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118TH CONGRESS
1ST SESSION

S. 1418

To amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and teens, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2023

Mr. MARKEY (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 13, 2023

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and teens, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Children and Teens’ Online Privacy Protection Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

- Sec. 1: Short title; table of contents.
- Sec. 2: Definitions.
- Sec. 3: Online collection, use, and disclosure of personal information of children and teens.
- Sec. 4: Fair Information Practices Principles.
- Sec. 5: Digital Marketing Bill of Rights for Teens.
- Sec. 6: Targeted marketing to children or teens.
- Sec. 7: Removal of content.
- Sec. 8: Rule for treatment of users of websites, services, and applications directed to children or teens.
- Sec. 9: Study of mobile and online application oversight.
- Sec. 10: Youth Privacy and Marketing Division.
- Sec. 11: Enforcement and applicability.
- Sec. 12: GAO study.

6 **SEC. 2. DEFINITIONS.**

7 (a) **IN GENERAL.**—In this Act:

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

10 (2) **STANDARDS.**—The term “standards” means
11 benchmarks, guidelines, best practices, methodolo-
12 gies, procedures, and processes.

13 (b) **OTHER DEFINITIONS.**—The definitions set forth
14 in section 1302 of the Children’s Online Privacy Protec-
15 tion Act of 1998 (15 U.S.C. 6501), as amended by section
16 3(a) of this Act, shall apply in this Act, except to the ex-
17 tent the Commission provides otherwise by regulations
18 issued under section 553 of title 5, United States Code.

1 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
2 **PERSONAL INFORMATION OF CHILDREN AND**
3 **TEENS.**

4 (a) DEFINITIONS.—Section 1302 of the Children’s
5 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
6 is amended—

7 (1) by amending paragraph (2) to read as fol-
8 lows:

9 “(2) OPERATOR.—The term ‘operator’—

10 “(A) means any person—

11 “(i) who, for commercial purposes, in
12 interstate or foreign commerce operates or
13 provides a website on the internet, an on-
14 line service, an online application, a mobile
15 application, or a connected device; and

16 “(ii) who—

17 “(I) collects or maintains, either
18 directly or through a service provider,
19 personal information from or about
20 the users of that website, service, ap-
21 plication, or connected device;

22 “(II) allows another person to
23 collect personal information directly
24 from users of that website, service,
25 application, or connected device (in

1 which case, the operator is deemed to
2 have collected the information); or

3 “(III) allows users of that
4 website, service, application, or con-
5 nected device to publicly disclose per-
6 sonal information (in which case, the
7 operator is deemed to have collected
8 the information); and

9 “(B) does not include any nonprofit entity
10 that would otherwise be exempt from coverage
11 under section 5 of the Federal Trade Commis-
12 sion Act (15 U.S.C. 45).”;

13 (2) in paragraph (4)—

14 (A) by amending subparagraph (A) to read
15 as follows:

16 “(A) the release of personal information
17 collected from a child or teen for any purpose,
18 except where the personal information is pro-
19 vided to a person other than an operator who—

20 “(i) provides support for the internal
21 operations of the website, online service,
22 online application, mobile application, or
23 connected device of the operator, excluding
24 any activity relating to targeted marketing

1 directed to children, teens, or connected
2 devices; and

3 “(ii) does not disclose or use that per-
4 sonal information for any other purpose;
5 and”; and

6 ~~(B)~~ in subparagraph ~~(B)~~—

7 (i) by inserting “or teen” after
8 “child” each place the term appears;

9 (ii) by inserting “or teens” after
10 “children”; and

11 (iii) by striking “website or online
12 service” and inserting “website, online
13 service, online application, mobile applica-
14 tion, or connected device”;

15 ~~(3)~~ in paragraph ~~(8)~~; by striking subparagraphs
16 ~~(F)~~ and ~~(G)~~ and inserting the following:

17 “~~(F)~~ geolocation information;

18 “~~(G)~~ information generated from the meas-
19 urement or technological processing of an indi-
20 vidual’s biological, physical, or physiological
21 characteristics, including—

22 “(i) fingerprints;

23 “(ii) voice prints;

24 “(iii) iris or retina imagery scans;

25 “(iv) facial imagery or templates;

1 “(v) deoxyribonucleic acid (DNA) in-
2 formation; or

3 “(vi) gait;

4 “(H) information reasonably associated
5 with or attributed to a child or teen;

6 “(I) information (including an internet
7 protocol address) that permits the identification
8 of—

9 “(i) an individual; or

10 “(ii) any device used by an individual
11 to directly or indirectly access the internet
12 or an online service, online application, mo-
13 bile application, or connected device; or

14 “(J) information concerning a child or teen
15 or the parents of that child or teen (including
16 any unique or substantially unique identifier,
17 such as a customer number) that an operator
18 collects online from the child or teen and com-
19 bines with an identifier described in this para-
20 graph.”;

21 (4) by amending paragraph (9) to read as fol-
22 lows:

23 “(9) VERIFIABLE CONSENT.—The term
24 ‘verifiable consent’ means any reasonable effort (tak-
25 ing into consideration available technology), includ-

1 ing a request for authorization for future collection;
 2 use, and disclosure described in the notice, to ensure
 3 that, in the case of a child, a parent of the child,
 4 or, in the case of a teen, the teen—

5 “(A) receives specific notice of the personal
 6 information collection, use, and disclosure prac-
 7 tices of the operator; and

8 “(B) before the personal information of the
 9 child or teen is collected, freely and unambig-
 10 uously authorizes—

11 “(i) the collection, use, and disclosure,
 12 as applicable, of that personal information;
 13 and

14 “(ii) any subsequent use of that per-
 15 sonal information.”;

16 (5) by striking paragraph (10) and redesign-
 17 ating paragraphs (11) and (12) as paragraphs (10)
 18 and (11), respectively; and

19 (6) by adding at the end the following:

20 “(12) CONNECTED DEVICE.—The term ‘con-
 21 nected device’ means a device that is capable of con-
 22 necting to the internet, directly or indirectly, or to
 23 another connected device.

24 “(13) ONLINE APPLICATION.—The term ‘online
 25 application’—

1 “(A) means an internet-connected software
2 program; and

3 “(B) includes a service or application of-
4 fered via a connected device.

5 “(14) ONLINE SERVICE.—

6 “(A) IN GENERAL.—The term ‘online serv-
7 ice’ means a mass-market retail service by wire
8 or radio that provides the capability to transmit
9 data and receive data from all or substantially
10 all Internet endpoints, including any capabilities
11 that are incidental to and enable the operation
12 of a communications service, but excluding dial-
13 up Internet service.

14 “(B) SCOPE.—Such term includes—

15 “(i) any service that the Federal Com-
16 munications Commission finds to be pro-
17 viding a functionally equivalent service to a
18 service described in subparagraph (A); and

19 “(ii) a service or application offered
20 via a connected device.

21 “(15) DIRECTED TO CHILDREN OR TEENS.—

22 “(A) IN GENERAL.—The terms ‘directed to
23 children’, ‘directed to teens’, and ‘directed to
24 children or teens’ mean, with respect to a
25 website, online service, online application, mo-

1 bile application, or connected device, that the
2 website, online service, online application, mo-
3 bile application, or connected device, or a por-
4 tion thereof, is targeted to children or teens, as
5 the case may be, as demonstrated by—

6 “(i) the subject matter of the website,
7 online service, online application, mobile
8 application, or connected device;

9 “(ii) the visual content of the website,
10 online service, online application, mobile
11 application, or connected device;

12 “(iii) the use of animated characters
13 or child-oriented activities for children, or
14 the use of teen-oriented characters or teen-
15 oriented activities for teens, and related in-
16 centives on the website, online service, on-
17 line application, mobile application, or con-
18 nected device;

19 “(iv) the music or other audio content
20 on the website, online service, online appli-
21 cation, mobile application, or connected de-
22 vice;

23 “(v) the age of models on the website,
24 online service, online application, mobile
25 application, or connected device;

1 ~~“(vi) the presence, on the website, on-~~
2 ~~line service, online application, mobile ap-~~
3 ~~plication, or connected device, of—~~

4 ~~“(I) child celebrities;~~

5 ~~“(II) celebrities who appeal to~~
6 ~~children;~~

7 ~~“(III) teen celebrities; or~~

8 ~~“(IV) celebrities who appeal to~~
9 ~~teens;~~

10 ~~“(vii) the language used on the~~
11 ~~website, online service, online application,~~
12 ~~mobile application, or connected device;~~

13 ~~“(viii) advertising content used on, or~~
14 ~~used to advertise, the website, online serv-~~
15 ~~ice, online application, mobile application,~~
16 ~~or connected device; or~~

17 ~~“(ix) reliable empirical evidence relat-~~
18 ~~ing to—~~

19 ~~“(I) the composition of the audi-~~
20 ~~ence of the website, online service, on-~~
21 ~~line application, mobile application, or~~
22 ~~connected device; and~~

23 ~~“(II) the intended audience of~~
24 ~~the website, online service, online ap-~~

1 plication, mobile application, or con-
2 nected device.

3 “(B) RULES OF CONSTRUCTION.—

4 “(i) SERVICES DEEMED DIRECTED TO
5 CHILDREN OR TEENS.—For the purposes
6 of this title, a website, online service, on-
7 line application, mobile application, or con-
8 nected device, or a portion thereof, shall be
9 deemed to be directed to children or teens
10 if it collects personal information directly
11 from users of any other website, online
12 service, online application, mobile applica-
13 tion, or connected device that is—

14 “(I) directed to children or teens
15 under the criteria described in sub-
16 paragraph (A); or

17 “(II) used or reasonably likely to
18 be used by children or teens.

19 “(ii) SERVICES DEEMED DIRECTED TO
20 MIXED AUDIENCES.—

21 “(I) IN GENERAL.—A website,
22 online service, online application, mo-
23 bile application, or connected device
24 that is directed to children or teens
25 under the criteria described in sub-

1 paragraph (A), but that does not tar-
2 get children or teens as the primary
3 audience of the website, online service,
4 online application, mobile application,
5 or connected device shall not be
6 deemed to be directed to children or
7 teens for purposes of this title if the
8 website, online service, online applica-
9 tion, mobile application, or connected
10 device—

11 “(aa) does not collect per-
12 sonal information from any user
13 of the website, online service, on-
14 line application, mobile applica-
15 tion, or connected device before
16 verifying age information of the
17 user; and

18 “(bb) does not, without first
19 complying with any relevant no-
20 tice and consent provision under
21 this title, collect, use, or disclose
22 personal information of any user
23 who identifies themselves to the
24 website, online service, online ap-
25 plication, mobile application, or

1 connected device as an individual
2 who is age 16 or younger.

3 ~~“(H) USE OF CERTAIN TOOLS.—~~

4 For purposes of this title, a website,
5 online service, online application, mo-
6 bile application, or connected device,
7 shall not be deemed directed to chil-
8 dren or teens solely because the
9 website, online service, online applica-
10 tion, mobile application, or connected
11 device refers or links to any other
12 website, online service, online applica-
13 tion, mobile application, or connected
14 device directed to children or teens by
15 using information location tools, in-
16 cluding—

17 ~~“(aa) a directory;~~

18 ~~“(bb) an index;~~

19 ~~“(cc) a reference;~~

20 ~~“(dd) a pointer; or~~

21 ~~“(ee) a hypertext link.~~

22 ~~“(16) MOBILE APPLICATION.—The term ‘mo-~~
23 ~~bile application’—~~

24 ~~“(A) means a software program that runs~~
25 ~~on the operating system of—~~

1 “(i) a cellular telephone;

2 “(ii) a tablet computer; or

3 “(iii) a similar portable computing de-
4 vice that transmits data over a wireless
5 connection; and

6 “(B) includes a service or application of-
7 fered via a connected device.

8 “(17) GEOLOCATION INFORMATION.—The term
9 ‘geolocation information’ means information suffi-
10 cient to identify a street name and name of a city
11 or town.

12 “(18) TEEN.—The term ‘teen’ means an indi-
13 vidual over the age of 12 and under the age of 17.

14 “(19) TARGETED MARKETING.—

15 “(A) IN GENERAL.—The term ‘targeted
16 marketing’ means advertising or any other ef-
17 fort to market a product or service that is di-
18 rected to a specific individual or device—

19 “(i) based on—

20 “(I) the personal information
21 of—

22 “(aa) the individual; or

23 “(bb) a group of individuals
24 who are similar in gender, age,
25 income level, race, or ethnicity to

1 the specific individual to whom
 2 the product or service is mar-
 3 keted;

4 “(II) psychological profiling of an
 5 individual or group of individuals; or

6 “(III) a unique identifier of the
 7 device; or

8 “(ii) as a result of use by the indi-
 9 vidual, access by any device of the indi-
 10 vidual, or use by a group of individuals
 11 who are similar to the specific individual,
 12 of more than a single—

13 “(I) website;

14 “(II) online service;

15 “(III) online application;

16 “(IV) mobile application;

17 “(V) connected device; or

18 “(VI) operating system.

19 “(B) EXCLUSIONS.—The term ‘targeted
 20 marketing’ shall not include—

21 “(i) advertising or marketing to an in-
 22 dividual or the device of an individual in
 23 response to the individual’s specific request
 24 for information or feedback;

1 “(ii) contextual advertising, such as
2 when an advertisement is displayed based
3 on the context in which the advertisement
4 appears and does not vary based on who is
5 viewing the advertisement; or

6 “(iii) processing personal information
7 solely for measuring or reporting adver-
8 tising or content performance, reach, or
9 frequency, including independent measure-
10 ment.

11 “(C) AUTHORITY TO FURTHER DEFINE.—

12 The Commission may promulgate rules under
13 section 553 of title 5, United State Code, to
14 further define the term ‘targeted marketing’
15 but only as necessary to address changes to or
16 innovations of technology, changes in how per-
17 sonal information is used or transferred,
18 changes to the means and manners by which
19 children or teens interact with a website, online
20 service, online application, mobile application,
21 or connected device, or evolving concerns re-
22 garding the privacy of children or teens.

23 “(20) REASONABLY LIKELY TO BE USED.—The
24 Commission may promulgate rules under section 553
25 of title 5, United States Code, or issue guidance to

1 establish factors that should be considered in apply-
 2 ing the term ‘reasonably likely to be used’ for the
 3 purposes of this title.

4 “(21) REASONABLY LIKELY TO BE A CHILD OR
 5 TEEN.—The Commission may promulgate rules
 6 under section 553 of title 5, United States Code, or
 7 issue guidance to establish factors that should be
 8 considered in applying the term ‘reasonably likely to
 9 be a child or teen’ for the purposes of this title.”.

10 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF
 11 PERSONAL INFORMATION OF CHILDREN AND TEENS.—
 12 Section 1303 of the Children’s Online Privacy Protection
 13 Act of 1998 (15 U.S.C. 6502) is amended—

14 (1) by striking the heading and inserting the
 15 following: “**ONLINE COLLECTION, USE, AND DIS-**
 16 **CLOSURE OF PERSONAL INFORMATION OF**
 17 **CHILDREN AND TEENS.”;**

18 (2) in subsection (a)—

19 (A) by amending paragraph (1) to read as
 20 follows:

21 “(1) IN GENERAL.—It is unlawful for an oper-
 22 ator of a website, online service, online application,
 23 mobile application, or connected device that is di-
 24 rected to children or teens or is used or reasonably
 25 likely to be used by children or teens in a manner

1 that involves the collection of personal information;
 2 to collect personal information from a child or teen
 3 in a manner that violates the regulations prescribed
 4 under subsection (b).”;

5 (B) in paragraph (2)—

6 (i) by striking “of such a website or
 7 online service”; and

8 (ii) by striking “subsection
 9 (b)(1)(B)(iii) to the parent of a child” and
 10 inserting “subsection (b)(1)(A)(iii) to the
 11 parent of a child or under subsection
 12 (b)(1)(A)(iv) to a teen”; and

13 (3) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) by striking “this Act” and insert-
 16 ing “the Children and Teens’ Online Pri-
 17 vacy Protection Act”;

18 (ii) in subparagraph (A)—

19 (I) by striking “operator of any
 20 website” and all that follows through
 21 “from a child” and inserting “oper-
 22 ator of a website, online service, on-
 23 line application, mobile application, or
 24 connected device that is directed to
 25 children or teens or is used or is rea-

1 sonably likely to be used by children
2 or teens in a manner that involves the
3 collection of their personal informa-
4 tion”;

5 (II) in clause (i)—

6 (aa) by striking “notice on
7 the website” and inserting “clear
8 and conspicuous notice”;

9 (bb) by inserting “or teens”
10 after “children”;

11 (cc) by striking “; and the
12 operator’s” and inserting “; the
13 operator’s”; and

14 (dd) by striking “; and” and
15 inserting “; and the procedures
16 or mechanisms the operator uses
17 to ensure that personal informa-
18 tion is not collected from children
19 or teens except in accordance
20 with the regulations promulgated
21 under this paragraph;”; and

22 (III) in clause (ii)—

23 (aa) by striking “parental”;
24 and

1 (bb) by inserting “or teens”
2 after “children”;

3 (iii) in subparagraph (B)—

4 (I) in the matter preceding clause
5 (i), by striking “website or online
6 service” and inserting “operator”;

7 (II) in clause (ii), by inserting
8 “to delete personal information col-
9 lected from the child or” after “the
10 opportunity at any time”; and

11 (III) in clause (iii), by inserting
12 “, if such information is available to
13 the operator at the time the parent
14 makes the request” before the semi-
15 colon;

16 (iv) by redesignating subparagraphs
17 (C) and (D) as subparagraphs (D) and
18 (E), respectively;

19 (v) by inserting after subparagraph
20 (B) the following new subparagraph:

21 “(C) require the operator to provide, upon
22 the request of a teen under this subparagraph
23 who has provided personal information to the
24 operator, upon proper identification of that
25 teen—

1 “(i) a description of the specific types
2 of personal information collected from the
3 teen by the operator;

4 “(ii) the opportunity at any time to
5 delete personal information collected from
6 the teen and refuse further use or collec-
7 tion of personal information from the teen;
8 and

9 “(iii) a means that is reasonable
10 under the circumstances for the teen to ob-
11 tain any personal information collected
12 from the teen, if such information is avail-
13 able to the operator at the time the teen
14 makes the request;”;

15 (vi) in subparagraph (D), as so reded-
16 icated, by striking “conditioning” and all
17 that follows through “such activity” and
18 inserting the following: “the collection from
19 a child or teen of more personal informa-
20 tion that is reasonably required to use the
21 website, online service, online application,
22 mobile application, or connected device”;

23 (vii) in subparagraph (E), as so reded-
24 icated—

1 (I) by striking “of such a website
2 or online service”; and

3 (II) by inserting “and teens”
4 after “children”; and

5 (viii) by adding at the end the fol-
6 lowing flush text:

7 “The Commission shall review and update the regu-
8 lations promulgated under this paragraph as nec-
9 essary.”;

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-
12 graph (A), by striking “verifiable parental
13 consent” and inserting “verifiable con-
14 sent”;

15 (ii) in subparagraph (A)—

16 (I) by inserting “or teen” after
17 “collected from a child”;

18 (II) by inserting “or teen” after
19 “request from the child”; and

20 (III) by inserting “or teen or to
21 contact another child or teen” after
22 “to recontact the child”;

23 (iii) in subparagraph (B)—

24 (I) by striking “parent or child”
25 and inserting “parent or teen”; and

- 1 (II) by striking “parental con-
2 sent” each place the term appears and
3 inserting “verifiable consent”;
- 4 (iv) in subparagraph (C)—
- 5 (I) in the matter preceding clause
6 (i), by inserting “or teen” after
7 “child” each place the term appears;
- 8 (II) in clause (i)—
- 9 (aa) by inserting “or teen”
10 after “child” each place the term
11 appears; and
- 12 (bb) by inserting “or teen,
13 as applicable,” after “parent”
14 each place the term appears; and
- 15 (III) in clause (ii)—
- 16 (aa) by inserting “or teen,
17 as applicable,” after “parent”;
18 and
- 19 (bb) by inserting “or teen”
20 after “child” each place the term
21 appears; and
- 22 (v) in subparagraph (D)—
- 23 (I) in the matter preceding clause
24 (i), by inserting “or teen” after
25 “child” each place the term appears;

1 (II) in clause (ii), by inserting
2 “or teen” after “child”; and

3 (III) in the flush text following
4 clause (iii)—

5 (aa) by inserting “or teen,
6 as applicable,” after “parent”
7 each place the term appears; and

8 (bb) by inserting “or teen”
9 after “child”; and

10 (C) by amending paragraph (3) to read as
11 follows:

12 “(3) CONTINUATION OF SERVICE.—The regula-
13 tions shall prohibit an operator from discontinuing
14 service provided to a child or teen on the basis of
15 a request by the parent of the child or by the teen,
16 under the regulations prescribed under subpara-
17 graph (B) or (C) of paragraph (1), respectively, to
18 delete personal information collected from the child
19 or teen, to the extent that the operator is capable of
20 providing such service without such information.”.

21 (c) SAFE HARBORS.—Section 1304 of the Children’s
22 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
23 is amended—

24 (1) in subsection (b)(1), by inserting “and
25 teens” after “children”; and

1 (2) by adding at the end the following:

2 “(d) PUBLICATION.—

3 “~~(1) IN GENERAL.—~~The Commission shall pub-
4 lish on the internet website of the Commission any
5 report or documentation required by regulation to be
6 submitted to the Commission to carry out this sec-
7 tion.

8 “~~(2) RESTRICTIONS ON PUBLICATION.—~~The re-
9 strictions described in subsection (f) of section 6 of
10 the Federal Trade Commission Act (15 U.S.C.
11 46(f)) applicable to the publication of information
12 obtained by the Commission through investigations
13 conducted under such section shall apply in same
14 manner to the publication under this subsection of
15 information obtained by the Commission from a re-
16 port or documentation described in paragraph (1).”.

17 (d) ADMINISTRATION AND APPLICABILITY OF ACT.—

18 Section 1306 of the Children’s Online Privacy Protection
19 Act of 1998 (15 U.S.C. 6505) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (1), by striking “, in the
22 ease of” and all that follows through “the
23 Board of Directors of the Federal Deposit In-
24 surance Corporation;” and inserting the fol-
25 lowing: “by the appropriate Federal banking

1 agency, with respect to any insured depository
2 institution (as those terms are defined in sec-
3 tion 3 of that Act (12 U.S.C. 1813));” and

4 (B) by striking paragraph (2) and redesign-
5 nating paragraphs (3) through (6) as para-
6 graphs (2) through (5), respectively; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
10 OPERATORS.—

11 “(1) ENFORCEMENT BY COMMISSION.—Not-
12 withstanding section 4, 5(a)(2), or 6 of the Federal
13 Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46),
14 or any jurisdictional limitation of the Commission,
15 the Commission shall also enforce this Act and the
16 regulations promulgated under this Act, in the same
17 manner provided in subsection (d), with respect to
18 common carriers subject to the Communications Act
19 of 1934 (47 U.S.C. 151 et seq.) and Acts amend-
20 atory thereof and supplementary thereto.

21 “(2) RELATIONSHIP TO OTHER LAW.—To the
22 extent that section 222, 338(i), or 631 of the Com-
23 munications Act of 1934 (47 U.S.C. 222, 338(i),
24 551) is inconsistent with this title, this title con-
25 trols.”

1 **SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.**

2 (a) **IN GENERAL.**—The Fair Information Practices
3 Principles described in this section are the following:

4 (1) **COLLECTION LIMITATION PRINCIPLE.**—Ex-
5 cept as provided in paragraph (3), personal informa-
6 tion should be collected from a child or teen only
7 when collection of the personal information is—

8 (A) consistent with the context of a par-
9 ticular transaction or service or the relationship
10 of the child or teen with the operator, including
11 collection necessary to fulfill a transaction or
12 provide a service requested by the child or teen;
13 or

14 (B) required or specifically authorized by
15 law.

16 (2) **DATA QUALITY PRINCIPLE.**—The personal
17 information of a child or teen should be accurate,
18 complete, and kept up-to-date to the extent nec-
19 essary to fulfill the purposes described in subpara-
20 graphs (A) through (D) of paragraph (3).

21 (3) **PURPOSE SPECIFICATION PRINCIPLE.**—The
22 purposes for which personal information is collected
23 and used should be specified to the parent of a child
24 or to a teen not later than at the time of the collec-
25 tion of the information. The subsequent use or dis-
26 closure of the information should be limited to—

1 (A) fulfillment of the transaction or service
2 requested by the teen or parent of the child;

3 (B) support for the internal operations of
4 the website, service, or application, as described
5 in section 312.2 of title 16, Code of Federal
6 Regulations (as in effect on the date of enact-
7 ment of this Act), excluding any activity relat-
8 ing to targeted marketing directed to children,
9 teens, or a device of a child or teen if the sup-
10 port for internal operations is consistent with
11 the interest of the child or teen;

12 (C) compliance with legal process or other
13 purposes expressly authorized under specific
14 legal authority; or

15 (D) other purposes—

16 (i) that are specified in a notice to the
17 teen or parent of the child; and

18 (ii) to which the teen or parent of the
19 child has consented under paragraph (7)
20 before the information is used or disclosed
21 for such other purposes.

22 (4) RETENTION LIMITATION PRINCIPLE.—

23 (A) IN GENERAL.—The personal informa-
24 tion of a child or teen should not be retained
25 for longer than is necessary to fulfill a trans-

1 action or provide a service requested by the
2 child or teen or such other purposes specified in
3 subparagraphs (A) through (D) of paragraph
4 (3).

5 (B) DATA DISPOSAL.—The operator should
6 implement a reasonable and appropriate data
7 disposal policy based on the nature and sensi-
8 tivity of personal information described in sub-
9 paragraph (A).

10 (5) SECURITY SAFEGUARDS PRINCIPLE.—The
11 personal information of a child or teen should be
12 protected by reasonable and appropriate security
13 safeguards against risks such as loss or unauthor-
14 ized access, destruction, use, modification, or disclo-
15 sure.

16 (6) TRANSPARENCY PRINCIPLE.—

17 (A) GENERAL PRINCIPLE.—The operator
18 should be transparent about developments,
19 practices, and policies with respect to the per-
20 sonal information of a child or teen.

21 (B) PROVISION OF INFORMATION.—The
22 operator should provide to each parent of a
23 child, or to each teen, using the website, online
24 service, online application, mobile application,

1 or connected device of the operator with a clear
2 and prominent means—

3 (i) to identify and contact the oper-
4 ator, by, at a minimum, disclosing, clearly
5 and prominently, the identity of the oper-
6 ator and—

7 (I) in the case of an operator
8 who is an individual, the address of
9 the principal residence (but not a per-
10 sonal residence) of the operator and
11 an email address or online contact
12 form and telephone number for the
13 operator; or

14 (II) in the case of any other op-
15 erator, the address of the principal
16 place of business of the operator and
17 an email address or online contact
18 form and telephone number for the
19 operator;

20 (ii) to determine whether the operator
21 possesses any personal information of the
22 child or teen, the nature of any such infor-
23 mation, and the purposes for which the in-
24 formation was collected and is being re-
25 tained;

1 (iii) to obtain any personal informa-
2 tion of the child or teen that is in the pos-
3 session of the operator from the operator,
4 or from a person specified by the operator,
5 within a reasonable time after making a
6 request, at a charge (if any) that is not ex-
7 cessive, in a reasonable manner, and in a
8 form that is readily intelligible to the child
9 or teen;

10 (iv) to challenge the accuracy of per-
11 sonal information of the child or teen that
12 is in the possession of the operator;

13 (v) to determine if the child or teen
14 has established the inaccuracy of personal
15 information in a challenge under clause
16 (iv) in order to have such information
17 erased, corrected, completed, or otherwise
18 amended; and

19 (vi) to determine the method by which
20 the operator obtains data relevant to the
21 child or teen.

22 (C) LIMITATION.—Nothing in this para-
23 graph shall be construed to permit an operator
24 to erase or otherwise modify personal informa-

1 tion requested by a law enforcement agency
2 pursuant to legal authority.

3 (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

4 The operator should—

5 (A) obtain consent from a parent of a child
6 or from a teen before using or disclosing the
7 personal information of the child or teen for
8 any purpose other than the purposes described
9 in subparagraph (A) of paragraph (3); and

10 (B) obtain affirmative express consent
11 from a parent of a child or from a teen before
12 using or disclosing previously collected personal
13 information of the child or teen for purposes
14 that constitute a material change in practice
15 from the original purposes specified to the child
16 or teen under paragraph (3).

17 (8) RACIAL AND SOCIOECONOMIC PROFILING.—

18 The personal information of a child or teen shall not
19 be used to direct content to the child or teen, or a
20 group of individuals similar to the child or teen, on
21 the basis of race, socioeconomic factors, or any
22 proxy thereof.

23 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion, including compliance with the Fair Information Prin-
25 ciples, shall be construed to permit an operator to avoid

1 compliance with other requirements set forth in this Act
2 or the Children's Online Privacy Protection Act (15
3 U.S.C. 6501 et seq.).

4 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS.**

5 (a) ACTS PROHIBITED.—

6 (1) PROHIBITION.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), it shall be unlawful for an
9 operator of a website, online service, online ap-
10 plication, mobile application, or connected de-
11 vice to collect personal information from a user
12 if—

13 (i) the user is reasonably likely to be
14 a teen; or

15 (ii) the website, online service, online
16 application, mobile application, or con-
17 nected device is directed to teens.

18 (B) EXCEPTION.—Subparagraph (A) shall
19 not apply to an operator that has adopted and
20 complies with a Digital Marketing Bill of
21 Rights for Teens that meets the Fair Informa-
22 tion Practices Principles described in section 4.

23 (2) EFFECTIVE DATE.—This subsection shall
24 take effect on the date that is 180 days after the
25 promulgation of regulations under subsection (b).

1 (b) REGULATIONS.—

2 (1) IN GENERAL.—Not later than 1 year after
 3 the date of enactment of this Act, the Commission
 4 shall promulgate, under section 552 of title 5,
 5 United States Code, regulations to implement this
 6 section, including regulations further defining the
 7 Fair Information Practices Principles described in
 8 section 4.

9 (2) UPDATES.—Not less frequently than once
 10 every 4 years after the date on which regulations are
 11 promulgated under paragraph (1), the Commission
 12 shall review and update those regulations as nec-
 13 essary.

14 **SEC. 6. TARGETED MARKETING TO CHILDREN AND TEENS.**

15 (a) PROHIBITED ACTS WITH RESPECT TO CHILDREN
 16 AND TEENS.—It shall be unlawful for an operator of a
 17 website, online service, online application, mobile applica-
 18 tion, or connected device to collect, use, disclose to third
 19 parties, or compile personal information of a user for pur-
 20 poses of targeted marketing (or to allow another person
 21 to collect, use, disclose, or compile such information for
 22 such purpose) if—

23 (1) such use, disclosure, or compiling of per-
 24 sonal information involves or is reasonably likely to

1 involve collection of personal information from a
2 child or teen; or

3 ~~(2) the website, online service, online applica-~~
4 ~~tion, mobile application, or connected device is di-~~
5 ~~rected to children or teens.~~

6 ~~(b) EFFECTIVE DATE.—This section shall take effect~~
7 ~~on the date that is 180 days after the date of enactment~~
8 ~~of this Act.~~

9 **SEC. 7. REMOVAL OF CONTENT.**

10 ~~(a) ACTS PROHIBITED.—It is unlawful for an oper-~~
11 ~~ator to make, or enable a child or teen to make, publicly~~
12 ~~available through a website, online service, online applica-~~
13 ~~tion, mobile application, or connected device content or in-~~
14 ~~formation that contains or displays personal information~~
15 ~~of children or teens in a manner that violates subsection~~
16 ~~(b).~~

17 ~~(b) REQUIREMENT.—~~

18 ~~(1) IN GENERAL.—An operator, to the extent~~
19 ~~technologically feasible, shall—~~

20 ~~(A) implement mechanisms that permit a~~
21 ~~user of the website, online service, online applica-~~
22 ~~tion, mobile application, or connected device~~
23 ~~of the operator (and, in the case of a user that~~
24 ~~is a child, a parent of that user) to erase or~~

1 otherwise eliminate content or information that
2 is—

3 (i) submitted to the website, online
4 service, online application, mobile applica-
5 tion, or connected device by that user;

6 (ii) publicly available through the
7 website, online service, online application,
8 mobile application, or connected device;
9 and

10 (iii) contains or displays personal in-
11 formation of children or teens; and

12 ~~(B)~~ take appropriate steps to—

13 (i) make users and parents of users
14 who are children aware of the mechanisms
15 described in subparagraph (A); and

16 (ii) provide notice to users and par-
17 ents of users who are children that the
18 mechanisms described in subparagraph (A)
19 do not necessarily provide comprehensive
20 removal of the content or information sub-
21 mitted by users.

22 ~~(2) EXCEPTIONS.—~~Paragraph (1) shall not be
23 construed to require an operator or third party to
24 erase or otherwise eliminate content or information
25 that—

1 (A) any other provision of Federal or State
2 law requires the operator or third party to
3 maintain; or

4 (B) was submitted to the website, online
5 service, online application, mobile application,
6 or connected device of the operator by any per-
7 son other than the user who is attempting to
8 erase or otherwise eliminate the content or in-
9 formation, including content or information
10 submitted by the user that was republished or
11 resubmitted by another person.

12 (c) LIMITATION.—Nothing in this section shall be
13 construed to limit the authority of a law enforcement
14 agency to obtain any content or information from an oper-
15 ator as authorized by law or pursuant to an order of a
16 court of competent jurisdiction.

17 (d) EFFECTIVE DATE.—This section shall take effect
18 on the date that is 180 days after the date of enactment
19 of this Act.

20 **SEC. 8. RULE FOR TREATMENT OF USERS OF WEBSITES,**
21 **SERVICES, AND APPLICATIONS DIRECTED TO**
22 **CHILDREN OR TEENS.**

23 For the purposes of this Act, an operator of a
24 website, online service, online application, mobile applica-
25 tion, or connected device that is directed to children or

1 teens shall treat each user of that website, online service,
 2 online application, mobile application, or connected device
 3 as a child or teen, except as permitted by the Commission
 4 pursuant to a regulation promulgated under this Act, and
 5 except to the extent the website, online service, online ap-
 6 plication, mobile application, or connected device is
 7 deemed directed to mixed audiences.

8 **SEC. 9. STUDY OF MOBILE AND ONLINE APPLICATION**
 9 **OVERSIGHT.**

10 Not later than 3 years after the date of enactment
 11 of this Act, the Commission shall submit to each com-
 12 mittee of the Senate and each committee of the House
 13 of Representatives that has jurisdiction over the Commis-
 14 sion a report on the processes of platforms that offer mo-
 15 bile and online applications for ensuring that, of those ap-
 16 plications that are directed to children or teens, the appli-
 17 cations operate in accordance with—

18 (1) this Act, the amendments made by this Act,
 19 and rules promulgated under this Act; and

20 (2) rules promulgated by the Commission under
 21 section 5 of the Federal Trade Commission Act (15
 22 U.S.C. 45) relating to unfair or deceptive acts or
 23 practices in marketing.

1 **SEC. 10. YOUTH PRIVACY AND MARKETING DIVISION.**

2 (a) **ESTABLISHMENT.**—There is established within
3 the Commission a division to be known as the Youth Pri-
4 vacy and Marketing Division.

5 (b) **DIRECTOR.**—The Youth Privacy and Marketing
6 Division shall be headed by a Director.

7 (c) **DUTIES.**—The Youth Privacy and Marketing Di-
8 vision established under subsection (a) shall be responsible
9 for assisting the Commission to address, as it relates to
10 this Act and the amendments made by this Act—

11 (1) the privacy of children and teens; and

12 (2) marketing directed at children and teens.

13 (d) **STAFF.**—The Director of the Youth Privacy and
14 Marketing Division shall hire adequate staff to carry out
15 the duties under subsection (c), including individuals who
16 are experts in data protection, digital advertising, data
17 analytics, and youth development.

18 (e) **REPORTS.**—Not later than 1 year after the date
19 of enactment of this Act, and each year thereafter, the
20 Director of the Youth and Privacy Marketing Division
21 shall submit to the Committee on Commerce, Science, and
22 Transportation of the Senate and the Committee on En-
23 ergy and Commerce of the House of Representatives a re-
24 port that includes—

25 (1) a description of the work of the Youth Pri-
26 vacy and Marketing Division on emerging concerns

1 relating to youth privacy and marketing practices;
2 and

3 ~~(2) an assessment of how effectively the Com-~~
4 ~~mission has, during the period for which the report~~
5 ~~is submitted, addressed youth privacy and marketing~~
6 ~~practices.~~

7 **SEC. 11. ENFORCEMENT AND APPLICABILITY.**

8 ~~(a) ENFORCEMENT BY THE COMMISSION.—~~

9 ~~(1) IN GENERAL.—~~Except as otherwise pro-
10 vided, this Act and the regulations prescribed under
11 this Act shall be enforced by the Commission under
12 the Federal Trade Commission Act (15 U.S.C. 41 et
13 seq.).

14 ~~(2) UNFAIR OR DECEPTIVE ACTS OR PRAC-~~
15 ~~TICES.—~~Subject to subsection (b), a violation of this
16 Act or a regulation prescribed under this Act shall
17 be treated as a violation of a rule defining an unfair
18 or deceptive act or practice prescribed under section
19 18(a)(1)(B) of the Federal Trade Commission Act
20 (15 U.S.C. 57a(a)(1)(B)).

21 ~~(3) ACTIONS BY THE COMMISSION.—~~

22 ~~(A) IN GENERAL.—~~Subject to subsection
23 (b), and except as provided in subsection (d)(1),
24 the Commission shall prevent any person from
25 violating this Act or a regulation prescribed

1 under this Act in the same manner, by the
2 same means, and with the same jurisdiction,
3 powers, and duties as though all applicable
4 terms and provisions of the Federal Trade
5 Commission Act (15 U.S.C. 41 et seq.) were in-
6 corporated into and made a part of this Act,
7 and any person who violates this Act or such
8 regulation shall be subject to the penalties and
9 entitled to the privileges and immunities pro-
10 vided in the Federal Trade Commission Act.

11 (B) VIOLATIONS.—Notwithstanding sec-
12 tion 5(m) of the Federal Trade Commission Act
13 (15 U.S.C. 45(m)), a civil penalty recovered for
14 a violation of this Act or a regulation prescribed
15 under this Act may be in excess of the amounts
16 provided for in that section as the court finds
17 appropriate to deter violations of this Act and
18 regulations prescribed under this Act.

19 (b) ENFORCEMENT BY CERTAIN OTHER AGEN-
20 CIES.—Notwithstanding subsection (a), compliance with
21 the requirements imposed under this Act shall be enforced
22 as follows:

23 (1) Under section 8 of the Federal Deposit In-
24 surance Act (12 U.S.C. 1818) by the appropriate
25 Federal banking agency, with respect to an insured

1 depository institution (as such terms are defined in
2 section 3 of such Act (12 U.S.C. 1813)).

3 (2) Under the Federal Credit Union Act (12
4 U.S.C. 1751 et seq.) by the National Credit Union
5 Administration Board, with respect to any Federal
6 credit union.

7 (3) Under part A of subtitle VII of title 49,
8 United States Code, by the Secretary of Transpor-
9 tation, with respect to any air carrier or foreign air
10 carrier subject to such part.

11 (4) Under the Packers and Stockyards Act,
12 1921 (7 U.S.C. 181 et seq.) (except as provided in
13 section 406 of that Act (7 U.S.C. 226, 227)) by the
14 Secretary of Agriculture, with respect to any activi-
15 ties subject to that Act.

16 (5) Under the Farm Credit Act of 1971 (12
17 U.S.C. 2001 et seq.) by the Farm Credit Adminis-
18 tration, with respect to any Federal land bank, Fed-
19 eral land bank association, Federal intermediate
20 credit bank, or production credit association.

21 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
22 ERAL.—

23 (1) IN GENERAL.—

24 (A) CIVIL ACTIONS.—In any case in which
25 the attorney general of a State has reason to

1 believe that an interest of the residents of that
 2 State has been or is threatened or adversely af-
 3 fected by the engagement of any person in a
 4 practice that violates this Act or a regulation
 5 prescribed under this Act, the State, as *parens*
 6 *patriae*, may bring a civil action on behalf of
 7 the residents of the State in a district court of
 8 the United States of appropriate jurisdiction
 9 to—

10 (i) enjoin that practice;

11 (ii) enforce compliance with this Act
 12 or such regulation;

13 (iii) obtain damages, restitution, or
 14 other compensation on behalf of residents
 15 of the State; or

16 (iv) obtain such other relief as the
 17 court may consider to be appropriate.

18 (B) NOTICE.—

19 (i) IN GENERAL.—Before filing an ac-
 20 tion under subparagraph (A), the attorney
 21 general of the State involved shall provide
 22 to the Commission—

23 (I) written notice of that action;

24 and

1 (II) a copy of the complaint for
2 that action.

3 (ii) EXEMPTION.—

4 (I) IN GENERAL.—Clause (i)
5 shall not apply with respect to the fil-
6 ing of an action by an attorney gen-
7 eral of a State under this paragraph
8 if the attorney general of the State
9 determines that it is not feasible to
10 provide the notice described in that
11 clause before the filing of the action.

12 (II) NOTIFICATION.—In an ac-
13 tion described in subclause (I), the at-
14 torney general of a State shall provide
15 notice and a copy of the complaint to
16 the Commission at the same time as
17 the attorney general files the action.

18 (2) INTERVENTION.—

19 (A) IN GENERAL.—On receiving notice
20 under paragraph (1)(B), the Commission shall
21 have the right to intervene in the action that is
22 the subject of the notice.

23 (B) EFFECT OF INTERVENTION.—If the
24 Commission intervenes in an action under para-
25 graph (1), it shall have the right—

1 (i) to be heard with respect to any
2 matter that arises in that action; and

3 (ii) to file a petition for appeal.

4 (3) CONSTRUCTION.—For purposes of bringing
5 any civil action under paragraph (1), nothing in this
6 Act shall be construed to prevent an attorney gen-
7 eral of a State from exercising the powers conferred
8 on the attorney general by the laws of that State
9 to—

10 (A) conduct investigations;

11 (B) administer oaths or affirmations; or

12 (C) compel the attendance of witnesses or
13 the production of documentary and other evi-
14 dence.

15 (4) ACTIONS BY THE COMMISSION.—In any
16 case in which an action is instituted by or on behalf
17 of the Commission for violation of this Act or a reg-
18 ulation prescribed under this Act, no State may,
19 during the pendency of that action, institute a sepa-
20 rate action under paragraph (1) against any defend-
21 ant named in the complaint in the action instituted
22 by or on behalf of the Commission for that violation.

23 (5) VENUE; SERVICE OF PROCESS.—

24 (A) VENUE.—Any action brought under
25 paragraph (1) may be brought in the district

1 court of the United States that meets applicable
2 requirements relating to venue under section
3 1391 of title 28, United States Code.

4 (B) SERVICE OF PROCESS.—In an action
5 brought under paragraph (1), process may be
6 served in any district in which the defendant—

7 (i) is an inhabitant; or

8 (ii) may be found.

9 (d) TELECOMMUNICATIONS CARRIERS AND CABLE
10 OPERATORS.—

11 (1) ENFORCEMENT BY COMMISSION.—Notwith-
12 standing section 4, 5(a)(2), or 6 of the Federal
13 Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46)
14 or any jurisdictional limitation of the Commission,
15 the Commission shall also enforce this Act and regu-
16 lations promulgated under this Act, in the same
17 manner provided in paragraph (a), with respect to
18 common carriers subject to the Communications Act
19 of 1934 (47 U.S.C. 151 et seq.) and Acts amend-
20 atory thereof and supplementary thereto.

21 (2) RELATIONSHIP TO OTHER LAWS.—To the
22 extent that section 222, 338(i), or 631 of the Com-
23 munications Act of 1934 (47 U.S.C. 222, 338(i),
24 551) is inconsistent with this Act, this Act controls.

25 (e) SAFE HARBORS.—

1 (1) DEFINITION.—In this subsection—

2 (A) the term “applicable section” means
3 section 5, 6, 7, or 8 of this Act;

4 (B) the term “covered operator” means an
5 operator subject to guidelines approved under
6 paragraph (2);

7 (C) the term “requesting entity” means an
8 entity that submits a safe harbor request to the
9 Commission; and

10 (D) the term “safe harbor request” means
11 a request to have self-regulatory guidelines de-
12 scribed in paragraph (2)(A) approved under
13 that paragraph.

14 (2) GUIDELINES.—

15 (A) IN GENERAL.—An operator may sat-
16 isfy the requirements of regulations issued
17 under an applicable section by following a set of
18 self-regulatory guidelines, issued by representa-
19 tives of the marketing or online industries, or
20 by other persons, that, after notice and an op-
21 portunity for comment, are approved by the
22 Commission upon making a determination that
23 the guidelines meet the requirements of the reg-
24 ulations issued under that applicable section.

1 (B) EXPEDITED RESPONSE TO RE-
2 QUESTS.—Not later than 180 days after the
3 date on which a safe harbor request is filed
4 under subparagraph (A), the Commission shall
5 act upon the request set forth in writing the
6 conclusions of the Commission with regard to
7 the request.

8 (C) APPEALS.—A requesting entity may
9 appeal the final action of the Commission under
10 subparagraph (B), or a failure by the Commis-
11 sion to act in the period described in that para-
12 graph, to a district court of the United States
13 of appropriate jurisdiction, as provided for in
14 section 706 of title 5, United States Code.

15 (3) INCENTIVES.—

16 (A) SELF-REGULATORY INCENTIVES.—In
17 prescribing regulations under an applicable sec-
18 tion, the Commission shall provide incentives
19 for self-regulation by covered operators to im-
20 plement the protections afforded children and
21 teens, as applicable, under the regulatory re-
22 quirements described in those sections.

23 (B) DEEMED COMPLIANCE.—The incen-
24 tives under subparagraph (A) shall include pro-
25 visions for ensuring that a covered operator will

1 be deemed to be in compliance with the require-
2 ments of the regulations under an applicable
3 section if that person complies with guidelines
4 approved under paragraph (2).

5 (4) REGULATIONS.—

6 (A) IN GENERAL.—In prescribing regula-
7 tions relating to safe harbor guidelines under
8 an applicable section, the Commission shall—

9 (i) establish criteria for the approval
10 of guidelines that will ensure that a cov-
11 ered operator provides substantially the
12 same or greater protections for children
13 and teens, as applicable, as those contained
14 in the regulations issued under the applica-
15 ble section; and

16 (ii) subject to subsection (B), require
17 that any report or documentation required
18 to be submitted to the Commission by a
19 covered operator or requesting entity will
20 be published on the internet website of the
21 Commission.

22 (B) RESTRICTIONS ON PUBLICATION.—

23 The restrictions described in subsection (f) of
24 section 6 of the Federal Trade Commission Act
25 (15 U.S.C. 46(f)) applicable to the publication

1 of information obtained by the Commission
2 through investigations conducted under such
3 section shall apply in same manner to the publi-
4 cation under this paragraph of information in-
5 cluded in a report or documentation described
6 in subparagraph (A).

7 ~~(5) REPORT BY THE INSPECTOR GENERAL.—~~

8 ~~(A) IN GENERAL.—Not later than 2 years~~
9 ~~after the date of enactment of this Act, and~~
10 ~~once each 2 years thereafter, the Inspector Gen-~~
11 ~~eral of the Commission shall submit to the~~
12 ~~Commission and each committee of the Senate~~
13 ~~and each committee of the House of Represent-~~
14 ~~atives that has jurisdiction over the Commission~~
15 ~~a report regarding the safe harbor provisions~~
16 ~~under this subparagraph, which shall include—~~

17 ~~(i) an analysis of whether the safe~~
18 ~~harbor provisions are—~~

19 ~~(I) operating fairly and effec-~~
20 ~~tively; and~~

21 ~~(II) effectively protecting the in-~~
22 ~~terests of children and teens; and~~

23 ~~(ii) proposals for policy changes that~~
24 ~~would improve the effectiveness of the safe~~
25 ~~harbor provisions.~~

1 (B) PUBLICATION.—Not later than 10
2 days after the date on which a report under
3 subparagraph (A) is submitted, the Commission
4 shall publish the report on the internet website
5 of the Commission.

6 (f) EFFECTIVE DATE.—This section shall take effect
7 on the date that is 90 days after the date of enactment
8 of this Act.

9 (g) RULE OF CONSTRUCTION.—Nothing in this Act
10 may be construed to authorize any action by the Commis-
11 sion that would violate section 18(h) of the Federal Trade
12 Commission Act (15 U.S.C. 57a(h)).

13 **SEC. 12. GAO STUDY.**

14 (a) STUDY.—The Comptroller General of the United
15 States (in this section referred to as the “Comptroller
16 General”) shall conduct a study on the privacy of teens
17 who use financial technology products. Such study shall—

18 (1) identify the type of financial technology
19 products that teens are using;

20 (2) identify the potential risks to teens’ privacy
21 from using such financial technology products; and

22 (3) determine whether existing laws are suffi-
23 cient to address such risks to teens’ privacy.

24 (b) REPORT.—Not later than 1 year after the date
25 of enactment of this section, the Comptroller General shall

1 submit to Congress a report containing the results of the
 2 study conducted under subsection (a), together with rec-
 3 ommendations for such legislation and administrative ac-
 4 tion as the Comptroller General determines appropriate.

5 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

6 (a) *SHORT TITLE.*—*This Act may be cited as the*
 7 *“Children and Teens’ Online Privacy Protection Act”.*

8 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 9 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Online collection, use, disclosure, and deletion of personal information of children and teens.

Sec. 3. Study and reports of mobile and online application oversight and enforcement.

Sec. 4. GAO study.

10 **SEC. 2. ONLINE COLLECTION, USE, DISCLOSURE, AND DE-**
 11 **LETION OF PERSONAL INFORMATION OF**
 12 **CHILDREN AND TEENS.**

13 (a) *DEFINITIONS.*—*Section 1302 of the Children’s On-*
 14 *line Privacy Protection Act of 1998 (15 U.S.C. 6501) is*
 15 *amended—*

16 (1) *by amending paragraph (2) to read as fol-*
 17 *lows:*

18 “(2) *OPERATOR.*—*The term ‘operator’—*

19 “(A) *means any person—*

20 “(i) *who, for commercial purposes, in*
 21 *interstate or foreign commerce operates or*
 22 *provides a website on the internet, an online*

1 *service, an online application, or a mobile*
2 *application; and*

3 “(ii) *who—*

4 “(I) *collects or maintains, either*
5 *directly or through a service provider,*
6 *personal information from or about the*
7 *users of that website, service, or appli-*
8 *cation;*

9 “(II) *allows another person to col-*
10 *lect personal information directly from*
11 *users of that website, service, or appli-*
12 *cation (in which case, the operator is*
13 *deemed to have collected the informa-*
14 *tion); or*

15 “(III) *allows users of that website,*
16 *service, or application to publicly dis-*
17 *close personal information (in which*
18 *case, the operator is deemed to have*
19 *collected the information); and*

20 “(B) *does not include any nonprofit entity*
21 *that would otherwise be exempt from coverage*
22 *under section 5 of the Federal Trade Commission*
23 *Act (15 U.S.C. 45).”;*

24 (2) *in paragraph (4)—*

1 (A) by amending subparagraph (A) to read
2 as follows:

3 “(A) the release of personal information col-
4 lected from a child or teen by an operator for
5 any purpose, except where the personal informa-
6 tion is provided to a person other than an oper-
7 ator who—

8 “(i) provides support for the internal
9 operations of the website, online service, on-
10 line application, or mobile application of
11 the operator, excluding any activity relating
12 to individual-specific advertising to chil-
13 dren or teens; and

14 “(ii) does not disclose or use that per-
15 sonal information for any other purpose;
16 and”;

17 (B) in subparagraph (B)—

18 (i) by inserting “or teen” after “child”
19 each place the term appears; and

20 (ii) by striking “website or online serv-
21 ice” and inserting “website, online service,
22 online application, or mobile application”;

23 (3) by striking paragraph (8) and inserting the
24 following:

25 “(8) *PERSONAL INFORMATION.*—

1 “(A) *IN GENERAL.*—*The term ‘personal in-*
2 *formation’ means individually identifiable infor-*
3 *mation about an individual collected online, in-*
4 *cluding—*

5 “(i) *a first and last name;*

6 “(ii) *a home or other physical address*
7 *including street name and name of a city or*
8 *town;*

9 “(iii) *an e-mail address;*

10 “(iv) *a telephone number;*

11 “(v) *a Social Security number;*

12 “(vi) *any other identifier that the*
13 *Commission determines permits the phys-*
14 *ical or online contacting of a specific indi-*
15 *vidual;*

16 “(vii) *geolocation information;*

17 “(viii) *information generated from the*
18 *measurement or technological processing of*
19 *an individual’s biological, physical, or*
20 *physiological characteristics that is used to*
21 *identify an individual, including—*

22 “(I) *fingerprints;*

23 “(II) *voice prints;*

24 “(III) *iris or retina imagery*
25 *scans;*

1 “(IV) facial templates;

2 “(V) deoxyribonucleic acid (DNA)

3 information; or

4 “(VI) gait;

5 “(ix) information linked or reasonably

6 linkable to a child or teen; or

7 “(x) information linked or reasonably

8 linkable to a child or teen or the parents of

9 that child or teen (including any unique

10 identifier) that an operator collects online

11 from the child or teen and combines with an

12 identifier described in this subparagraph.

13 “(B) *EXCLUSION.*—The term ‘personal in-

14 formation’ shall not include an audio file that

15 contains a child’s or teen’s voice so long as the

16 operator—

17 “(i) does not request information via

18 voice that would otherwise be considered

19 personal information under this paragraph;

20 “(ii) provides clear notice of its collec-

21 tion and use of the audio file and its dele-

22 tion policy in its privacy policy;

23 “(iii) only uses the voice within the

24 audio file solely as a replacement for writ-

25 ten words, to perform a task, or engage with

1 *a website, online service, online application,*
2 *or mobile application, such as to perform a*
3 *search or fulfill a verbal instruction or re-*
4 *quest; and*

5 *“(iv) only maintains the audio file*
6 *long enough to complete the stated purpose*
7 *and then immediately deletes the audio file*
8 *and does not make any other use of the*
9 *audio file prior to deletion.”;*

10 *(4) by amending paragraph (9) to read as fol-*
11 *lows:*

12 *“(9) VERIFIABLE CONSENT.—The term ‘verifiable*
13 *consent’ means any reasonable effort (taking into con-*
14 *sideration available technology), including a request*
15 *for authorization for future collection, use, and disclo-*
16 *sure described in the notice, to ensure that, in the case*
17 *of a child, a parent of the child, or, in the case of a*
18 *teen, the teen—*

19 *“(A) receives specific notice of the personal*
20 *information collection, use, and disclosure prac-*
21 *tices of the operator; and*

22 *“(B) before the personal information of the*
23 *child or teen is collected, freely and unambig-*
24 *uously authorizes—*

1 “(i) the collection, use, and disclosure,
2 as applicable, of that personal information;
3 and

4 “(ii) any subsequent use of that per-
5 sonal information.”;

6 (5) in paragraph (10)—

7 (A) in the paragraph header, by striking
8 “WEBSITE OR ONLINE SERVICE DIRECTED TO
9 CHILDREN” and inserting “WEBSITE, ONLINE
10 SERVICE, ONLINE APPLICATION, OR MOBILE AP-
11 PLICATION DIRECTED TO CHILDREN”;

12 (B) by striking “website or online service”
13 each place it appears and inserting “website, on-
14 line service, online application, or mobile appli-
15 cation”; and

16 (C) by adding at the end the following new
17 subparagraph:

18 “(C) *RULE OF CONSTRUCTION.*—In consid-
19 ering whether a website, online service, online
20 application, or mobile application is directed to
21 children, the Commission shall, using competent
22 and reliable empirical evidence, apply a totality
23 of circumstances test to consider the intended au-
24 dience of the website, online service, online appli-
25 cation, or mobile application, as a whole.”; and

1 (6) *by adding at the end the following:*

2 “(13) *CONNECTED DEVICE*.—*The term ‘connected*
3 *device’ means a device that is capable of connecting*
4 *to the internet, directly or indirectly, or to another*
5 *connected device.*

6 “(14) *ONLINE APPLICATION*.—*The term ‘online*
7 *application’—*

8 “(A) *means an internet-connected software*
9 *program; and*

10 “(B) *includes a service or application of-*
11 *fered via a connected device.*

12 “(15) *MOBILE APPLICATION*.—*The term ‘mobile*
13 *application’—*

14 “(A) *means a software program that runs*
15 *on the operating system of—*

16 “(i) *a cellular telephone;*

17 “(ii) *a tablet computer; or*

18 “(iii) *a similar portable computing de-*
19 *vice that transmits data over a wireless con-*
20 *nection; and*

21 “(B) *includes a service or application of-*
22 *fered via a connected device.*

23 “(16) *GEOLOCATION INFORMATION*.—*The term*
24 *‘geolocation information’ means information suffi-*

1 *cient to identify a street name and name of a city or*
 2 *town.*

3 “(17) *TEEN.*—*The term ‘teen’ means an indi-*
 4 *vidual over the age of 12 and under the age of 17.*

5 “(18) *INDIVIDUAL-SPECIFIC ADVERTISING TO*
 6 *CHILDREN OR TEENS.*—

7 “(A) *IN GENERAL.*—*The term ‘individual-*
 8 *specific advertising to children or teens’ means*
 9 *advertising or any other effort to market a prod-*
 10 *uct or service that is directed to a specific child*
 11 *or teen or a device that is linked or reasonably*
 12 *linkable to a child or teen—*

13 “(i) *based on—*

14 “(I) *the personal information of—*

15 “(aa) *the child or teen; or*

16 “(bb) *a group of children or*
 17 *teens who are similar in sex, age,*
 18 *income level, race, or ethnicity to*
 19 *the specific child or teen to whom*
 20 *the product or service is marketed;*

21 “(II) *psychological profiling of a*
 22 *child or teen or group of children or*
 23 *teens; or*

24 “(III) *a unique identifier of the*
 25 *device; or*

1 “(ii) as a result of use by the child or
2 teen, access by any device of the child or
3 teen, or use by a group of children or teens
4 who are similar to the specific child or teen,
5 of more than a single—

6 “(I) website;

7 “(II) online service;

8 “(III) online application;

9 “(IV) mobile application; or

10 “(V) connected device.

11 “(B) *EXCLUSIONS.*—The term ‘individual-
12 specific advertising to children or teens’ shall not
13 include—

14 “(i) advertising or marketing to an in-
15 dividual or the device of an individual in
16 response to the individual’s specific request
17 for information or feedback, such as a
18 child’s or teen’s current search query;

19 “(ii) contextual advertising, such as
20 when an advertisement is displayed based
21 on the content of the website, online service,
22 online application, mobile application, or
23 connected device in which the advertisement
24 appears and does not vary based on per-
25 sonal information related to the viewer; or

1 “(iii) processing personal information
 2 solely for measuring or reporting adver-
 3 tising or content performance, reach, or fre-
 4 quency, including independent measure-
 5 ment.

6 “(C) *RULE OF CONSTRUCTION.*—Nothing in
 7 subparagraph (A) shall be construed to prohibit
 8 an operator with actual knowledge or knowledge
 9 fairly implied on the basis of objective cir-
 10 cumstances that an individual is under the age
 11 of 17 from delivering advertising or marketing
 12 that is age-appropriate and intended for a child
 13 or teen audience, so long as the operator does not
 14 use any personal information other than whether
 15 the user is under the age of 17.”.

16 (b) *ONLINE COLLECTION, USE, DISCLOSURE, AND DE-*
 17 *LETION OF PERSONAL INFORMATION OF CHILDREN AND*
 18 *TEENS.*—Section 1303 of the Children’s Online Privacy
 19 Protection Act of 1998 (15 U.S.C. 6502) is amended—

20 (1) by striking the heading and inserting the fol-
 21 lowing: “**ONLINE COLLECTION, USE, DISCLO-**
 22 **SURE, AND DELETION OF PERSONAL INFORMA-**
 23 **TION OF CHILDREN AND TEENS.**”;

24 (2) in subsection (a)—

1 (A) by amending paragraph (1) to read as
2 follows:

3 “(1) *IN GENERAL.*—It is unlawful for an oper-
4 ator of a website, online service, online application,
5 or mobile application directed to children or for any
6 operator of a website, online service, online applica-
7 tion, or mobile application with actual knowledge or
8 knowledge fairly implied on the basis of objective cir-
9 cumstances—

10 “(A) to collect personal information from a
11 child or teen in a manner that violates the regu-
12 lations prescribed under subsection (b);

13 “(B) to collect, use, disclose to third parties,
14 or compile personal information of a child or
15 teen for purposes of individual-specific adver-
16 tising to children or teens (or to allow another
17 person to collect, use, disclose, or compile such
18 information for such purpose);

19 “(C) to collect the personal information of a
20 child or teen except when the collection of the
21 personal information is—

22 “(i) consistent with the context of a
23 particular or service or the relationship of
24 the child or teen with the operator, includ-
25 ing collection necessary to fulfill a trans-

1 *action or provide a product or service re-*
2 *quested by the child or teen; or*

3 *“(ii) required or specifically authorized*
4 *by Federal or State law; or*

5 *“(D) to store or transfer the personal infor-*
6 *mation of a child or teen outside of the United*
7 *States unless the operator discloses to the child or*
8 *teen involved that their personal information is*
9 *being stored or transferred outside of the United*
10 *States; or*

11 *“(E) to retain the personal information of*
12 *a child or teen for longer than is reasonably nec-*
13 *essary to fulfill a transaction or provide a serv-*
14 *ice requested by the child or teen except as re-*
15 *quired or specifically authorized by Federal or*
16 *State law.”; and*

17 *(B) in paragraph (2)—*

18 *(i) by striking “Notwithstanding para-*
19 *graph (1)” and inserting “Notwithstanding*
20 *paragraph (1)(A)”;*

21 *(ii) by striking “of such a website or*
22 *online service”; and*

23 *(iii) by striking “subsection*
24 *(b)(1)(B)(iii) to the parent of a child” and*
25 *inserting “subsection (b)(1)(B)(iii) to the*

1 *parent of a child or under subsection*
2 *(b)(1)(C)(iii) to a teen”;*

3 *(3) in subsection (b)—*

4 *(A) in paragraph (1)—*

5 *(i) in subparagraph (A)—*

6 *(I) by striking “operator of any*
7 *website” and all that follows through*
8 *“from a child” and inserting “operator*
9 *of a website, online service, online ap-*
10 *plication, or mobile application di-*
11 *rected to children or that has actual*
12 *knowledge or knowledge fairly implied*
13 *on the basis of objective circumstances*
14 *that it is collecting personal informa-*
15 *tion from children or teens”;*

16 *(II) in clause (i)—*

17 *(aa) by striking “notice on*
18 *the website” and inserting “clear*
19 *and conspicuous notice”;*

20 *(bb) by inserting “or teens”*
21 *after “children”;*

22 *(cc) by striking “, and the*
23 *operator’s” and inserting “, the*
24 *operator’s”;* and

1 *(dd) by striking “; and” and*
2 *inserting “, the rights and oppor-*
3 *tunities available to the parent of*
4 *the child or teen under subpara-*
5 *graphs (B) and (C), and the pro-*
6 *cedures or mechanisms the oper-*
7 *ator uses to ensure that personal*
8 *information is not collected from*
9 *children or teens except in accord-*
10 *ance with the regulations promul-*
11 *gated under this paragraph;”;*

12 *(III) in clause (ii)—*

13 *(aa) by striking “parental”;*
14 *(bb) by inserting “or teens”*
15 *after “children”;*

16 *(cc) by striking the semicolon*
17 *at the end and inserting “; and”;*
18 *and*

19 *(IV) by inserting after clause (ii)*
20 *the following new clause:*

21 *“(iii) to obtain verifiable consent from*
22 *a parent of a child or a teen before using*
23 *or disclosing personal information of the*
24 *child or teen for any purpose that is a ma-*
25 *terial change from the original purposes*

1 *and disclosure practices specified to the par-*
2 *ent of the child or the teen under clause*
3 *(i);”;*

4 *(ii) in subparagraph (B)—*

5 *(I) in the matter preceding clause*
6 *(i), by striking “website or online serv-*
7 *ice” and inserting “operator”;*

8 *(II) in clause (i), by inserting*
9 *“and the method by which the operator*
10 *obtained the personal information, and*
11 *the purposes for which the operator col-*
12 *lects, uses, discloses, and retains the*
13 *personal information” before the semi-*
14 *colon;*

15 *(III) in clause (ii)—*

16 *(aa) by inserting “to delete*
17 *personal information collected*
18 *from the child or content or infor-*
19 *mation submitted by the child to*
20 *a website, online service, online*
21 *application, or mobile application*
22 *and” after “the opportunity at*
23 *any time”; and*

24 *(bb) by striking “; and” and*
25 *inserting a semicolon;*

1 (IV) by redesignating clause (iii)
2 as clause (iv) and inserting after
3 clause (ii) the following new clause:

4 “(iii) the opportunity to challenge the
5 accuracy of the personal information and, if
6 the parent of the child establishes the inac-
7 curacy of the personal information, to have
8 the inaccurate personal information cor-
9 rected;”; and

10 (V) in clause (iv), as so redesign-
11 ated, by inserting “, if such informa-
12 tion is available to the operator at the
13 time the parent makes the request” be-
14 fore the semicolon;

15 (iii) by redesignating subparagraphs
16 (C) and (D) as subparagraphs (D) and (E),
17 respectively;

18 (iv) by inserting after subparagraph
19 (B) the following new subparagraph:

20 “(C) require the operator to provide, upon
21 the request of a teen under this subparagraph
22 who has provided personal information to the
23 operator, upon proper identification of that
24 teen—

1 “(i) a description of the specific types
2 of personal information collected from the
3 teen by the operator, the method by which
4 the operator obtained the personal informa-
5 tion, and the purposes for which the oper-
6 ator collects, uses, discloses, and retains the
7 personal information;

8 “(ii) the opportunity at any time to
9 delete personal information collected from
10 the teen or content or information submitted
11 by the teen to a website, online service, on-
12 line application, or mobile application and
13 to refuse further use or collection of personal
14 information from the teen;

15 “(iii) the opportunity to challenge the
16 accuracy of the personal information and, if
17 the parent of the child establishes the inac-
18 curacy of the personal information, to have
19 the inaccurate personal information cor-
20 rected; and

21 “(iv) a means that is reasonable under
22 the circumstances for the teen to obtain any
23 personal information collected from the teen,
24 if such information is available to the oper-

1 *ator at the time the teen makes the re-*
2 *quest;”;* and

3 *(v) by amending subparagraph (E), as*
4 *so redesignated, to read as follows:*

5 *“(E) require the operator to establish, im-*
6 *plement, and maintain reasonable security prac-*
7 *tices to protect the confidentiality, integrity, and*
8 *accessibility of personal information of children*
9 *or teens collected by the operator, and to protect*
10 *such personal information against unauthorized*
11 *access.”;*

12 *(B) in paragraph (2)—*

13 *(i) in the matter preceding subpara-*
14 *graph (A), by striking “verifiable parental*
15 *consent” and inserting “verifiable consent”;*

16 *(ii) in subparagraph (A)—*

17 *(I) by inserting “or teen” after*
18 *“collected from a child”;*

19 *(II) by inserting “or teen” after*
20 *“request from the child”; and*

21 *(III) by inserting “or teen or to*
22 *contact another child or teen” after “to*
23 *recontact the child”;*

24 *(iii) in subparagraph (B)—*

1 (I) by striking “parent or child”
2 and inserting “parent or teen”; and

3 (II) by striking “parental con-
4 sent” each place the term appears and
5 inserting “verifiable consent”;

6 (iv) in subparagraph (C)—

7 (I) in the matter preceding clause
8 (i), by inserting “or teen” after “child”
9 each place the term appears;

10 (II) in clause (i)—

11 (aa) by inserting “or teen”
12 after “child” each place the term
13 appears; and

14 (bb) by inserting “or teen, as
15 applicable,” after “parent” each
16 place the term appears; and

17 (III) in clause (ii), by inserting
18 “or teen” after “child” each place the
19 term appears; and

20 (v) in subparagraph (D)—

21 (I) in the matter preceding clause
22 (i), by inserting “or teen” after “child”
23 each place the term appears;

24 (II) in clause (ii), by inserting
25 “or teen” after “child”; and

1 (III) *in the flush text following*
2 *clause (iii)—*

3 (aa) *by inserting “or teen, as*
4 *applicable,” after “parent” each*
5 *place the term appears; and*

6 (bb) *by inserting “or teen”*
7 *after “child”; and*

8 (C) *by adding after paragraph (3) the fol-*
9 *lowing:*

10 “(4) *CONTINUATION OF SERVICE.—The regula-*
11 *tions shall prohibit an operator from discontinuing*
12 *service provided to a child or teen on the basis of a*
13 *request by the parent of the child or by the teen,*
14 *under the regulations prescribed under subparagraph*
15 *(B) or (C) of paragraph (1), respectively, to delete*
16 *personal information collected from the child or teen,*
17 *to the extent that the operator is capable of providing*
18 *such service without such information.*

19 “(5) *RULE OF CONSTRUCTION.—A request made*
20 *pursuant to subparagraph (B) or (C) of paragraph*
21 *(1) to delete personal information of a child or teen*
22 *shall not be construed—*

23 (A) *to limit the authority of a law enforce-*
24 *ment agency to obtain any content or informa-*
25 *tion from an operator pursuant to a lawfully ex-*

1 *ecuted warrant or an order of a court of com-*
2 *petent jurisdiction;*

3 *“(B) to require an operator or third party*
4 *delete information that—*

5 *“(i) any other provision of Federal or*
6 *State law requires the operator or third*
7 *party to maintain; or*

8 *“(ii) was submitted to the website, on-*
9 *line service, online application, or mobile*
10 *application of the operator by any person*
11 *other than the user who is attempting to*
12 *erase or otherwise eliminate the content or*
13 *information, including content or informa-*
14 *tion submitted by the user that was repub-*
15 *lished or resubmitted by another person; or*

16 *“(C) prohibit an operator from—*

17 *“(i) retaining a record of the deletion*
18 *request and the minimum information nec-*
19 *essary for the purposes of ensuring compli-*
20 *ance with a request made pursuant to sub-*
21 *paragraph (B) or (C); or*

22 *“(ii) ensuring that the child or teen’s*
23 *information remains deleted.”; and*

24 *(4) in subsection (c), by striking “a regulation*
25 *prescribed under subsection (a)” and inserting “sub-*

1 *paragraph (B), (C), (D), or (E) of subsection (a)(1),*
2 *or a of a regulation prescribed under subparagraph*
3 *(A) of such subsection,”.*

4 *(c) SAFE HARBORS.—Section 1304 of the Children’s*
5 *Online Privacy Protection Act of 1998 (15 U.S.C. 6503)*
6 *is amended—*

7 *(1) in subsection (b)(1), by inserting “and teens”*
8 *after “children”; and*

9 *(2) by adding at the end the following:*

10 *“(d) PUBLICATION.—*

11 *“(1) IN GENERAL.—The Commission shall pub-*
12 *lish on the internet website of the Commission any re-*
13 *port or documentation required by regulation to be*
14 *submitted to the Commission to carry out this section.*

15 *“(2) RESTRICTIONS ON PUBLICATION.—The re-*
16 *strictions described in subsection (f) of section 6 of the*
17 *Federal Trade Commission Act (15 U.S.C. 46(f)) ap-*
18 *licable to the publication of information obtained by*
19 *the Commission through investigations conducted*
20 *under such section shall apply in same manner to the*
21 *publication under this subsection of information ob-*
22 *tained by the Commission from a report or docu-*
23 *mentation described in paragraph (1).”.*

1 (d) *ADMINISTRATION AND APPLICABILITY OF ACT.*—
2 *Section 1306 of the Children’s Online Privacy Protection*
3 *Act of 1998 (15 U.S.C. 6505) is amended—*

4 (1) *in subsection (b)—*

5 (A) *in paragraph (1), by striking “, in the*
6 *case of” and all that follows through “the Board*
7 *of Directors of the Federal Deposit Insurance*
8 *Corporation;” and inserting the following: “by*
9 *the appropriate Federal banking agency, with re-*
10 *spect to any insured depository institution (as*
11 *those terms are defined in section 3 of that Act*
12 *(12 U.S.C. 1813));”;* and

13 (B) *by striking paragraph (2) and redesign-*
14 *ating paragraphs (3) through (6) as para-*
15 *graphs (2) through (5), respectively; and*

16 (2) *by adding at the end the following new sub-*
17 *sections:*

18 “(f) *DETERMINATION OF WHETHER AN OPERATOR*
19 *HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF OB-*
20 *JECTIVE CIRCUMSTANCES.*—

21 “(1) *RULE OF CONSTRUCTION.*—*For purposes of*
22 *enforcing this Act or a regulation promulgated under*
23 *this Act, in making a determination as to whether an*
24 *operator has knowledge fairly implied on the basis of*
25 *objective circumstances that a user is a child or teen,*

1 *the Commission shall rely on competent and reliable*
2 *empirical evidence, taking into account the totality of*
3 *the circumstances, including consideration of whether*
4 *the operator, using available technology, exercised rea-*
5 *sonable care.*

6 “(2) *PROTECTIONS FOR PRIVACY.—Nothing in*
7 *the Commission’s determination under paragraph (1)*
8 *shall be construed to require an operator to—*

9 “(A) *affirmatively collect any personal in-*
10 *formation with respect to the age of a child or*
11 *teen that an operator is not already collecting in*
12 *the normal course of business; or*

13 “(B) *implement an age gating or age*
14 *verification functionality.*

15 “(3) *COMMISSION GUIDANCE.—*

16 “(A) *IN GENERAL.—Within 180 days of en-*
17 *actment, the Commission shall issue guidance to*
18 *provide information, including best practices*
19 *and examples for operators to understand the*
20 *Commission’s determination of whether an oper-*
21 *ator has knowledge fairly implied on the basis of*
22 *objective circumstances.*

23 “(B) *LIMITATION.—No guidance issued by*
24 *the Commission with respect to this Act shall*
25 *confer any rights on any person, State, or local-*

1 *ity, nor shall operate to bind the Commission or*
2 *any person to the approach recommended in*
3 *such guidance. In any enforcement action*
4 *brought pursuant to this Act, the Commission*
5 *shall allege a specific violation of a provision of*
6 *this Act. The Commission may not base an en-*
7 *forcement action on, or execute a consent order*
8 *based on, practices that are alleged to be incon-*
9 *sistent with any such guidance, unless the prac-*
10 *tices allegedly violate this Act.*

11 *“(g) ADDITIONAL REQUIREMENT.—Any regulations*
12 *issued under this Act shall include a description and anal-*
13 *ysis of the impact of proposed and final Rules on small*
14 *entities per the Regulatory Flexibility Act of 1980 (5 U.S.C.*
15 *601 et seq.).”.*

16 **SEC. 3. STUDY AND REPORTS OF MOBILE AND ONLINE AP-**
17 **PLICATION OVERSIGHT AND ENFORCEMENT.**

18 *(a) OVERSIGHT REPORT.—Not later than 3 years after*
19 *the date of enactment of this Act, the Federal Trade Com-*
20 *mission shall submit to the Committee on Commerce,*
21 *Science, and Transportation of the Senate and the Com-*
22 *mittee on Energy and Commerce of the House of Represent-*
23 *atives a report on the processes of platforms that offer mo-*
24 *bile and online applications for ensuring that, of those ap-*
25 *plications that are websites, online services, online applica-*

1 *tions, or mobile applications directed to children, the appli-*
2 *cations operate in accordance with—*

3 *(1) this Act, the amendments made by this Act,*
4 *and rules promulgated under this Act; and*

5 *(2) rules promulgated by the Commission under*
6 *section 5 of the Federal Trade Commission Act (15*
7 *U.S.C. 45) relating to unfair or deceptive acts or*
8 *practices in marketing.*

9 *(b) ENFORCEMENT REPORT.—Not later than 1 year*
10 *after the date of enactment of this Act, and each year there-*
11 *after, the Federal Trade Commission shall submit to the*
12 *Committee on Commerce, Science, and Transportation of*
13 *the Senate and the Committee on Energy and Commerce*
14 *of the House of Representatives a report that addresses, at*
15 *a minimum—*

16 *(1) the number of actions brought by the Com-*
17 *mission during the reporting year to enforce the Chil-*
18 *dren’s Online Privacy Protection Act of 1998 (15*
19 *U.S.C. 6501) (referred to in this subsection as the*
20 *“Act”) and the outcome of each such action;*

21 *(2) the total number of investigations or inquir-*
22 *ies into potential violations of the Act; during the re-*
23 *porting year;*

1 (3) *the total number of open investigations or in-*
 2 *quiries into potential violations of the Act as of the*
 3 *time the report is submitted;*

4 (4) *the number and nature of complaints re-*
 5 *ceived by the Commission relating to an allegation of*
 6 *a violation of the Act during the reporting year; and*

7 (5) *policy or legislative recommendations to*
 8 *strengthen online protections for children and teens.*

9 **SEC. 4. GAO STUDY.**

10 (a) *STUDY.*—*The Comptroller General of the United*
 11 *States (in this section referred to as the “Comptroller Gen-*
 12 *eral”)* shall conduct a study on the privacy of teens who
 13 *use financial technology products. Such study shall—*

14 (1) *identify the type of financial technology*
 15 *products that teens are using;*

16 (2) *identify the potential risks to teens’ privacy*
 17 *from using such financial technology products; and*

18 (3) *determine whether existing laws are suffi-*
 19 *cient to address such risks to teens’ privacy.*

20 (b) *REPORT.*—*Not later than 1 year after the date of*
 21 *enactment of this section, the Comptroller General shall sub-*
 22 *mit to Congress a report containing the results of the study*
 23 *conducted under subsection (a), together with recommenda-*
 24 *tions for such legislation and administrative action as the*
 25 *Comptroller General determines appropriate.*

Calendar No. 288

118TH CONGRESS
1ST Session
S. 1418

A BILL

To amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and teens, and for other purposes.

DECEMBER 13, 2023

Reported with an amendment