

116TH CONGRESS
1ST SESSION

H. R. 4782

To establish a national commission on online platforms and homeland security,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2019

Mr. THOMPSON of Mississippi (for himself, Mr. ROSE of New York, Ms. BARRAGÁN, Mrs. WATSON COLEMAN, Ms. CLARKE of New York, Mr. RICHMOND, Mr. PAYNE, Mr. LANGEVIN, Mr. CORREA, and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a national commission on online platforms and
homeland security, 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 “National Commission
5 on Online Platforms and Homeland Security Act”.

1 **SEC. 2. NATIONAL COMMISSION ON ONLINE PLATFORMS**
2 **AND HOMELAND SECURITY.**

3 (a) ESTABLISHMENT OF COMMISSION.—There is es-
4 tablished a National Commission on Online Platforms and
5 Homeland Security (referred to in this section as the
6 “Commission”).

7 (b) PURPOSES.—The Commission shall—

8 (1) identify, examine, and report on the ways,
9 if any, that online platforms have been utilized in
10 furtherance of acts of targeted violence, including
11 domestic terrorism and international terrorism, or
12 covert foreign state influence campaigns; and

13 (2) identify, examine, and report on the ways,
14 if any, that free speech, privacy, civil rights, and
15 civil liberties are impacted by—

16 (A) any utilization of online platforms in
17 furtherance of acts of targeted violence, includ-
18 ing domestic terrorism and international ter-
19 rorism, or covert foreign state influence cam-
20 paigns; and

21 (B) any policies, procedures, or activities
22 undertaken by owners and operators of online
23 platforms to prevent or limit the utilization of
24 online platforms in furtherance of acts of tar-
25 geted violence, including domestic terrorism and

1 international terrorism, or covert foreign state
2 influence campaigns; and

3 (3) develop recommendations, as appropriate,
4 for how online platforms could address the utiliza-
5 tion identified pursuant to paragraph (1), if any, in
6 ways that are transparent and accountable, to pro-
7 mote free speech and innovation on the internet,
8 preserve individual privacy, civil rights, and civil lib-
9 erties, and uphold the principles of the Constitution,
10 in accordance with relevant existing statutes, includ-
11 ing section 552a of title 5, United States Code (com-
12 monly referred to as the Privacy Act of 1974), and
13 take into account current or anticipated trends and
14 technological developments, such as advancements in
15 artificial intelligence.

16 (c) COMPOSITION OF COMMISSION.—

17 (1) MEMBERS.—The Commission shall be com-
18 posed of 12 members, of whom—

19 (A) two members shall be appointed by the
20 Committee on Homeland Security in the House
21 of Representatives, with one member selected
22 by the Chair and the other selected by the
23 Ranking Member;

24 (B) two members shall be appointed by the
25 Committee on Foreign Affairs in the House of

1 Representatives, with one member selected by
2 the Chair and the other selected by the Ranking
3 Member;

4 (C) two members shall be appointed by the
5 Committee on Energy and Commerce in the
6 House of Representatives, with one member se-
7 lected by the Chair and the other selected by
8 the Ranking Member;

9 (D) two members shall be appointed by the
10 Committee on Homeland Security and Govern-
11 mental Affairs in the Senate, with one member
12 selected by the Chair and the other selected by
13 the Ranking Member;

14 (E) two members shall be appointed by the
15 Committee on Foreign Relations in the Senate,
16 with one member selected by the Chair and the
17 other selected by the Ranking Member; and

18 (F) two members shall be appointed by the
19 Committee on Commerce, Science, and Trans-
20 portation in the Senate, with one member se-
21 lected by the Chair and the other selected by
22 the Ranking Member.

23 (2) QUALIFICATIONS.—

24 (A) AREAS OF EXPERTISE.—Individuals
25 appointed to the Commission shall be United

1 States persons with experience in such profes-
2 sions as privacy, civil rights, civil liberties, com-
3 puter science and engineering, digital media
4 and communications, online platform manage-
5 ment, cybersecurity, information operations,
6 and national security. The appointment of
7 members to the Commission shall, to the extent
8 possible, be coordinated among nominations to
9 ensure Commission membership represents a
10 variety of expertise in such fields.

11 (B) PRIVACY, CIVIL RIGHTS, AND CIVIL
12 LIBERTIES.—Not fewer than four individuals
13 appointed to the Commission shall be experts in
14 the fields of privacy, civil rights, or civil lib-
15 erties.

16 (C) NON-GOVERNMENT APPOINTEES.—An
17 individual appointed to the Commission may
18 not be an officer or employee of the Federal
19 Government.

20 (D) NON-INDUSTRY APPOINTEES.—An in-
21 dividual appointed to the Commission may not
22 be a current officer, employee, contractor, or
23 active or significant shareholder of an entity
24 that owns or operates an online platform.

1 (3) DEADLINE FOR APPOINTMENT.—Members
2 of the Commission shall be appointed not later than
3 30 days after the date of the enactment of this Act.

4 (d) CHAIR.—The Chair shall be chosen from among
5 the members appointed to the Commission on the basis
6 of their qualifications with respect to privacy, civil rights,
7 and civil liberties, through a vote taken by a majority of
8 Commission members or, in the absence of a majority, by
9 a plurality of Commission members.

10 (e) INITIAL MEETING.—The Commission shall meet
11 and begin operating not later than 30 days after the date
12 of the appointment of its final member.

13 (f) QUORUM; VACANCIES.—After its initial meeting,
14 the Commission shall meet upon the call of the Chair or
15 a majority of its members. Nine members of the Commis-
16 sion shall constitute a quorum, and members shall have
17 the option to vote by proxy. Any vacancy in the Commis-
18 sion shall not affect its powers, but shall be filled in the
19 same manner in which the original appointment was made.

20 (g) STUDY AREAS.—The Commission shall, con-
21 sistent with the purposes specified in subsection (b), ana-
22 lyze existing research that relates to the utilization of on-
23 line platforms in furtherance of acts of targeted violence,
24 including domestic terrorism and international terrorism,
25 or covert foreign state influence campaigns, identify any

1 areas with respect to which additional research is needed,
2 and study the following:

3 (1) The extent to which owners or operators of
4 online platforms have been able to respond effec-
5 tively to attempts to use online platforms in further-
6 ance of acts of targeted violence, including domestic
7 terrorism and international terrorism, or covert for-
8 eign state influence campaigns, and what impact, if
9 any, such responses have had on the privacy, civil
10 rights, or civil liberties of users.

11 (2) The ways, if any, that online platforms' al-
12 gorithms or other automated decision-making sys-
13 tems may impact privacy, civil rights, or civil lib-
14 erties, as well as how such algorithms may affect ac-
15 tivity on online platforms in furtherance of acts of
16 targeted violence, including domestic terrorism and
17 international terrorism, or covert foreign state influ-
18 ence campaigns.

19 (3) The extent to which owners or operators of
20 online platforms have transparent, consistent, and
21 equitable policies and procedures to enforce terms of
22 services or codes of conduct, provide notice and an
23 opportunity for redress, or otherwise address viola-
24 tions of platform rules, including a consideration of
25 best practices for improving online platforms' poli-

1 cies and procedures, including the recommendations
2 contained in the Santa Clara Principles on Trans-
3 parency and Accountability in Content Moderation,
4 as published on February 2, 2018, or successor prin-
5 ciples with respect to the extent and impact of con-
6 tent removals and user suspensions and removals, as
7 well as principles related to the notice and appeals
8 of such decisions.

9 (4) The extent to which owners or operators of
10 online platforms consistently and effectively enforce
11 the policies and procedures described in paragraph
12 (3).

13 (5) The extent to which owners or operators of
14 online platforms consider the potential use of online
15 platforms in furtherance of targeted violence, includ-
16 ing domestic terrorism and international terrorism,
17 or covert foreign state influence campaigns, when
18 evaluating whether to enter into partnerships, adver-
19 tising agreements, or other business opportunities.

20 (h) POWERS OF COMMISSION.—

21 (1) HEARINGS AND EVIDENCE.—For the pur-
22 pose of carrying out this section, the Commission
23 may—

24 (A) hold such hearings and sit and act at
25 such times and places, take such testimony, re-

1 ceive such evidence, and administer such oaths;
2 and

3 (B) require, by subpoena authorized by the
4 majority vote of the Commission, the attend-
5 ance and testimony of such witnesses and the
6 production of such books, records, correspond-
7 ence, memoranda, papers, and documents, as
8 the Commission may determine advisable.

9 (2) LIMITATIONS ON SUBPOENA AUTHORITY.—

10 With respect to the subpoena authority granted in
11 paragraph (1)(B), the Commission—

12 (A) may only issue a subpoena to an owner
13 or operator of an online platform;

14 (B) may not, under any circumstances,
15 issue a subpoena for information related to an
16 individual user or group of users;

17 (C) may not share, disclose, publish, or
18 transmit in any way any information obtained
19 through subpoena to a Federal department or
20 agency, any agency of a State, local, Tribal, or
21 territorial government, or any international
22 body;

23 (D) may not share, disclose, publish, or
24 transmit in any way any information obtained
25 through subpoena with any individual or orga-

1 nization outside the Commission unless three-
2 fourths of Commission members approve such
3 action and that and that any such sharing, dis-
4 closure, publishing, or transmission be reason-
5 ably necessary to further the Commission's
6 goals; and

7 (E) shall comply with requirements for the
8 issuance of a subpoena issued by a United
9 States district court under the Federal Rules of
10 Civil Procedure.

11 (3) PUBLIC MEETINGS AND RELEASE OF PUB-
12 LIC VERSIONS OF REPORTS.—

13 (A) IN GENERAL.—The Commission
14 shall—

15 (i) hold public hearings and meetings,
16 as appropriate;

17 (ii) hold closed or classified hearings
18 or meetings, as appropriate;

19 (iii) provide an opportunity for public
20 comment, including sharing of research
21 and policy analysis, through publication in
22 the Federal Register of a solicitation for
23 public comments during a period to last
24 not fewer than 45 days; and

1 (iv) release a public version of the re-
2 port required under subsection (k)(2).

3 (B) CONDUCT.—Any public hearing, meet-
4 ing, or reporting of the Commission under this
5 paragraph shall be conducted in a manner con-
6 sistent with the protection of information pro-
7 vided to or developed for or by the Commission
8 as required by any applicable statute, regula-
9 tion, or Executive order.

10 (4) OBLIGATION TO PROTECT PERSONAL IN-
11 FORMATION.—Whether or not the Commission re-
12 ceives personally identifiable information through the
13 exercise of subpoena authority pursuant to para-
14 graph (1)(B), neither the Commission nor any mem-
15 ber of the Commission may publish, disclose, or re-
16 lease such information publicly or to a Federal de-
17 partment or agency, an agency of a State, local,
18 Tribal, or territorial government, any international
19 body, or any other individual or organization outside
20 the Commission.

21 (5) OBLIGATION TO PROTECT PROPRIETARY IN-
22 FORMATION.—In the event that the Commission de-
23 termines that information received from an owner or
24 operator of an online platform includes confidential
25 business information, a trade secret, or other propri-

1 etary information, the Commission shall ensure such
2 information is not published, disclosed, or released
3 to any individual or organization outside the Com-
4 mission.

5 (6) COORDINATION WITH AND ASSISTANCE TO
6 THE UNDER SECRETARY FOR SCIENCE AND TECH-
7 NOLOGY OF THE DEPARTMENT OF HOMELAND SECU-
8 RITY.—The Commission may, to the extent prac-
9 ticable—

10 (A) consult with the Under Secretary for
11 Science and Technology of the Department of
12 Homeland Security on the research conducted
13 in accordance with section 3; and

14 (B) provide assistance in furtherance of
15 such research, as appropriate.

16 (7) PERSONALLY IDENTIFIABLE INFORMA-
17 TION.—In providing testimony or producing books,
18 records, correspondence, memoranda, papers, docu-
19 ments, or any other information or materials to the
20 Commission, either to comply with a subpoena
21 issued under this subsection or for any other pur-
22 pose, owners or operators of online platforms should
23 review such information or materials for personally
24 identifiable information and should remove such in-
25 formation.

1 (i) STAFF OF COMMISSION.—The Chair, in consulta-
2 tion with the Vice Chair, and in accordance with rules
3 agreed upon by the Commission, may appoint and fix the
4 compensation of a staff director and such other personnel
5 as may be necessary to enable the Commission to carry
6 out its functions, without regard to the provisions of title
7 5, United States Code, governing appointments in the
8 competitive service, and without regard to the provisions
9 of chapter 51 and subchapter III of chapter 53 of such
10 title relating to classification and General Schedule pay
11 rates, except that no rate of pay fixed under this sub-
12 section may exceed the equivalent of that payable for a
13 position at level V of the Executive Schedule under section
14 5316 of title 5, United States Code.

15 (j) SECURITY CLEARANCES FOR COMMISSION MEM-
16 BERS AND STAFF.—The heads of appropriate Federal de-
17 partments and agencies shall cooperate with the Commis-
18 sion in expeditiously providing to Commission members
19 and staff appropriate security clearances to the extent
20 practicable pursuant to existing procedures and require-
21 ments, including temporary security clearances, as appro-
22 priate. No person may be provided access to classified in-
23 formation under this section without the appropriate secu-
24 rity clearance.

25 (k) REPORTS OF COMMISSION; TERMINATION.—

1 (1) INTERIM REPORTS.—Not later than one
2 year after the first meeting of the Commission, the
3 Chair shall report to Congress on the activities of
4 the Commission and share interim findings, as have
5 been agreed to by a majority of Commission mem-
6 bers.

7 (2) FINAL REPORT.—Not later than two years
8 after the first meeting of the Commission, the Chair
9 shall submit to the President and Congress a report
10 that contains any findings and recommendations
11 agreed to by a majority of Commission members to
12 address the areas of study under subsection (g), in-
13 cluding relating to the following:

14 (A) Policy mechanisms that would address
15 the Commission’s findings in a manner that
16 promotes free speech and innovation on the
17 internet, preserves individual privacy, civil
18 rights, and civil liberties, and upholds the prin-
19 ciples of the Constitution.

20 (B) Policies and procedures that owners or
21 operators of online platforms could implement
22 to address such areas of study that preserve the
23 individual privacy, civil rights, and civil liberties
24 of online platform users.

1 (C) Mechanisms to improve transparency
2 and accountability related to the matters de-
3 scribed in subsection (g), including any best
4 practices identified pursuant to paragraph (3)
5 of such subsection.

6 (D) Areas with respect to which additional
7 research is required, informed by the evaluation
8 of prior research, as required under subsection
9 (g).

10 (E) Other matters identified by the major-
11 ity of Commission members.

12 (3) TERMINATION.—The Commission shall ter-
13 minate on the date that is 90 days after the date on
14 which the final report under paragraph (2) is sub-
15 mitted.

16 (l) ACTION PLAN.—Not later than 180 days after
17 submission of the final report of the Commission pursuant
18 to paragraph (2) of subsection (k), the Secretary of Home-
19 land Security shall issue an action plan in response to
20 findings and recommendations under subparagraph (D) of
21 such paragraph.

22 (m) PAPERWORK REDUCTION ACT EXEMPTION.—
23 Subchapter I of chapter 35 of title 44, United States
24 Code, shall not apply to this section.

1 (n) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to confer any authority, including
3 law enforcement authority, beyond that which is author-
4 ized under existing law.

5 **SEC. 3. RESEARCH.**

6 (a) IN GENERAL.—The Under Secretary for Science
7 and Technology of the Department of Homeland Security
8 shall—

9 (1) analyze existing research regarding previous
10 acts of targeted violence, including domestic ter-
11 rorism or international terrorism;

12 (2) carry out research to better understand
13 whether any connection exists between the use of on-
14 line platforms, particularly platforms used for social
15 media and social networking, and targeted violence,
16 including domestic terrorism and international ter-
17 rorism, that takes into consideration how the organi-
18 zation, structure, and presentation of information on
19 an online platform contributes, or does not con-
20 tribute, to acts of targeted violence, including do-
21 mestic terrorism or international terrorism; and

22 (3) develop voluntary approaches that could be
23 adopted by owners and operators of online platforms
24 to address research findings under paragraph (2),

1 while preserving the individual privacy, civil rights,
2 and civil liberties of users.

3 (b) PARTNERSHIP.—In carrying out this section, the
4 Under Secretary for Science and Technology of the De-
5 partment of Homeland Security shall, to the extent prac-
6 ticable, coordinate with the National Commission on On-
7 line Platforms and Homeland Security under section 2,
8 as well as academic institutions, non-profit organizations,
9 the private sector, and Federal, State, local, and Tribal
10 partners, as appropriate.

11 (c) REPORT.—Not later than one year after the date
12 of the enactment of this section, the Under Secretary for
13 Science and Technology of the Department of Homeland
14 Security shall submit to Congress a report related to the
15 research and development required under subsection (a).

16 (d) PAPERWORK REDUCTION ACT EXEMPTION.—
17 Subchapter I of chapter 35 of title 44, United States
18 Code, shall not apply to this section.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) COVERT FOREIGN STATE INFLUENCE CAM-
22 PAIGNS.—The term “covert foreign state influence
23 campaigns” means the coordinated and covert appli-
24 cation of state diplomatic, informational, military,
25 economic, business, corruption, educational, or other

1 capability by foreign state actors to the United
2 States to affect elections in the United States.

3 (2) DOMESTIC TERRORISM.—The term “domes-
4 tic terrorism” has the meaning given such term in
5 section 2331 of title 18, United States Code.

6 (3) INTERNATIONAL TERRORISM.—The term
7 “international terrorism” has the meaning given
8 such term in section 2331 of title 18, United States
9 Code.

10 (4) ONLINE PLATFORM.—

11 (A) IN GENERAL.—The term “online plat-
12 form” means internet-based information serv-
13 ices consisting of the storage and processing of
14 information by and at the request of a content
15 provider and the dissemination of such content
16 to third parties.

17 (B) EXCLUSIONS.—Such term does not in-
18 clude the following:

19 (i) Platforms that offer journalistic or
20 editorial content (not including editorial
21 decisions by online platforms to rank and
22 organize third party content).

23 (ii) Applications and functionalities
24 that enable private communications, such

1 as email, direct messages, and encrypted
2 communication services.

3 (iii) Online service providers at layers
4 of the internet infrastructure other than
5 the application layer, and cloud IT infra-
6 structure service providers.

7 (5) PERSONALLY IDENTIFIABLE INFORMA-
8 TION.—The term “personally identifiable informa-
9 tion” means any information about an individual
10 elicited, collected, stored, or maintained by an agen-
11 cy or owner or operator of an online platform, in-
12 cluding the following:

13 (A) Any information that can be used to
14 distinguish or trace the identity of an indi-
15 vidual, such as a name, a social security num-
16 ber, a date and place of birth, a mother’s maid-
17 en name, or biometric records.

18 (B) Any other information that is linked or
19 linkable to an individual, such as medical, edu-
20 cational, financial, or employment information.

21 (6) TARGETED VIOLENCE.—The term “targeted
22 violence” means any incident of violence in which an
23 attacker selects a particular target prior to the inci-
24 dent of violence so as to suggest an intent to inflict
25 mass injury or death and may be an act of domestic

1 terrorism or international terrorism, or an attack
2 that otherwise lacks a clearly discernible political or
3 ideological motivation, such as the June 12, 2016,
4 nightclub mass shooting in Orlando, Florida, the Oc-
5 tober 1, 2017, attack on concert-goers at a music
6 festival in Las Vegas, Nevada, and the August 3,
7 2019, mass shooting at a store in El Paso, Texas.

○