of the ac-  
13          tion of the Commission against any defendant  
14          named in the complaint of the Commission for any  
15          violation of this Act that is alleged in the complaint.  
16          A State attorney general may join a civil action for  
17          a violation of this Act filed by the Commission.

18          (5) RULE OF CONSTRUCTION.—For purposes of  
19          bringing a civil action under paragraph (1), nothing  
20          in this Act shall be construed to prevent the attor-  
21          ney general of a State from exercising the powers  
22          conferred on such attorney general by the laws of  
23          the State to conduct investigations, administer oaths  
24          or affirmations, or compel the attendance of wit-

1 nesses or the production of documentary and other  
2 evidence.

3 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

13 (B) SAVINGS PROVISION.—Nothing in this  
14 subsection may be construed to prohibit an au-  
15 thorized official of a State from initiating or  
16 continuing any proceeding in a court of the  
17 State for a violation of any civil or criminal law  
18 of the State.

19 **SEC. 5. RELATIONSHIP BETWEEN FEDERAL AND STATE**  
20 **LAW.**

21 No State or political subdivision of a State may  
22 adopt, maintain, enforce, or continue in effect any law,  
23 regulation, rule, requirement, or standard that conflicts  
24 with the requirements of this Act.

1 **SEC. 6. DEFINITIONS.**

2 In this Act:

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

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

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

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

12 [(3) INTIMATE IMAGE.—The term “intimate  
13 image” means any photograph, motion picture film,  
14 videotape, digital image, or any other recording or  
15 transmission of another person who is identifiable  
16 from the image itself or from information displayed  
17 with or otherwise connected to the image, and that  
18 was taken in a private setting, is not a matter of  
19 public concern, and depicts—]

20 [(A) sexually explicit conduct (as defined  
21 in section 2256(2)(A) of title 18, United States  
22 Code); or]

23 [(B) the postpubescent female nipple.]

24 [(4) REVENGE PORN.—The term “revenge  
25 porn” means to intentionally engage in conduct that

1 discloses an intimate image of another person and  
2 the person disclosing the image—】

3 【(A) obtained such image under cir-  
4 cumstances in which a reasonable person would  
5 know or understand the image was to remain  
6 private;】

7 【(B) knows or should have known that the  
8 depicted person has not consented to the dislo-  
9 sure; and】

10 【(C) knows or reasonably should know  
11 that disclosure would cause harm to the de-  
12 picted person.】