

[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 \_\_\_\_\_

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**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”].

1 **SEC. 2. REASONABLE CONTENT MODERATION POLICIES**  
2 **AND PRACTICES TO ADDRESS CHILD POR-**  
3 **NOGRAPHY.**

4 (a) IN GENERAL.—Each covered company shall im-  
5 plement and maintain reasonable content moderation poli-  
6 cies and practices to address child pornography on such  
7 covered 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 REQUIRED TO BE INCLUDED.—Each  
15 covered company shall maintain content moderation poli-  
16 cies and practices that include the following:

17 (1) A written content moderation policy with re-  
18 spect to identifying and removing content regarding  
19 child pornography on such covered company’s plat-  
20 form.

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

1           (3) A process for identifying content regarding  
2 child pornography on such covered company's plat-  
3 form.

4           (4) A process for taking preventive measures to  
5 mitigate against reasonably foreseeable content re-  
6 garding child pornography on such covered com-  
7 pany's platform.

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

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

17           (1) technology; and

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

20                   (A) mergers and acquisitions;

21                   (B) alliances and joint ventures;

22                   (C) outsourcing arrangements;

23                   (D) bankruptcy; and

24                   (E) changes to personal information sys-  
25 tems.

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

2 (a) IN GENERAL.—A covered company or group of  
3 covered companies may apply to the Commission for ap-  
4 proval of one or more sets of self-regulatory guidelines re-  
5 lated to content moderation policies and practices to ad-  
6 dress child pornography on such covered company’s plat-  
7 form or such group of covered companies’ platforms.

8 (b) COMMISSION REVIEW.—

9 (1) INITIAL APPROVAL.—

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

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

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

23 (ii) provide for the regular review and  
24 validation by an independent organization  
25 not associated with the covered company or  
26 group of covered companies and approved

1 by the Commission to conduct such reviews  
2 of the content moderation policies and  
3 practices of such covered company or  
4 group of covered companies to ensure that  
5 such covered company or group of covered  
6 companies continues to meet or exceed the  
7 requirements of this Act; and

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

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

21 (2) APPROVAL OF MODIFICATIONS.—

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

1           pany or group of covered companies shall sub-  
2           mit the updated guidelines to the Commission  
3           for approval.

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

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

24          (c) SAFE HARBOR.—A covered company shall be  
25          deemed in compliance with this Act if such covered com-

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

6 **SEC. 4. ENFORCEMENT.**

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

9 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
10 TICES.—A violation of this Act shall be treated as  
11 a violation of a rule defining an unfair or deceptive  
12 act or practice prescribed under section 18(a)(1)(B)  
13 of the Federal Trade Commission Act (15 U.S.C.  
14 57a(a)(1)(B)).

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

1 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-  
2 ERAL.—

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

10 (A) enjoin further such violation by the de-  
11 fendant;

12 (B) enforce compliance with this Act;

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

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

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

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



1 shall serve such notice immediately upon instituting  
2 such action.

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

6 (A) to intervene in the action;

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

9 (C) to file petitions for appeal.

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

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

1 or affirmations, or compel the attendance of wit-  
2 nesses or the production of documentary and other  
3 evidence.

4 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

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

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

22 No State or political subdivision of a State may  
23 adopt, maintain, enforce, or continue in effect any law,  
24 regulation, rule, requirement, or standard that conflicts  
25 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) CHILD PORNOGRAPHY.**—The term “child  
13 pornography” has the meaning given such term in  
14 section 2256 of title 18, United States Code.**]**