[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 child pornography 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 ________________________

______________________________

A BILL

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address child pornography 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”].
SEC. 2. REASONABLE CONTENT MODERATION POLICIES AND PRACTICES TO ADDRESS CHILD PORNOGRAPHY.

(a) IN GENERAL.—Each covered company shall implement and maintain reasonable content moderation policies and practices to address child pornography on such covered company’s platform, taking into consideration—

(1) the size of, and the nature, scope, and complexity of the activities engaged in by, such covered company; and

(2) the current state of the art in administrative, technical, and technological means for moderating such content.

(b) MATTERS REQUIRED TO BE INCLUDED.—Each covered company shall maintain content moderation policies and practices that include the following:

(1) A written content moderation policy with respect to identifying and removing content regarding child pornography on such covered company’s platform.

(2) The identification of an officer or other individual as the point of contact with responsibility for the management of the covered company’s content moderation policies and practices regarding child pornography.
(3) A process for identifying content regarding child pornography on such covered company’s platform.

(4) A process for taking preventive measures to mitigate against reasonably foreseeable content regarding child pornography on such covered company’s platform.

(5) A process for employee training and supervision for implementation of the policies, practices, and procedures required by this Act.

(c) Monitoring, Evaluation, and Adjustment.—Not less frequently than every 12 months, each covered company shall monitor, evaluate, and adjust, as appropriate, the content moderation policies and practices of such covered company in light of any relevant changes in—

(1) technology; and

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

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to personal information systems.
SEC. 3. FTC-APPROVED COMPLIANCE GUIDELINES.

(a) IN GENERAL.—A covered company or group of covered companies may apply to the Commission for approval of one or more sets of self-regulatory guidelines related to content moderation policies and practices to address child pornography on such covered company’s platform or such group of covered companies’ platforms.

(b) COMMISSION REVIEW.—

(1) INITIAL APPROVAL.—

(A) OPPORTUNITY FOR PUBLIC COMMENT.—As soon as feasible after the receipt of proposed guidelines submitted under subsection (a), the Commission shall provide an opportunity for public comment on such proposed guidelines.

(B) REQUIREMENTS FOR APPROVAL.—The Commission shall approve an application regarding proposed guidelines under subsection (a) if the applicant demonstrates that such guidelines—

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

(ii) provide for the regular review and validation by an independent organization not associated with the covered company or group of covered companies and approved
by the Commission to conduct such reviews
of the content moderation policies and
practices of such covered company or
group of covered companies to ensure that
such covered company or group of covered
companies continues to meet or exceed the
requirements of this Act; and

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

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

(2) APPROVAL OF MODIFICATIONS.—

(A) APPROVAL REQUIRED.—If a covered
company or group of covered companies makes
material changes to guidelines previously ap-
proved by the Commission, such covered com-
pany or group of covered companies shall submit the updated guidelines to the Commission for approval.

(B) DEADLINE.—Not later than [90 days] after a covered company or group of covered companies submits to the Commission updated guidelines under subparagraph (A), the Commission shall approve or deny any material change to the guidelines.

(3) WITHDRAWAL OF APPROVAL.—If at any time the Commission determines that the guidelines previously approved no longer meet the requirements of this Act or that compliance with the approved guidelines is insufficiently enforced by the covered company or group of covered companies, the Commission shall notify such covered company or group of covered companies of its intention to withdraw approval of such guidelines and the basis for doing so. If, not later than 90 days after receipt of such notice, such covered company or group of covered companies cures any such alleged deficiency, the Commission may not withdraw approval of such guidelines.

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

SEC. 4. ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this Act shall be treated as
a violation of a rule defining an unfair or deceptive
act or practice prescribed under section 18(a)(1)(B)
57a(a)(1)(B)).

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

(1) IN GENERAL.—If the attorney general of a State has reason to believe that any covered company has violated or is violating this Act that affects one or more residents of that State, the attorney general of the State may bring a civil action exclusively in an appropriate district court of the United States to—

(A) enjoin further such violation by the defendant;

(B) enforce compliance with this Act;

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

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

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

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

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

(A) to intervene in the action;

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

(C) to file petitions for appeal.

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

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

(6) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to civil actions brought by attorneys general under paragraph (1), any other officer of a State who is authorized by the State to do so, except for any private person on behalf of the State, may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

SEC. 5. RELATIONSHIP BETWEEN FEDERAL AND STATE LAW.

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

In this Act:

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

(2) COVERED COMPANY.—The term “covered company” means a company that provides any internet platform that—

(A) generates $1,000,000,000 or more in annual revenue; and

(B) has 100,000,000 or more global active users.

(3) CHILD PORNOGRAPHY.—The term “child pornography” has the meaning given such term in section 2256 of title 18, United States Code.