

118TH CONGRESS  
1ST SESSION

# S. 2597

To amend the Clayton Act to establish a new Federal commission to regulate digital platforms, including with respect to competition, transparency, privacy, and national security.

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IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Ms. WARREN (for herself and Mr. GRAHAM) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act to establish a new Federal commission to regulate digital platforms, including with respect to competition, transparency, privacy, and national security.

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 “Digital Consumer Pro-  
5 tection Commission Act of 2023”.

1           **TITLE I—AMENDMENTS TO**  
 2                           **CLAYTON ACT**

3   **SEC. 101. ESTABLISHMENT OF DIGITAL CONSUMER PRO-**  
 4                           **TECTION COMMISSION.**

5           The Clayton Act (15 U.S.C. 12 et seq.) is amended—

6                   (1) by striking “That (a)” and inserting the fol-  
 7           lowing:

8                           **“DIVISION A—ORIGINAL**  
 9                           **ANTITRUST PROVISIONS**

10           “SECTION 1. (a) The term”;

11                   (2) in division A, as so designated, by adding  
 12           at the end the following:

13           “SEC. 29. (a) Any reference to ‘this Act’ in this divi-  
 14           sion shall be deemed to be a reference to this division.

15           “(b) Any reference to the Clayton Act in any other  
 16           provision of law shall be deemed to be a reference to this  
 17           division unless the provision specifically references division  
 18           B of this Act or a provision in division B of this Act.”;  
 19           and

20                   (3) by adding at the end the following:

21           **“DIVISION     B—DIGITAL     CON-**  
 22                   **SUMER     PROTECTION     COM-**  
 23                   **MISSION**

24           **“SEC. 2001. TABLE OF CONTENTS.**

25           “The table of contents for this division is as follows:

“Sec. 2001. Table of contents.

“Sec. 2002. Definitions.

“TITLE I—ESTABLISHMENT OF DIGITAL CONSUMER PROTECTION  
COMMISSION

“Subtitle A—Commission Structure, Jurisdiction, and Powers

“Sec. 2111. Establishment.

“Sec. 2112. Commissioners.

“Sec. 2113. Designation of acting chairperson; sessions; seal.

“Sec. 2114. Commission jurisdiction.

“Sec. 2115. Commission powers.

“Sec. 2116. Rulemaking authority.

“Sec. 2117. Advisory boards.

“Sec. 2118. Complaints.

“Subtitle B—Dominant Platforms

“Sec. 2121. Dominant platforms.

“TITLE II—TRANSPARENCY REFORM

“Sec. 2201. Transparency practices and appeal rights.

“Sec. 2202. Best practices.

“TITLE III—COMPETITION REFORM

“Subtitle A—Antitrust Review

“Sec. 2311. Abuses of dominance.

“Sec. 2312. Platform conflicts of interest.

“Sec. 2313. Future acquisitions.

“Sec. 2314. Retrospective reviews.

“Sec. 2315. Additional remedies.

“Sec. 2316. Contractual transparency.

“Sec. 2317. Prohibition on abusive acts or practices.

“Sec. 2318. Data brokers.

“Subtitle B—Data Portability and Interoperability.

“Sec. 2321. Data portability and interoperability.

“Subtitle C—Miscellaneous

“Sec. 2331. Rule of construction.

“TITLE IV—PRIVACY REFORM

“Subtitle A—Covered Entity Duties and Requirements.

“Sec. 2411. Duty of loyalty.

“Sec. 2412. Duty of care.

“Sec. 2413. Duty of mitigation.

“Sec. 2414. Duty of confidentiality; data collection and processing.

“Sec. 2415. Limitations on targeted advertising.

“Sec. 2416. Rights of data subjects to access, correction, portability, and deletion.

“Sec. 2417. Right to know.

## “Subtitle B—Data Security Reform

- “Sec. 2421. Data security safeguards.  
 “Sec. 2422. Civil penalties and damages for data breaches.

## “Subtitle C—Miscellaneous

- “Sec. 2431. Authority to propose and establish heightened requirements for dominant platform operators.

## “TITLE V—NATIONAL SECURITY REFORM

- “Sec. 2501. Corporate citizenship and ownership.  
 “Sec. 2502. Limitation of data processing in restricted countries.  
 “Sec. 2503. Bot and country-of-origin identifications.

## “TITLE VI—LICENSES FOR OPERATORS OF DOMINANT PLATFORMS

- “Sec. 2601. Licensing office.  
 “Sec. 2602. Requirement for operators of dominant platforms to obtain licenses.  
 “Sec. 2603. Revocation of license.  
 “Sec. 2604. Compliance certification.

## “TITLE VII—ENFORCEMENT BY OTHER ENTITIES

- “Sec. 2701. Enforcement by States, private parties, and Federal agencies.  
 “Sec. 2702. Exclusive jurisdiction.

## “TITLE VIII—MISCELLANEOUS

- “Sec. 2801. Funding.  
 “Sec. 2802. Interagency cooperation.  
 “Sec. 2803. Effective date.  
 “Sec. 2804. Rules of construction.  
 “Sec. 2805. Severability.

1 **“SEC. 2002. DEFINITIONS.**

2 “In this division:

3 “(1) ALGORITHM.—

4 “(A) IN GENERAL.—The term ‘algorithm’  
 5 means a computational process derived from  
 6 machine learning, statistics, or other data proc-  
 7 essing or artificial intelligence techniques, that  
 8 processes data for the purpose of—

1                   “(i) making a decision or facilitating  
2                   human decision-making;

3                   “(ii) generating content;

4                   “(iii) the display of search results or  
5                   rankings; or

6                   “(iv) any other method of automated  
7                   decision-making, content selection, or con-  
8                   tent amplification.

9                   “(B) TEMPORAL SCOPE.—The term ‘algo-  
10                  rithm’ encompasses a computational process de-  
11                  scribed in subparagraph (A) as it evolves over  
12                  time, not just at its original point of creation.

13                  “(2) BUSINESS USER.—The term ‘business  
14                  user’, with respect to a platform, means a person  
15                  that uses or plans to use the platform for the sale  
16                  or provision of products or services.

17                  “(3) CHILD.—The term ‘child’ means an indi-  
18                  vidual younger than 18 years of age.

19                  “(4) CLEAR AND CONSPICUOUS.—The term  
20                  ‘clear and conspicuous’, with respect to a disclosure,  
21                  means the disclosure is easily noticeable and easily  
22                  understandable by ordinary consumers, including in  
23                  each of the following ways:

24                         “(A) In any communication that is solely  
25                         visual or solely audible, the disclosure shall be

1 made through the same means through which  
2 the communication is presented.

3 “(B) A visual disclosure, by its size, con-  
4 trast, location, the length of time it appears,  
5 and other characteristics, shall stand out from  
6 any accompanying text or other visual elements  
7 so that the disclosure is easily noticed, read,  
8 and understood.

9 “(C) An audible disclosure, including by  
10 telephone or streaming video, shall be delivered  
11 in a volume, speed, and cadence sufficient for  
12 an ordinary consumer to easily hear and under-  
13 stand the disclosure.

14 “(D) In any communication using an inter-  
15 active electronic medium, such as the internet  
16 or software, the disclosure shall be unavoidable.

17 “(E) The disclosure shall—

18 “(i) use diction and syntax under-  
19 standable to ordinary consumers; and

20 “(ii) appear in each language in which  
21 the communication in which the disclosure  
22 appears is presented.

23 “(F) The disclosure shall comply with the  
24 requirements under this paragraph in each me-  
25 dium through which the disclosure appears, in-

1 including all electronic devices and face-to-face  
2 communications.

3 “(G) The disclosure may not be contra-  
4 dicted or mitigated by, or inconsistent with,  
5 anything else in the communication.

6 “(H) If the representation or sales practice  
7 targets a specific audience, such as children,  
8 the elderly, or the terminally ill, the term ‘ordi-  
9 nary consumer’, as used in this paragraph, in-  
10 cludes reasonable members of that audience.

11 “(5) COMMISSION.—The term ‘Commission’, ex-  
12 cept as otherwise provided, means the Digital Con-  
13 sumer Protection Commission established under sec-  
14 tion 2111.

15 “(6) CONTROL.—The term ‘control’, with re-  
16 spect to a person or platform, means—

17 “(A) holding not less than 25 percent of  
18 the stock of the person or platform;

19 “(B) having the right to not less than 25  
20 percent of the profits of the person or platform;

21 “(C) having the right to not less than 25  
22 percent of the assets of the person or platform,  
23 in the event of the dissolution of the person or  
24 platform;

1           “(D) if the person or platform is a cor-  
2           poration, having the power to designate not less  
3           than 25 percent of the directors of the person  
4           or platform;

5           “(E) if the person or platform is a trust,  
6           having the power to designate not less than 25  
7           percent of the trustees; or

8           “(F) otherwise exercising substantial abil-  
9           ity to direct the actions of the person or plat-  
10          form.

11          “(7) COVERED BREACH.—The term ‘covered  
12          breach’ means any instance in which not less than  
13          1 piece of personal data held by a covered entity is  
14          exposed, or is reasonably likely to have been exposed,  
15          to an unauthorized party.

16          “(8) COVERED ENTITY.—

17                 “(A) IN GENERAL.—Subject to subpara-  
18                 graph (B), the term ‘covered entity’—

19                         “(i) means any person that collects,  
20                         processes, or transfers personal data and—

21                                 “(I) is subject to the Federal  
22                                 Trade Commission Act (15 U.S.C. 41  
23                                 et seq.); or

24   “(II) is—

1           “(aa) a bank, savings and  
2           loan institution described in sec-  
3           tion 18(f)(3) of the Federal  
4           Trade Commission Act (15  
5           U.S.C. 57a(f)(3)), or Federal  
6           credit union described in section  
7           18(f)(4) of such Act;

8           “(bb) a common carrier sub-  
9           ject to the Acts to regulate com-  
10          merce (as defined in section 4 of  
11          the Federal Trade Commission  
12          Act (15 U.S.C. 44));

13          “(cc) an air carrier or for-  
14          eign air carrier subject to the  
15          Federal Aviation Act of 1958 (49  
16          U.S.C. App. 1301 et seq.); or

17          “(dd) a person, partnership,  
18          or corporation subject to the  
19          Packers and Stockyards Act,  
20          1921, as amended; and

21          “(ii) includes any person that con-  
22          trols, is controlled by, or is under common  
23          control with the covered entity.

24          “(B) EXCLUSIONS.—Such term does not  
25          include—

1           “(i) a Federal, State, Tribal, terri-  
2           torial, or local government entity such as a  
3           body, authority, board, bureau, commis-  
4           sion, district, agency, or political subdivi-  
5           sion of the Federal Government or a State,  
6           Tribal, territorial, or local government;

7           “(ii) a person that is collecting, proc-  
8           essing, or transferring personal data on be-  
9           half of a Federal, State, Tribal, territorial,  
10          or local government entity, in so far as  
11          such person is acting as a service provider  
12          to the government entity; or

13          “(iii) an entity that serves as a con-  
14          gressionally designated nonprofit, national  
15          resource center, and clearinghouse to pro-  
16          vide assistance to victims, families, child-  
17          serving professionals, and the general pub-  
18          lic on missing and exploited children  
19          issues.

20          “(9) CRITICAL TRADING PARTNER.—The term  
21          ‘critical trading partner’ means an entity that has  
22          the ability to restrict or impede the access of a busi-  
23          ness user to—

24                  “(A) the users or customers of the busi-  
25                  ness user; or

1           “(B) a tool or service that the business  
2           user needs to effectively serve the users or cus-  
3           tomers of the business user.

4           “(10) DATA BROKER.—The term ‘data broker’  
5           means a person that collects, buys, licenses, or infers  
6           data about individuals and then sells, licenses, or  
7           trades that data in a commercial transaction.

8           “(11) DATA PROCESSING.—The term ‘data  
9           processing’—

10           “(A) means any operation or set of oper-  
11           ations that is performed on personal data or on  
12           sets of personal data, whether or not by auto-  
13           mated means, such as collection, recording, or-  
14           ganization, structuring, storage, adaptation or  
15           alteration, retrieval, consultation, use, disclo-  
16           sure by transmission, dissemination or other-  
17           wise making available, alignment or combina-  
18           tion, restriction, or erasure or destruction; and

19           “(B) includes the sale, resale, licensing, or  
20           trading of personal data.

21           “(12) DE-IDENTIFIED DATA.—The term ‘de-  
22           identified data’ means data, derived from sensitive  
23           personal data, that cannot reasonably be used to  
24           infer information about, or otherwise be linked to,  
25           an identified or identifiable individual or household,

1 or a device linked to such an individual or house-  
2 hold.

3 “(13) DOMINANT PLATFORM.—The term ‘domi-  
4 nant platform’ has the meaning given the term in  
5 section 2121.

6 “(14) GOVERNMENTAL ENTITY.—The term  
7 ‘governmental entity’ means a department or agency  
8 of—

9 “(A) the United States;

10 “(B) a State or political subdivision there-  
11 of; or

12 “(C) a foreign country or political subdivi-  
13 sion thereof.

14 “(15) OPERATOR.—The term ‘operator’, with  
15 respect to a platform, means a person that owns or  
16 controls the platform.

17 “(16) PERSONAL DATA.—The term ‘personal  
18 data’—

19 “(A) means information collected through  
20 activity on a platform that identifies or is  
21 linked or reasonably linkable to—

22 “(i) a user of the platform or any in-  
23 dividual; or

1           “(ii) a device routinely used by or as-  
2           sociated with a user of the platform or any  
3           individual; and

4           “(B) does not include—

5                 “(i) de-identified data; or

6                 “(ii) publicly available information.

7           “(17) PLATFORM.—The term ‘platform’ means  
8           a website, online or mobile application, operating  
9           system, online advertising exchange, digital assist-  
10          ant, or other digital service that—

11                 “(A) enables a user to—

12                         “(i) generate content that can be  
13                         viewed by other users on the website, on-  
14                         line or mobile application, operating sys-  
15                         tem, online advertising exchange, digital  
16                         assistant, or other digital service; or

17                         “(ii) interact with other content on  
18                         the website, online or mobile application,  
19                         operating system, online advertising ex-  
20                         change, digital assistant, or other digital  
21                         service;

22                 “(B) facilitates the offering, sale, pur-  
23                 chase, payment, or shipping of products or serv-  
24                 ices, including software applications and online  
25                 advertising, among consumers or businesses not

1 controlled by the website, online or mobile ap-  
2 plication, operating system, online advertising  
3 exchange, digital assistant, or other digital serv-  
4 ice; or

5 “(C) enables user searches or queries that  
6 access or display a large volume of information.

7 “(18) PLATFORM CONFLICT OF INTEREST.—  
8 The term ‘platform conflict of interest’ means the  
9 conflict of interest that arises when a person owns  
10 or controls a platform while simultaneously—

11 “(A) owning or controlling a line of busi-  
12 ness that competes against third parties on that  
13 platform, if the person has the ability and in-  
14 centive to, or does—

15 “(i) advantage its own business on the  
16 platform over third-party competitors on  
17 the platform; or

18 “(ii) disadvantage the business of  
19 third-party competitors on the platform; or

20 “(B) representing both buyers and sellers  
21 for transactions or business on the platform.

22 “(19) RESTRICTED COUNTRY.—The term ‘re-  
23 stricted country’ means a country for which a prohi-  
24 bition or a policy of denial applies under section

1 126.1 of title 22, Code of Federal Regulations (or a  
2 successor regulation).

3 “(20) SENSITIVE PERSONAL DATA.—

4 “(A) IN GENERAL.—The term ‘sensitive  
5 personal data’ means any of the following forms  
6 of personal data:

7 “(i) A unique, government-issued  
8 identifier, such as a Social Security num-  
9 ber, passport number, or driver’s license  
10 number, that is not required to be dis-  
11 played to the public.

12 “(ii) Date of birth.

13 “(iii) Cellphone number.

14 “(iv) Any data that describes or re-  
15 veals—

16 “(I) the search for, attempt to  
17 obtain, or receipt of any health serv-  
18 ices;

19 “(II) any past, present, or future  
20 disability, physical health condition,  
21 mental health condition, or health  
22 condition of an individual; or

23 “(III) any treatment or diagnosis  
24 of a disability or condition described  
25 in subclause (II).

1           “(v) A financial account number,  
2 debit card number, or credit card number,  
3 or any required security or access code,  
4 password, or credentials allowing access to  
5 a financial account.

6           “(vi) Credit scores related to financial  
7 capacity.

8           “(vii) Household or personal income.

9           “(viii) Biometric information.

10          “(ix) A persistent identifier.

11          “(x) Precise geolocation information.

12          “(xi) The contents of a private com-  
13 munication of an individual, such as an  
14 email, a text, a direct message, or mail, or  
15 the identity of the parties subject to the  
16 communication.

17          “(xii) Account log-in credentials, such  
18 as a user name or email address, in com-  
19 bination with a password or security ques-  
20 tion and answer that would permit access  
21 to an online account.

22          “(xiii) Data revealing an individual’s  
23 racial or ethnic origin or religious beliefs.

24          “(xiv) Data revealing sexual orienta-  
25 tion, gender identity, or sex characteristics.

1           “(xv) Data pertaining to an individ-  
2           ual’s sex life.

3           “(xvi) Data about online activity that  
4           addresses or reveals a category of covered  
5           data described in another clause of this  
6           subparagraph.

7           “(xvii) Data that is calendar informa-  
8           tion, address book information, phone or  
9           text logs, photos, or videos maintained for  
10          private use on an individual’s device.

11          “(xviii) Any data collected or proc-  
12          essed by a platform operator from which  
13          the platform operator infers data described  
14          in another clause of this subparagraph.

15          “(xix) Any other category of data des-  
16          ignated by the Commission pursuant to a  
17          rulemaking under section 553 of title 5,  
18          United States Code.

19          “(B) BIOMETRIC INFORMATION.—For pur-  
20          poses of subparagraph (A), the term ‘biometric  
21          information’—

22                 “(i) means the physiological or bio-  
23                 logical characteristics of an individual, in-  
24                 cluding deoxyribonucleic acid; and

25                 “(ii) includes—

1           “(I) imagery of the iris, retina,  
2           fingerprint, face, hand, palm, vein  
3           patterns, and voice recordings, from  
4           which an identifier template, such as  
5           a faceprint, a minutiae template, or a  
6           voiceprint, can be extracted; and

7           “(II) keystroke patterns or  
8           rhythms, gait patterns or rhythms,  
9           and sleep, health, or exercise data  
10          that contain identifying information.

11          “(C) PERSISTENT IDENTIFIER.—For pur-  
12          poses of subparagraph (A), the term ‘persistent  
13          identifier’ means a technologically derived iden-  
14          tifier that identifies an individual, or is linked  
15          or reasonably linkable to an individual over  
16          time and across services and platforms, which  
17          may include a customer number held in a cook-  
18          ie, a static internet protocol address, a proc-  
19          essor or device serial number, or another unique  
20          device identifier.

21          “(D) PRECISE GEOLOCATION INFORMA-  
22          TION.—For purposes of subparagraph (A), the  
23          term ‘precise geolocation information’ means  
24          data capable of determining the past or present  
25          physical location of an individual or an individ-

1           ual’s device, with sufficient precision to identify  
2           street-level location information of an individual  
3           or device or the location of an individual or de-  
4           vice within a range of 5,280 feet or less.

5           “(21) STATE.—The term ‘State’ includes the  
6           District of Columbia and any territory or possession  
7           of the United States.

8           “(22) TERMS OF SERVICE.—The term ‘terms of  
9           service’ means any agreement between an operator  
10          of a platform and a user of the platform, including  
11          terms of service, terms of use, a privacy policy, a use  
12          of data policy, a cookies policy, an advertisement  
13          policy, a community-standards policy, commercial  
14          terms, a safety policy, and a content-moderation pol-  
15          icy.

16          “(23) USER.—The term ‘user’, with respect to  
17          a platform—

18                 “(A) means a person that—

19                         “(i) engages with the platform; or

20                         “(ii) logs into or uses services pro-  
21                         vided by the platform over the internet or  
22                         any other digital network; and

23                 “(B) includes a business user of the plat-  
24          form.

1 **“TITLE I—ESTABLISHMENT OF**  
2 **DIGITAL CONSUMER PROTEC-**  
3 **TION COMMISSION**

4 **“Subtitle A—Commission Struc-**  
5 **ture, Jurisdiction, and Powers**

6 **“SEC. 2111. ESTABLISHMENT.**

7 “There is established an independent regulatory com-  
8 mission to be known as the ‘Digital Consumer Protection  
9 Commission’, which shall be constituted as provided in this  
10 division and execute and enforce the provisions of this divi-  
11 sion.

12 **“SEC. 2112. COMMISSIONERS.**

13 “(a) NUMBER OF COMMISSIONERS; APPOINTMENT.—  
14 The Commission shall be composed of 5 commissioners ap-  
15 pointed by the President, by and with the advice and con-  
16 sent of the Senate.

17 “(b) TERMS OF OFFICE.—

18 “(1) IN GENERAL.—A commissioner shall be  
19 appointed for a term of 5 years and may be removed  
20 by the President only for neglect of duty or malfea-  
21 sance in office.

22 “(2) INITIAL COMMISSIONERS.—The commis-  
23 sioners first appointed to the Commission shall con-  
24 tinue in office for terms of 1, 2, 3, 4, and 5 years,  
25 respectively, from the date of enactment of this divi-

1 sion, the term of each to be designated by the Presi-  
2 dent at the time of nomination.

3 “(c) QUALIFICATIONS.—

4 “(1) POLITICAL PARTIES.—Not more than 3  
5 commissioners may be members of the same political  
6 party.

7 “(2) CONFLICTS OF INTEREST.—

8 “(A) IN GENERAL.—No commissioner or  
9 person employed by the Commission may—

10 “(i) be financially interested in any  
11 platform operator;

12 “(ii) be financially interested in any  
13 company or other entity that—

14 “(I) controls any platform oper-  
15 ator; or

16 “(II) derives a significant portion  
17 of its total income from ownership of  
18 stocks, bonds, or other securities of  
19 any platform operator; or

20 “(iii) be employed by, hold any official  
21 relation to, or own any stocks, bonds, or  
22 other securities of, any platform operator.

23 “(B) WAIVER.—

24 “(i) IN GENERAL.—Subject to section  
25 208 of title 18, United States Code, the

1 Commission may waive, from time to time,  
2 the application of the prohibitions under  
3 subparagraph (A) to persons employed by  
4 the Commission if the Commission deter-  
5 mines that the financial interests of a per-  
6 son that are involved in a particular case  
7 are minimal.

8 “(ii) NO WAIVER FOR COMMIS-  
9 SIONERS.—The waiver authority under  
10 clause (i) shall not apply with respect to  
11 commissioners.

12 “(iii) PUBLICATION.—If the Commis-  
13 sion exercises the waiver authority under  
14 clause (i), the Commission shall publish  
15 notice of that action in the Federal Reg-  
16 ister.

17 “(C) EXCEPTIONS.—

18 “(i) IN GENERAL.—Nothing in this  
19 paragraph shall be construed to prevent a  
20 commissioner or a person employed by the  
21 Commission from owning or trading—

22 “(I) a widely held investment  
23 fund, if the widely held investment  
24 fund—

1                   “(aa) does not present a  
2                   conflict of interest; and

3                   “(bb) is diversified;

4                   “(II) shares of Settlement Com-  
5                   mon Stock issued under section  
6                   7(g)(1)(A) of the Alaska Native  
7                   Claims Settlement Act (43 U.S.C.  
8                   1606(g)(1)(A));

9                   “(III) shares of Settlement Com-  
10                  mon Stock, as defined in section 3 of  
11                  the Alaska Native Claims Settlement  
12                  Act (43 U.S.C. 1602);

13                  “(IV) a United States Treasury  
14                  bill, note, or bond;

15                  “(V) an investment fund held in  
16                  a Federal, State, or local government  
17                  employee retirement plan;

18                  “(VI) an interest in a small busi-  
19                  ness concern, if the small business  
20                  concern does not present a conflict of  
21                  interest; or

22                  “(VII) any stock, bond, com-  
23                  modity, future, or other form of secu-  
24                  rity, including an interest in a hedge  
25                  fund, a derivative, option, or other

1 complex investment vehicle received as  
2 compensation from the primary occu-  
3 pation of the spouse of the commis-  
4 sioner or person employed by the  
5 Commission.

6 “(ii) DEFINITIONS.—In this subpara-  
7 graph:

8 “(I) COMMODITY.—The term  
9 ‘commodity’ has the meaning given  
10 that term in section 1a of the Com-  
11 modity Exchange Act (7 U.S.C. 1a).

12 “(II) DIVERSIFIED.—The term  
13 ‘diversified’, with respect to an invest-  
14 ment fund, means that the investment  
15 fund does not have a stated policy of  
16 overly concentrating its investments.

17 “(III) SECURITY.—The term ‘se-  
18 curity’ has the meaning given that  
19 term in section 3(a) of Securities Ex-  
20 change Act of 1934 (15 U.S.C.  
21 78c(a)).

22 “(IV) SMALL BUSINESS CON-  
23 CERN.—The term ‘small business con-  
24 cern’ has the meaning given that term

1 under section 3 of the Small Business  
2 Act (15 U.S.C. 632).

3 “(V) WIDELY HELD INVESTMENT  
4 FUND.—The term ‘widely held invest-  
5 ment fund’ means a widely held in-  
6 vestment fund described in section  
7 102(f)(8) of the Ethics in Government  
8 Act of 1978 (5 U.S.C. App.).

9 “(d) VACANCIES.—

10 “(1) FILLING VACANCIES.—Any commissioner  
11 appointed to fill a vacancy occurring prior to the ex-  
12 piration of the term for which the predecessor of the  
13 commissioner was appointed shall be appointed only  
14 for the remainder of that term.

15 “(2) SERVICE AFTER EXPIRATION OF TERM.—  
16 A commissioner—

17 “(A) except as provided in subparagraph  
18 (B), may continue to serve after the expiration  
19 of the term of the commissioner until a suc-  
20 cessor is appointed and has been confirmed and  
21 taken the oath of office; and

22 “(B) may not continue to serve after the  
23 end of the session of the Congress during which  
24 the term of the commissioner expires.

25 “(3) ACTING COMMISSIONER.—

1           “(A) IN GENERAL.—If a vacancy exists  
2           more than 90 days after the date on which the  
3           President first submits to the Senate a nomina-  
4           tion of a person to fill a vacancy on the Com-  
5           mission, the President may appoint an acting  
6           commissioner to serve on the Commission until  
7           the vacancy is filled, subject to subparagraph  
8           (B).

9           “(B) MAXIMUM TERM.—An acting com-  
10          missioner appointed under subparagraph (A)  
11          may serve on the Commission for not more  
12          than 210 days.

13          “(e) EMPLOYMENT.—A commissioner may not en-  
14          gage in any other business, vocation, or employment while  
15          serving on the Commission.

16          “(f) CHAIRPERSON.—

17                 “(1) DESIGNATION.—The President shall des-  
18                 ignate 1 commissioner to serve as the chairperson of  
19                 the Commission.

20                 “(2) DUTIES.—The chairperson of the Commis-  
21                 sion shall oversee the executive and administrative  
22                 operations of the Commission, including functions of  
23                 the Commission with respect to—

1           “(A) the appointment and employment of  
2 hearing examiners in accordance with the provi-  
3 sions of title 5, United States Code;

4           “(B) the selection, appointment, and fixing  
5 of the compensation of any personnel that the  
6 chairperson determines necessary, including an  
7 executive director;

8           “(C) the supervision of personnel employed  
9 by or assigned to the Commission, except that  
10 each commissioner may select and supervise  
11 personnel for the personal staff of that commis-  
12 sioner;

13           “(D) the distribution of business among  
14 personnel and among administrative units of  
15 the Commission; and

16           “(E) the procurement of services of experts  
17 and consultants in accordance with section  
18 3109 of title 5, United States Code.

19           “(g) SALARY OF COMMISSIONERS.—

20           “(1) IN GENERAL.—Each Commissioner shall  
21 receive an annual salary at the annual rate payable  
22 from time to time for grade 16 of the pay scale of  
23 the Securities and Exchange Commission, payable in  
24 monthly installments.



1           “(3) VOTE.—Each commissioner, including the  
2 chairperson, shall have 1 vote.

3           “(4) MAJORITY VOTE.—Actions of the Commis-  
4 sion shall be determined by a majority vote of the  
5 members present.

6           “(c) SEAL.—The Commission shall have an official  
7 seal which shall be judicially noticed.

8 **“SEC. 2114. COMMISSION JURISDICTION.**

9           “(a) FUNCTIONS.—The Commission shall—

10           “(1) implement and enforce the provisions of  
11 this division; and

12           “(2) promote competition, privacy, national se-  
13 curity, and transparency on platforms.

14           “(b) JURISDICTION; OVERSIGHT.—The Commission  
15 shall have jurisdiction and oversight over—

16           “(1) all covered entities, including all platform  
17 operators; and

18           “(2) any employee of a covered entity, including  
19 a platform operator, who the Commission believes—

20           “(A) may have violated this division, a rule  
21 promulgated under this division, or an adminis-  
22 trative order issued under this division; or

23           “(B) may have knowledge regarding a vio-  
24 lation of this division, a rule promulgated under

1           this division, or an administrative order issued  
2           under this division.

3 **“SEC. 2115. COMMISSION POWERS.**

4           “(a) INVESTIGATIVE AUTHORITY.—

5           “(1) SCOPE.—

6           “(A) IN GENERAL.—The Commission may  
7           investigate any facts, conditions, practices, or  
8           matters that the Commission may find nec-  
9           essary or proper to—

10           “(i) determine whether any covered  
11           entity (including any platform operator) or  
12           any employee described in section  
13           2114(b)(2) has violated or is about to vio-  
14           late any provision of this division, a rule  
15           promulgated under this division, or an ad-  
16           ministrative order issued under this divi-  
17           sion; or

18           “(ii) aid in—

19           “(I) the enforcement of this divi-  
20           sion;

21           “(II) prescribing rules or regula-  
22           tions under this division; or

23           “(III) obtaining information to  
24           serve as a basis for recommending

1 further legislation concerning the mat-  
2 ters to which this division relates.

3 “(B) STATEMENTS; PUBLICATION OF IN-  
4 FORMATION.—The Commission—

5 “(i) may permit any person, platform,  
6 or platform operator to file with the Com-  
7 mission a statement in writing under oath  
8 or otherwise, as the Commission shall de-  
9 termine, as to any or all facts and cir-  
10 cumstances concerning a matter which  
11 may be the subject of investigation; and

12 “(ii) in the discretion of the Commis-  
13 sion, may publish information concerning  
14 any subject of investigation described in  
15 clause (i).

16 “(2) ATTENDANCE OF WITNESSES AND PRO-  
17 DUCION OF DOCUMENTS.—

18 “(A) IN GENERAL.—For the purpose of  
19 any investigation or any other proceeding under  
20 this division, the Commission, or any officer  
21 designated by the Commission, may administer  
22 oaths and affirmations, subpoena witnesses,  
23 compel their attendance, take evidence, and re-  
24 quire the production of any books, papers, cor-  
25 respondence, memoranda, contracts, agree-

1           ments, or other records that the Commission  
2           finds relevant or material to the inquiry.

3           “(B) LOCATION.—The attendance of wit-  
4           nesses and the production of any records de-  
5           scribed in subparagraph (A) may be required  
6           from any place in the United States at any des-  
7           ignated place of hearing.

8           “(C) WITNESS FEES AND MILEAGE.—The  
9           Commission shall pay witnesses summoned to  
10          appear before the Commission the same fees  
11          and mileage that are paid witnesses in the  
12          courts of the United States.

13          “(3) RESORT TO COURTS OF UNITED STATES  
14          FOR FAILURE TO OBEY SUBPOENA; PUNISHMENT.—

15          “(A) IN GENERAL.—In case of contumacy  
16          by, or refusal to obey a subpoena issued to, any  
17          person, the Commission may invoke the aid of  
18          any court of the United States within the juris-  
19          diction of which the investigation or proceeding  
20          is carried on, or where the person resides or  
21          carries on business, in requiring—

22                  “(i) the attendance and testimony of  
23                  witnesses; and

1           “(ii) the production of books, papers,  
2           correspondence, memoranda, contracts,  
3           agreements, and other records.

4           “(B) COURT ORDER.—

5           “(i) IN GENERAL.—A court of the  
6           United States whose aid is invoked under  
7           subparagraph (A) may issue an order re-  
8           quiring the applicable person to appear be-  
9           fore the Commission or a member or offi-  
10          cer designated by the Commission, there to  
11          produce records, if so ordered, or to give  
12          testimony touching the matter under inves-  
13          tigation or in question.

14          “(ii) CONTEMPT.—A court may pun-  
15          ish any failure to obey an order of the  
16          court issued under clause (i) as a contempt  
17          thereof.

18          “(C) SERVICE OF PROCESS.—All process  
19          in any case under this paragraph may be served  
20          in the judicial district whereof the applicable  
21          person is an inhabitant or wherever the person  
22          may be found or may be doing business.

23          “(D) CRIMINAL PENALTY.—

24          “(i) OFFENSE.—It shall be unlawful  
25          for a person to willfully fail or refuse to at-

1           tend and testify or to answer any lawful  
2           inquiry or to produce books, papers, cor-  
3           respondence, memoranda, contracts, agree-  
4           ments, or other records, if in the power of  
5           the person so to do, in obedience to a sub-  
6           poena of the Commission under this para-  
7           graph.

8           “(ii) PENALTY.—Any person who vio-  
9           lates clause (i) shall be fined not more  
10          than \$100,000, imprisoned for not more  
11          than 1 year, or both.

12          “(4) TESTIMONY BY DEPOSITION.—

13           “(A) INSTANCE OF PARTY.—The testimony  
14          of any witness may be taken, at the instance of  
15          a party, in any proceeding or investigation  
16          pending before the Commission, by deposition,  
17          at any time after the proceeding is at issue.

18           “(B) COMMISSION ORDER.—The Commis-  
19          sion may order testimony to be taken by deposi-  
20          tion in any proceeding or investigation pending  
21          before the Commission, at any stage of the pro-  
22          ceeding or investigation.

23           “(C) PERSON TAKING DEPOSITION.—A  
24          deposition under subparagraph (A) or (B) may  
25          be taken before any person authorized to ad-

1 minister oaths not being of counsel or attorney  
2 to either of the parties, nor interested in the  
3 proceeding or investigation.

4 “(D) NOTICE.—The party or the party’s  
5 attorney proposing to take a deposition under  
6 subparagraph (A) or (B) shall first give notice  
7 in writing to the opposite party or the opposite  
8 party’s attorney of record, as either may be  
9 nearest, which notice shall state the name of  
10 the witness and the time and place of the tak-  
11 ing of the deposition.

12 “(E) COMPULSION TO APPEAR, DEPOSE,  
13 AND PRODUCE DOCUMENTARY EVIDENCE.—Any  
14 person may be compelled to appear and depose,  
15 and to produce documentary evidence, in the  
16 same manner as witnesses may be compelled to  
17 appear and testify and produce documentary  
18 evidence before the Commission, as provided in  
19 paragraphs (2) and (3).

20 “(F) WRITING.—Testimony in a deposition  
21 under subparagraph (A) or (B) shall be reduced  
22 to writing by the person taking the deposition,  
23 or under the direction of that person, and shall,  
24 after the testimony has been reduced to writing,  
25 be signed by the deponent.

1           “(5) DEPOSITION OF WITNESS IN A FOREIGN  
2 COUNTRY.—

3           “(A) IN GENERAL.—If a witness whose  
4 testimony may be desired to be taken by deposi-  
5 tion is in a foreign country, the deposition may  
6 be taken before an officer or person designated  
7 by the Commission, or agreed upon by the par-  
8 ties by stipulation in writing to be filed with the  
9 Commission.

10           “(B) FILING OF DEPOSITIONS.—All depo-  
11 sitions taken under subparagraph (A) shall be  
12 promptly filed with the Commission.

13           “(6) DEPOSITION FEES.—A witness whose dep-  
14 osition is taken as authorized under this subsection,  
15 and the person or officer taking the deposition, shall  
16 be entitled to the same fees as are paid for like serv-  
17 ices in the courts of the United States.

18           “(b) HEARINGS; RULES OF PROCEDURE.—

19           “(1) HEARINGS.—

20           “(A) IN GENERAL.—Hearings under this  
21 division may be held before the Commission or  
22 any representative of the Commission des-  
23 ignated by the Commission.

1           “(B) RECORDS.—The Commission shall  
2 keep appropriate records of any hearing de-  
3 scribed in subparagraph (A).

4           “(C) ADMISSION OF PARTIES.—In any pro-  
5 ceeding before it, the Commission, in accord-  
6 ance with any rules that the Commission may  
7 prescribe, may admit as a party—

8                 “(i) any interested State, State com-  
9 mission, or municipality;

10                “(ii) any representative of interested  
11 consumers or security holders;

12                “(iii) any competitor of a party to the  
13 proceeding; or

14                “(iv) any other person whose partici-  
15 pation in the proceeding may be in the  
16 public interest, as determined by the Com-  
17 mission.

18           “(2) RULES OF PROCEDURE.—

19                “(A) IN GENERAL.—The Commission—

20                   “(i) shall adopt rules of practice and  
21 procedure that govern each hearing, inves-  
22 tigation, or proceeding under this division;  
23 and

24                   “(ii) need not apply the Federal Rules  
25 of Evidence in the conduct of a hearing,

1 investigation, or proceeding under this di-  
2 vision.

3 “(B) EFFECT OF INFORMALITIES.—No in-  
4 formality in any hearing, investigation, or pro-  
5 ceeding or in the manner of taking testimony  
6 shall invalidate any order, decision, or rule  
7 issued under the authority of this division.

8 “(c) ADMINISTRATIVE ENFORCEMENT.—In addition  
9 to other orders authorized under this division, the Com-  
10 mission may, after providing notice and an opportunity for  
11 a hearing—

12 “(1) issue an order enjoining a person from en-  
13 gaging in a practice or behavior that violates this di-  
14 vision or a rule promulgated under this division;

15 “(2) issue an order imposing a civil penalty on  
16 a person for a violation of this division, a rule pro-  
17 mulgated under this division, or an administrative  
18 order issued under this division, not later than 6  
19 years after the date on which the violation occurs,  
20 not to exceed 15 percent of the total annual revenue  
21 of the person’s ultimate parent entity during the  
22 preceding 12-month period;

23 “(3) for any person against which an adminis-  
24 trative or judicial order is entered determining that  
25 the person engaged in a violation of this division, a

1 rule promulgated under this division, or an adminis-  
2 trative order issued under this division, issue an  
3 order debarring the person from participating in  
4 Federal contracts for a period of not less than 3 and  
5 not more than 7 years;

6 “(4) issue an order barring any individual who  
7 has violated this division, a rule promulgated under  
8 this division, or an administrative order issued under  
9 this division from participating as a stockholder, of-  
10 ficer, board member, employee, or consultant of an  
11 entity in the same market, as determined by the  
12 Commission, in which the individual committed the  
13 violation;

14 “(5) issue an order imposing personal liability  
15 on an individual who is the chief executive officer,  
16 chief financial officer, or chief security officer (or  
17 the respective equivalents) of a person that has vio-  
18 lated this division, a rule promulgated under this di-  
19 vision, or an administrative order issued under this  
20 division for payment of damages and penalties relat-  
21 ing to the violation by the person;

22 “(6) issue an order requiring disgorgement of  
23 all ill-gotten gains made by engaging in a violation  
24 of this division, a rule promulgated under this divi-

1 sion, or an administrative order issued under this di-  
2 vision; and

3 “(7) issue an order requiring restitution to all  
4 parties injured by a violation of this division, a rule  
5 promulgated under this division, or an administra-  
6 tive order issued under this division.

7 “(d) REVIEW OF ORDERS.—

8 “(1) ADMINISTRATIVE REVIEW.—

9 “(A) APPLICATION FOR REHEARING.—

10 “(i) IN GENERAL.—Not later than 30  
11 days after the Commission issues a final  
12 order in a proceeding under this division,  
13 any person aggrieved by the order may  
14 apply for a rehearing.

15 “(ii) CONTENTS.—An application for  
16 rehearing under clause (i) shall set forth  
17 specifically each ground upon which the  
18 application is based.

19 “(B) COMMISSION ACTION.—

20 “(i) IN GENERAL.—Upon application  
21 under subparagraph (A), the Commission  
22 shall—

23 “(I) grant or deny rehearing; or

1                   “(II) abrogate or modify the  
2                   order of the Commission without fur-  
3                   ther hearing.

4                   “(ii) APPLICATION DEEMED DE-  
5                   NIED.—If the Commission does not act  
6                   upon an application for rehearing filed  
7                   under subparagraph (A) during the 30-day  
8                   period beginning on the date of filing, the  
9                   application shall be deemed to have been  
10                  denied for purposes of paragraph (2)(A).

11                  “(C) MODIFICATION OF ORDER.—Until the  
12                  Commission has filed the record in a proceeding  
13                  in a court of appeals, as provided in paragraph  
14                  (2), the Commission may at any time, upon  
15                  reasonable notice and in such manner as the  
16                  Commission shall determine proper, modify or  
17                  set aside, in whole or in part, any finding or  
18                  order made or issued by the Commission under  
19                  this division.

20                  “(2) JUDICIAL REVIEW.—

21                  “(A) PETITION FOR REVIEW.—A party to  
22                  a proceeding under this division aggrieved by a  
23                  final order issued by the Commission in the  
24                  proceeding may only obtain a review of the  
25                  order in the United States Court of Appeals for

1 the District of Columbia Circuit, by filing in  
2 that court, not later than 60 days after the date  
3 on which the Commission disposes of the appli-  
4 cation for rehearing under paragraph (1), a  
5 written petition praying that the order of the  
6 Commission be modified or set aside in whole or  
7 in part.

8 “(B) TRANSMITTAL TO COMMISSION.—

9 Upon the filing of a petition under subpara-  
10 graph (A), the clerk of the United States Court  
11 of Appeals for the District of Columbia Circuit  
12 shall forthwith transmit a copy of the petition  
13 to the Commission.

14 “(C) FILING OF RECORD.—Upon receipt of

15 a copy of a petition under subparagraph (B),  
16 the Commission shall file with the court the  
17 record upon which the order complained of was  
18 entered, as provided in section 2112 of title 28,  
19 United States Code.

20 “(D) JURISDICTION OF COURT.—

21 “(i) JURISDICTION UPON FILING OF

22 PETITION.—Upon the filing of a petition  
23 under subparagraph (A) with respect to an  
24 order, the United States Court of Appeals  
25 for the District of Columbia Circuit shall

1           have jurisdiction to affirm, modify, or set  
2           aside the order in whole or in part.

3           “(ii) EXCLUSIVE JURISDICTION UPON  
4           FILING OF RECORD.—Upon the filing of  
5           the record upon which the order com-  
6           plained of was entered under subparagraph  
7           (C), the United States Court of Appeals  
8           for the District of Columbia Circuit shall  
9           have exclusive jurisdiction to affirm, mod-  
10          ify, or set aside the order in whole or in  
11          part.

12          “(E) FAILURE TO OBJECT DURING ADMIN-  
13          ISTRATIVE REVIEW.—In a review under this  
14          paragraph, the United States Court of Appeals  
15          for the District of Columbia Circuit may not  
16          consider an objection to an order of the Com-  
17          mission unless the objection was urged before  
18          the Commission in the application for rehearing  
19          under paragraph (1), unless there is reasonable  
20          ground for failure to so object.

21          “(F) FINDINGS OF FACT.—In a review  
22          under this paragraph, the findings of the Com-  
23          mission as to the facts (including definition of  
24          relevant markets and market shares), if sup-

1           ported by substantial evidence, shall be conclu-  
2           sive.

3                   “(G) CONSIDERATION OF ADDITIONAL EVI-  
4           DENCE.—

5                   “(i) IN GENERAL.—If a party applies  
6           to the United States Court of Appeals for  
7           the District of Columbia Circuit for leave  
8           to adduce additional evidence, and shows  
9           to the satisfaction of the court that the ad-  
10          ditional evidence is material and that there  
11          were reasonable grounds for failure to ad-  
12          duce the evidence in the proceedings before  
13          the Commission, the court may order the  
14          additional evidence to be taken before the  
15          Commission and to be adduced upon the  
16          hearing in such manner and upon such  
17          terms and conditions as to the court may  
18          seem proper.

19                   “(ii) COMMISSION ACTIONS.—The  
20          Commission—

21                   “(I) may modify its findings as  
22          to the facts by reason of additional  
23          evidence taken under clause (i); and

24                   “(II) shall file with the court—

1                   “(aa) the modified or new  
2 findings which, if supported by  
3 substantial evidence, shall be con-  
4 clusive; and

5                   “(bb) its recommendation, if  
6 any, for the modification or set-  
7 ting aside of the original order.

8                   “(H) JUDGMENT AND DECREE OF  
9 COURT.—The judgment and decree of the  
10 United States Court of Appeals for the District  
11 of Columbia Circuit under this paragraph, af-  
12 firming, modifying, or setting aside, in whole or  
13 in part, any order of the Commission, shall be  
14 final, subject to review by the Supreme Court  
15 of the United States upon writ of certiorari.

16                   “(3) STAY OF COMMISSION’S ORDER.—

17                   “(A) ADMINISTRATIVE REVIEW.—The fil-  
18 ing of an application for rehearing under para-  
19 graph (1) shall not, unless specifically ordered  
20 by the Commission, operate as a stay of the  
21 Commission’s order.

22                   “(B) JUDICIAL REVIEW.—The commence-  
23 ment of proceedings under paragraph (2) shall  
24 not, unless specifically ordered by the United  
25 States Court of Appeals for the District of Co-

1            Columbia Circuit, operate as a stay of the Com-  
2            mission's order.

3            “(e) REFERRAL OF EVIDENCE FOR CRIMINAL PRO-  
4            CEEDINGS.—

5            “(1) AUTHORITY.—

6            “(A) IN GENERAL.—If the Commission ob-  
7            tains evidence that any person, either domestic  
8            or foreign, has engaged in conduct that may  
9            constitute a violation of Federal criminal law—

10            “(i) the Commission may transmit the  
11            evidence to the Attorney General; and

12            “(ii) the Attorney General may insti-  
13            tute criminal proceedings under any appli-  
14            cable statute.

15            “(B) RELATION TO OTHER AUTHORI-  
16            TIES.—Nothing in subparagraph (A) shall af-  
17            fect any other authority of the Commission to  
18            disclose information.

19            “(2) INTERNATIONAL INFORMATION.—The  
20            Commission shall endeavor to ensure, with respect to  
21            memoranda of understanding and international  
22            agreements it may conclude, that material it has ob-  
23            tained from foreign law enforcement agencies acting  
24            to investigate or pursue the enforcement of foreign  
25            criminal laws may be used for the purpose of inves-

1           tigation, prosecution, or prevention of violations of  
2           United States criminal laws.

3           “(f) INDEPENDENT LITIGATION AUTHORITY.—In ad-  
4           dition to the administrative enforcement described in sub-  
5           section (e), if the Commission has reason to believe that  
6           a covered entity, including a platform operator, has en-  
7           gaged in a practice that violates this division, a rule pro-  
8           mulgated under this division, or an administrative order  
9           issued under this division, the Commission may bring a  
10          civil action in an applicable district court of the United  
11          States (as provided in section 2702) to—

12                   “(1) enjoin any further such violation by the  
13                   covered entity;

14                   “(2) enforce compliance with this division, the  
15                   rule promulgated under this division, or the adminis-  
16                   trative order issued under this division;

17                   “(3) obtain a permanent, temporary, or prelimi-  
18                   nary injunction;

19                   “(4) obtain civil penalties not to exceed 15 per-  
20                   cent of the total annual revenue of the ultimate par-  
21                   ent entity of the covered entity during the preceding  
22                   12-month period;

23                   “(5) obtain damages (whether actual, punitive,  
24                   or otherwise), restitution, disgorgement of unjust en-

1       richment, or other compensation on behalf of ag-  
2       grieved persons; or

3               “(6) obtain any other appropriate equitable re-  
4       lief.

5       “(g) MONITORING.—

6               “(1) REGULATIONS.—The Commission may—

7                       “(A) promulgate regulations to facilitate  
8       monitoring by the Commission to identify viola-  
9       tions of this division, rules promulgated under  
10      this division, and administrative orders issued  
11      under this division; and

12                      “(B) require operators of dominant plat-  
13      forms to prepare plans to prevent or address  
14      violations of this division, rules promulgated  
15      under this division, and administrative orders  
16      issued under this division.

17               “(2) AI TECHNIQUES.—The regulations de-  
18      scribed in paragraph (1)(A) may require operators  
19      of dominant platforms to file a notice with the Com-  
20      mission regarding computational processes derived  
21      from artificial intelligence techniques that are made  
22      available to the public.

23               “(h) REPORTS TO CONGRESS.—Not later than 1 year  
24      after the date of enactment of this division, and semiannu-  
25      ally thereafter, the Director, in coordination with the com-

1 missioners, shall submit to the Committee on the Judici-  
2 ary of the Senate and the Committee on the Judiciary of  
3 the House of Representatives a report that addresses, at  
4 a minimum—

5           “(1) the number of administrative or judicial  
6 actions brought by the Commission during the re-  
7 porting period to enforce this division and the out-  
8 come of each such enforcement action;

9           “(2) the number of open investigations or in-  
10 quires into potential violations of this division as of  
11 the time the report is submitted;

12           “(3) the number and nature of complaints re-  
13 ceived by the Commission under section 2118 during  
14 the reporting period;

15           “(4) an anonymized summary of the complaints  
16 received by the Commission under section 2118 for  
17 the reporting period;

18           “(5) policy or legislative recommendations to  
19 strengthen the enforcement of this division; and

20           “(6) the number of compliance requests and ap-  
21 peals submitted by users to dominant platform oper-  
22 ators under subsections (b) and (c), respectively, of  
23 section 2201, based on reports received from the  
24 dominant platform operators under section  
25 2201(e)(2).

1 **“SEC. 2116. RULEMAKING AUTHORITY.**

2 “(a) IN GENERAL.—In accordance with section 553  
3 of title 5, United States Code, the Commission may—

4 “(1) promulgate rules to implement any provi-  
5 sion of this division; and

6 “(2) issue such procedural and administrative  
7 rules as are necessary to the exercise the functions  
8 of the Commission.

9 “(b) INITIAL RULES.—Not later than 1 year after  
10 the date of enactment of this division, the Commission  
11 shall, in accordance with section 553 of title 5, United  
12 States Code, promulgate initial rules to implement titles  
13 II, III, IV, and V of this division.

14 **“SEC. 2117. ADVISORY BOARDS.**

15 “(a) ESTABLISHMENT.—The Commission may estab-  
16 lish an advisory board for a particular subject matter for  
17 the purpose of recommending rules to implement this divi-  
18 sion.

19 “(b) TERM.—An advisory board established under  
20 subsection (a) shall have an initial term of 180 days,  
21 which may be extended by the Commission by not more  
22 than 90 days, subject to subsection (g).

23 “(c) MEMBERSHIP.—An advisory board established  
24 under subsection (a) shall be composed of 15 members ap-  
25 proved by the Commission, of whom—

1           “(1) 5 shall be representatives of platforms, not  
2 more than 2 of whom shall be representatives of  
3 dominant platforms;

4           “(2) 5 shall be academics, experts, or public-in-  
5 terest advocates who—

6                 “(A) are not affiliated with commercial en-  
7 terprises; and

8                 “(B) have expertise in the particular sub-  
9 ject matter; and

10           “(3) 5 shall be technical experts in engineering,  
11 computer science, or another field determined rel-  
12 evant by the Commission.

13           “(d) SELECTION.—

14                 “(1) CONSENSUS.—Except as provided in para-  
15 graph (2), the Commission shall select the members  
16 of an advisory board established under subsection  
17 (a) by consensus.

18                 “(2) PROPORTIONAL.—If the commissioners are  
19 unable to reach consensus regarding the members of  
20 an advisory board established under subsection (a),  
21 the commissioners shall select the members of the  
22 advisory board in proportion to the commissioners’  
23 membership in political parties, as follows:

24                         “(A) For each political party represented  
25 on the Commission, the commissioners who are

1 members of that political party shall jointly se-  
2 lect a number of advisory board members that  
3 bears the same relationship to the total number  
4 of advisory board members as the number of  
5 those commissioners bears to the total number  
6 of commissioners.

7 “(B) Any commissioners who are not mem-  
8 bers of a political party shall jointly select a  
9 number of advisory board members that bears  
10 the same relationship to the total number of ad-  
11 visory board members as the number of those  
12 commissioners bears to the total number of  
13 commissioners.

14 “(e) EMPLOYEE STATUS.—A member of an advisory  
15 board established under subsection (a) shall not be consid-  
16 ered an employee of the Commission.

17 “(f) NON-BINDING RECOMMENDATIONS.—The rec-  
18 ommended rules adopted by an advisory board established  
19 under subsection (a) shall not be binding on the Commis-  
20 sion.

21 “(g) MEETINGS.—The Commission shall establish a  
22 public schedule for an advisory board established under  
23 subsection (a), under which the advisory board shall meet  
24 not less frequently than monthly.

1       “(h) ADOPTION.—The Commission may, by a major-  
2 ity vote of the Commission, adopt any recommended rules  
3 adopted by an advisory board established under subsection  
4 (a).

5       “(i) REQUIRED INITIAL ADVISORY BOARDS.—Not  
6 later than 60 days after the date of enactment of this divi-  
7 sion, the Commission shall establish the following initial  
8 advisory boards, the initial terms of which may not be ex-  
9 tended beyond 180 days:

10           “(1) A competition advisory board for the pur-  
11 pose of recommending rules to implement title III.

12           “(2) A privacy advisory board for the purpose  
13 of recommending rules to implement title IV.

14           “(3) A national security and public safety advi-  
15 sory board for the purpose of recommending rules to  
16 implement title V.

17           “(4) An artificial intelligence advisory board for  
18 the purpose of recommending rules to implement  
19 this division as it relates to artificial intelligence.

20 **“SEC. 2118. COMPLAINTS.**

21       “(a) IN GENERAL.—

22           “(1) ESTABLISHMENT OF PROCESS.—The Com-  
23 mission shall establish a process to receive com-  
24 plaints from the public alleging violations of this di-

1 vision, a rule promulgated under this division, or an  
2 administrative order issued under this division.

3 “(2) MANAGEMENT OF PROCESS.—The Direc-  
4 tor of the Office of Licensing for Dominant Plat-  
5 forms established under section 2601 (in this section  
6 referred to as the ‘Director’) shall manage the com-  
7 plaint process established under paragraph (1).

8 “(b) COLLECTING AND TRACKING COMPLAINTS.—  
9 The Director shall—

10 “(1) establish a unit whose functions shall in-  
11 clude establishing a single, toll-free telephone num-  
12 ber, a website, and a database to facilitate the cen-  
13 tralized collection of, monitoring of, and response to  
14 complaints described in subsection (a)(1); and

15 “(2) coordinate with the Federal Trade Com-  
16 mission, the Attorney General, and other Federal  
17 agencies to route complaints to those agencies,  
18 where appropriate.

19 “(c) CONFIDENTIALITY.—The Director shall—

20 “(1) subject to paragraph (2), make complaints  
21 submitted under this section publicly available; and

22 “(2) ensure that the confidentiality of person-  
23 ally identifiable information in the complaints de-  
24 scribed in paragraph (1) is protected.

1 **“Subtitle B—Dominant Platforms**

2 **“SEC. 2121. DOMINANT PLATFORMS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CONSUMER PRICE INDEX.—The term  
5 ‘Consumer Price Index’ means the Consumer Price  
6 Index for All Urban Consumers published by the  
7 Bureau of Labor Statistics.

8 “(2) DOMINANT PLATFORM.—

9 “(A) IN GENERAL.—The term ‘dominant  
10 platform’ means a platform that—

11 “(i) has been designated as a domi-  
12 nant platform under subsection (c); and

13 “(ii) meets the requirements under  
14 subparagraph (B) or (C) of this para-  
15 graph.

16 “(B) PLATFORM OWNED OR CONTROLLED  
17 BY PUBLICLY TRADED COMPANY.—The require-  
18 ments under this subparagraph are that the  
19 platform—

20 “(i) is owned or controlled by a person  
21 that—

22 “(I) is a publicly traded com-  
23 pany; and

24 “(II) is a critical trading partner  
25 for the sale or provision of any prod-

1           uct or service offered on or directly  
2           related to the platform; and

3           “(ii)(I) at any point during the 12-  
4           month period preceding a designation  
5           under subsection (c) or the 12-month pe-  
6           riod preceding an alleged violation of this  
7           division, a rule promulgated under this di-  
8           vision, or an administrative order issued  
9           under this division, had not fewer than—

10                   “(aa) 50,000,000 United States-  
11                   based monthly active users; or

12                   “(bb) 100,000 United States-  
13                   based monthly active business users;  
14                   and

15           “(II) during—

16                   “(aa) the 2-year period preceding  
17                   a designation under subsection (c) or  
18                   the 2-year period preceding an alleged  
19                   violation of this division, a rule pro-  
20                   mulgated under this division, or an  
21                   administrative order issued under this  
22                   division—

23                   “(AA) at any point, was  
24                   owned or controlled by a person  
25                   with United States net annual

1 sales of greater than  
2 \$550,000,000,000, adjusted for  
3 inflation on the basis of the Con-  
4 sumer Price Index; or

5 “(BB) during any 180-day  
6 period during the 2-year period,  
7 had an average market capital-  
8 ization greater than  
9 \$550,000,000,000, adjusted for  
10 inflation on the basis of the Con-  
11 sumer Price Index; or

12 “(bb) at any point during the 12-  
13 month period preceding a designation  
14 under subsection (c) or at any point  
15 during the 12-month period preceding  
16 an alleged violation of this division, a  
17 rule promulgated under this division,  
18 or an administrative order issued  
19 under this division, had not fewer  
20 than 1,000,000,000 worldwide month-  
21 ly active users.

22 “(C) PLATFORM NOT OWNED OR CON-  
23 TROLLED BY PUBLICLY TRADED COMPANY.—  
24 The requirements under this subparagraph are  
25 that the platform—

1                   “(i) is owned or controlled by a person  
2                   that—

3                               “(I) is not a publicly traded com-  
4                               pany; and

5                               “(II) is a critical trading partner  
6                               for the sale or provision of any prod-  
7                               uct or service offered on or directly  
8                               related to the platform; and

9                               “(ii)(I) at any point during the 12-  
10                              month period preceding a designation  
11                              under subsection (c) or the 12-month pe-  
12                              riod preceding an alleged violation of this  
13                              division, a rule promulgated under this di-  
14                              vision, or an administrative order issued  
15                              under this division, had not fewer than—

16                                       “(aa) 25,000,000 United States-  
17                                       based monthly active users; or

18                                       “(bb) 75,000 United States-  
19                                       based monthly active business users;  
20                                       and

21                                       “(II) at any point—

22                                       “(aa) during the 2-year period  
23                                       preceding a designation under sub-  
24                                       section (c) or the 2-year period pre-  
25                                       ceding an alleged violation of this divi-

1           sion, a rule promulgated under this  
2           division, or an administrative order  
3           issued under this division, was owned  
4           or controlled by a person with assets  
5           or earnings, before interest, taxes, de-  
6           preciation, and amortization, in the  
7           previous fiscal year of greater than  
8           \$30,000,000,000, adjusted for infla-  
9           tion on the basis of the Consumer  
10          Price Index; or

11                   “(bb) during the 12-month pe-  
12                   riod preceding a designation under  
13                   subsection (c) or the 12-month period  
14                   preceding an alleged violation of this  
15                   division, a rule promulgated under  
16                   this division, or an administrative  
17                   order issued under this division, had  
18                   not fewer than 1,000,000,000 world-  
19                   wide monthly active users.

20                   “(3) PUBLICLY TRADED COMPANY.—The term  
21                   ‘publicly traded company’—

22                           “(A) means any company whose principal  
23                   class of shares—

24                                   “(i) is listed on a stock exchange; and

1                   “(ii) can be readily purchased or sold  
2                   by the public; and

3                   “(B) includes all subsidiaries of a company  
4                   described in subparagraph (A).

5                   “(b) AFFIRMATIVE DUTY TO REPORT.—

6                   “(1) IN GENERAL.—Not later than December  
7                   31st of each calendar year that begins after the date  
8                   of enactment of this division, a platform operator  
9                   described in paragraph (2) shall report to the Com-  
10                  mission, for each platform that the operator oper-  
11                  ates—

12                  “(A) the number of unique monthly visi-  
13                  tors based in the United States that visited the  
14                  platform each month of that calendar year; and

15                  “(B) any other information that the Com-  
16                  mission may require.

17                  “(2) PLATFORM OPERATORS REQUIRED TO RE-  
18                  PORT.—A platform operator described in this para-  
19                  graph is a platform operator that—

20                  “(A) owns or controls a platform that had  
21                  not fewer than 25,000,000 unique monthly visi-  
22                  tors based in the United States for a majority  
23                  of months during the preceding 6 months; or

24                  “(B) has United States net annual sales or  
25                  a market capitalization greater than

1           \$250,000,000,000, adjusted annually for infla-  
2           tion based on the change in the Consumer Price  
3           Index.

4           “(c) DESIGNATION.—

5           “(1) OFFICIAL DESIGNATION THROUGH PUBLI-  
6           CATION.—Subject to paragraph (3), the Commission  
7           shall officially designate a platform that meets the  
8           requirements under subparagraph (B) or (C) of sub-  
9           section (a)(2) as a dominant platform by publishing  
10          the designation in the Federal Register.

11          “(2) DURATION OF DESIGNATION.—The des-  
12          ignation of a platform as a dominant platform under  
13          paragraph (1) shall apply indefinitely, regardless of  
14          whether there is a change in control or ownership of  
15          the platform, unless the Commission removes the  
16          designation under subsection (d).

17          “(3) RULES.—The Commission may, as the  
18          Commission determines appropriate, promulgate  
19          rules to—

20                  “(A) adjust a numeric threshold in sub-  
21                  section (a) or (b), provided that the Commis-  
22                  sion may not adjust any numeric threshold  
23                  below the value in the applicable subsection; or

1           “(B) define additional characteristics that  
2           a platform must have in order to be designated  
3           as a dominant platform under paragraph (1).

4           “(d) REMOVAL OF DOMINANT PLATFORM DESIGNA-  
5 TION.—

6           “(1) REQUEST.—If a platform designated as a  
7           dominant platform under subsection (c) ceases to  
8           meet the qualifications for such a designation, the  
9           operator of the platform may submit to the Commis-  
10          sion a request for removal of the designation, along  
11          with evidence that the platform no longer so quali-  
12          fies.

13          “(2) DETERMINATION.—

14           “(A) IN GENERAL.—Not later than 120  
15           days after receiving a request under paragraph  
16           (1), the Commission shall determine whether to  
17           grant the request.

18           “(B) DENIED REQUESTS.—The denial  
19           under subparagraph (A) of a request submitted  
20           under paragraph (1) shall be treated as an  
21           order subject to review under section 2115(d).

22          “(e) AVOIDANCE.—

23           “(1) IN GENERAL.—It shall be unlawful for an  
24           operator of a platform to take any action to inten-

1 tionally avoid having the platform meet the quali-  
 2 fications for designation as a dominant platform.

3 “(2) RULES.—The Commission may promul-  
 4 gate rules to clarify actions that constitute a viola-  
 5 tion of paragraph (1).

6 **“TITLE II—TRANSPARENCY**  
 7 **REFORM**

8 **“SEC. 2201. TRANSPARENCY PRACTICES AND APPEAL**  
 9 **RIGHTS.**

10 “(a) TRANSPARENCY.—

11 “(1) IN GENERAL.—With respect to products  
 12 and services offered through a dominant platform,  
 13 the operator of the dominant platform—

14 “(A) shall make publicly available, through  
 15 clear and conspicuous disclosure, the dominant  
 16 platform’s terms of service, which shall include  
 17 the criteria the operator employs in content-  
 18 moderation practices;

19 “(B) shall implement and maintain reason-  
 20 able and user-friendly appeals processes for de-  
 21 cisions about content restrictions on the domi-  
 22 nant platform, in accordance with subsection  
 23 (c);

24 “(C) if the operator restricts access to con-  
 25 tent published by a user of the dominant plat-

1 form (including by blocking, deleting, or re-  
2 stricting access to a post or link, limiting the  
3 reach of a post or the user, deplatforming or  
4 suspending the user or the posts of the user, or  
5 excluding or deprioritizing posts or other mate-  
6 rials of the user from search results), shall, ex-  
7 cept as provided in paragraph (2), provide the  
8 user with a notice, as soon as is reasonably  
9 practical, and not later than 24 hours after re-  
10 stricting access, that—

11 “(i) acknowledges that the action was  
12 taken and provides the justification for the  
13 action, with reference to the terms of serv-  
14 ice of the dominant platform; and

15 “(ii) clearly explains the process by  
16 which the user may appeal the decision, in-  
17 cluding the deadline to submit the appeal;  
18 and

19 “(D) not later than 7 days after the date  
20 on which the operator receives a request from  
21 a user under subsection (b) to remove content,  
22 if the operator does not remove the content,  
23 shall provide the user with a notice that—

1           “(i) acknowledges the refusal to re-  
2           move the content and provides the jus-  
3           tification for the refusal; and

4           “(ii) clearly explains the process by  
5           which the user may appeal the decision, in-  
6           cluding the deadline to submit the appeal.

7           “(2) EXCEPTIONS TO NOTICE REQUIREMENT.—  
8           The requirement to issue a notice under paragraph  
9           (1)(C) shall not apply if—

10           “(A) that notice would risk imminent harm  
11           to others;

12           “(B) the operator reasonably believes that  
13           the material relates to terrorism, including do-  
14           mestic terrorism, or other criminal activity, pro-  
15           vided that such lack of notice does not discrimi-  
16           nate on the basis of a protected class; or

17           “(C) a law enforcement agency requests  
18           that the notice not be made and provides a sub-  
19           stantive justification for that request.

20           “(b) COMPLIANCE REQUESTS.—If a user of a domi-  
21           nant platform believes the operator of the dominant plat-  
22           form is in violation of its terms of service, the user may  
23           request that the operator comply with the terms of service.

24           “(c) APPEALS TO OPERATORS OF DOMINANT PLAT-  
25           FORMS.—If an operator of a dominant platform issues a

1 notice required by subparagraph (C) or (D) of subsection  
2 (a)(1), the operator shall provide an appeals process that  
3 meets the following requirements:

4 “(1) A user may request an appeal through an  
5 ‘opt-in’ option that—

6 “(A) does not require the user to provide  
7 additional information; and

8 “(B) is available immediately following  
9 issuance of the notice.

10 “(2) Not later than 7 days after the date on  
11 which the user requests an appeal as described in  
12 paragraph (1), the operator shall provide the user  
13 with—

14 “(A) a statement describing with particu-  
15 larity the reasonable factual basis for the deci-  
16 sion that triggered the notice requirement, in-  
17 cluding by citing each specific provision of the  
18 terms of service or other policy upon which the  
19 decision was based; and

20 “(B) an opportunity, for a period of not  
21 fewer than 30 days beginning immediately after  
22 provision of the statement under subparagraph  
23 (A), to present reasons for which the operator  
24 should reverse its decision.

1           “(3) The operator shall make a final determina-  
2           tion on the appeal not later than 7 days after the  
3           date on which the user presents reasons under para-  
4           graph (2)(B).

5           “(d) COMPLAINTS TO THE COMMISSION.—

6           “(1) COMPLAINTS.—

7           “(A) IN GENERAL.—A user who is subject  
8           to an adverse final decision from an operator of  
9           a dominant platform under subsection (c) may  
10          submit a complaint to the Commission regard-  
11          ing a violation of subsection (a) or (c).

12          “(B) LIMIT.—A user may not submit more  
13          than 1 complaint under subparagraph (A) per  
14          alleged violation.

15          “(2) COMPLIANCE.—The Commission, after  
16          providing notice and an opportunity for a hearing to  
17          the relevant parties, may—

18          “(A) issue an order requiring an operator  
19          of a dominant platform in violation of sub-  
20          section (a) or (c) to comply with the applicable  
21          subsection; and

22          “(B) impose a civil penalty on an operator  
23          of a dominant platform for a violation described  
24          in subparagraph (A), in accordance with section  
25          2115(c)(2).

1       “(e) RECORD-KEEPING; REPORTS TO COMMIS-  
2 SION.—

3           “(1) RECORDS.—

4               “(A) IN GENERAL.—An operator of a dom-  
5 inant platform shall keep a record of each—

6                   “(i) compliance request regarding a  
7 violation of terms of service submitted by  
8 a user under subsection (b);

9                   “(ii) instance in which the operator  
10 does not provide a notice under paragraph  
11 (1)(C) of subsection (a) in accordance with  
12 an exception under paragraph (2) of that  
13 subsection, including a specification of the  
14 applicable exception; and

15                   “(iii) appeal submitted by a user  
16 under subsection (c).

17               “(B) CONTENTS.—A record described in  
18 subparagraph (A) shall—

19                   “(i) describe the disposition of the  
20 compliance request or appeal by an oper-  
21 ator of a dominant platform; and

22                   “(ii) categorize the subject matter of  
23 the compliance request or appeal in accord-  
24 ance with rules developed by the Commis-  
25 sion.

1           “(2) REPORTS TO COMMISSION.—In accordance  
2 with rules promulgated by the Commission, on a  
3 quarterly and annual basis, an operator of a domi-  
4 nant platform shall submit to the Commission a re-  
5 port that—

6           “(A) details the number of compliance re-  
7 quests and appeals described in paragraph  
8 (1)(A) that were submitted to the operator dur-  
9 ing the reporting period;

10           “(B) categorizes the nature of each compli-  
11 ance request or appeal described in subpara-  
12 graph (A);

13           “(C) describes the disposition of each com-  
14 pliance request or appeal described in subpara-  
15 graph (A); and

16           “(D) provides, for each exception under  
17 paragraph (2) of subsection (a), the number of  
18 times the operator did not provide a notice  
19 under paragraph (1)(C) of that subsection in  
20 accordance with that exception.

21 **“SEC. 2202. BEST PRACTICES.**

22           “‘The Commission shall establish a standardized pol-  
23 icy that operators of dominant platforms can adopt re-  
24 garding content moderation and appeals of content-mod-

1 eration decisions that complies with subsections (a) and  
 2 (b) of section 2201.

3           **“TITLE III—COMPETITION**  
 4                           **REFORM**  
 5           **“Subtitle A—Antitrust Review**

6 **“SEC. 2311. ABUSES OF DOMINANCE.**

7           “(a) DEFINITIONS.—In this section:

8                   “(1) NO-POACH AGREEMENT.—The term ‘no-  
 9           poach agreement’ means any agreement between 2  
 10           or more employers, including contractor-subcon-  
 11           tractor agreements, whether written, verbal, or in-  
 12           ferred, that prohibits or restricts one employer from  
 13           soliciting or hiring the employees or former employ-  
 14           ees of another employer.

15                   “(2) NONCOMPETE AGREEMENT.—The term  
 16           ‘noncompete agreement’ means an agreement, en-  
 17           tered into between a person and any individual who  
 18           performs work for the person that restricts the indi-  
 19           vidual from performing, after the relationship for  
 20           providing work terminates, any of the following:

21                   “(A) Any work for another employer for a  
 22                   specified period of time.

23                   “(B) Any work in a specific geographical  
 24                   area.

1           “(C) Any work for another employer that  
2           is similar to the work performed by the indi-  
3           vidual for the person.

4           “(3) PREDISPUTE ARBITRATION AGREEMENT.—  
5           The term ‘predispute arbitration agreement’ means  
6           an agreement to arbitrate a dispute that has not yet  
7           arisen at the time of the making of the agreement.

8           “(4) PREDISPUTE CLASS-ACTION WAIVER.—The  
9           term ‘predispute class-action waiver’ means an  
10          agreement, whether or not part of a predispute arbi-  
11          tration agreement, that would prohibit, or waive the  
12          right of, one of the participants to the agreement to  
13          participate in a joint, class, or collective action in a  
14          judicial, arbitral, administrative, or other forum,  
15          concerning a dispute that has not yet arisen at the  
16          time of the making of the agreement.

17          “(5) SELF-PREFERENCING.—The term ‘self-  
18          preferencing’ means, with respect to an operator of  
19          a dominant platform—

20                 “(A) advantaging the products, services, or  
21                 lines of business of the operator on the platform  
22                 over the products, services, or lines of business  
23                 of another business user;

24                 “(B) excluding or disadvantaging the prod-  
25                 ucts, services, or lines of business of another

1 business user relative to the products, services,  
2 or lines of business of the operator;

3 “(C) interfering with or restricting the  
4 ability of any business user of the platform to  
5 set prices for its products or services, whether  
6 or not those products or services are offered on  
7 the platform; or

8 “(D) conditioning access to the platform or  
9 preferred status or placement on the platform  
10 on the purchase or use of other products or  
11 services offered by the covered platform oper-  
12 ator.

13 “(6) TYING ARRANGEMENTS.—The term ‘tying  
14 arrangement’ means any agreement, including an  
15 agreement that is written, verbal, or inferred from  
16 conduct, through which the seller conditions the sale  
17 of 1 product, service, or contract on the agreement  
18 of a customer to purchase or obtain another distinct  
19 product, service, or contract.

20 “(7) UNDUE DISCRIMINATION.—The term  
21 ‘undue discrimination’ means—

22 “(A) making or granting any preference or  
23 advantage to any person or subjecting any per-  
24 son to any undue prejudice or disadvantage

1 when compared to similarly situated customers,  
2 suppliers, users, or trading partners; or

3 “(B) maintaining any difference in prices,  
4 rates, charges, services, facilities, access, terms  
5 of service, licenses, contractual terms, or any  
6 other aspect among similarly situated cus-  
7 tomers, suppliers, users, or trading partners.

8 “(b) PROHIBITION.—It shall be unlawful for any op-  
9 erator of a dominant platform to abuse, or attempt to  
10 abuse, its dominance or otherwise engage in conduct that  
11 harms competition or creates or helps maintain an unfair  
12 method of competition, a monopoly, or a monopsony, re-  
13 gardless of any alleged procompetitive benefits or effi-  
14 ciencies.

15 “(c) PRESUMPTIVE VIOLATIONS.—The following  
16 practices by an operator of a dominant platform shall con-  
17 stitute presumptive violations of subsection (b):

18 “(1) Undue discrimination.

19 “(2) Tying arrangements.

20 “(3) Self-preferencing.

21 “(4) Predispute arbitration agreements or  
22 predispute class-action waivers with users, cus-  
23 tomers, trading partners, or employees.

1           “(5) Noncompete agreements, except in the  
2           case of a legitimate acquisition or sale of a business  
3           or assets.

4           “(6) No-poach agreements.

5           “(d) REBUTTAL.—A defendant may rebut a violation  
6           of subsection (b), including the presumptive violations de-  
7           scribed in subsection (c), with clear and convincing evi-  
8           dence that the alleged practice did not result in any harm  
9           to the relevant aggrieved party.

10          “(e) RULEMAKING.—The Commission may promul-  
11          gate rules to—

12           “(1) further define the presumptive violations  
13           listed in subsection (c); or

14           “(2) identify and define additional practices  
15           that constitute presumptive violations of subsection  
16           (b).

17          **“SEC. 2312. PLATFORM CONFLICTS OF INTEREST.**

18          “(a) PROHIBITION.—It shall be unlawful for any op-  
19          erator of a dominant platform to maintain, or engage in  
20          any action that creates, a platform conflict of interest.

21          “(b) REMEDY.—The Commission or a court, as appli-  
22          cable, may issue an order requiring an operator of a domi-  
23          nant platform to eliminate any platform conflict of interest  
24          by implementing—

1           “(1) divestitures, which, to the extent prac-  
2           ticable, shall be specified, standalone business units  
3           or lines; and

4           “(2) other actions necessary to eliminate the  
5           platform conflict of interest.

6           “(c) RULEMAKING.—The Commission may promul-  
7           gate rules—

8           “(1) to further define critical trading partners,  
9           the prohibition in subsection (a) or the remedy in  
10          subsection (b); or

11          “(2) as it determines appropriate to carry out  
12          this section.

13   **“SEC. 2313. FUTURE ACQUISITIONS.**

14          “(a) NOTIFICATION.—Any operator of a dominant  
15          platform required to file a notification under section 7A  
16          of division A shall simultaneously file that notification  
17          with the Commission.

18          “(b) VIOLATION.—

19                 “(1) IN GENERAL.—Except as provided in para-  
20                 graph (2), it shall be unlawful for an operator of a  
21                 dominant platform to acquire, directly or indirectly,  
22                 the whole or any part of the stock, other share cap-  
23                 ital, or assets of (or to be acquired by) another per-  
24                 son engaged in commerce or in any activity affecting  
25                 commerce unless the parties to the acquisition dem-

1       onstrate, by clear and convincing evidence, that the  
2       acquisition would serve the public interest.

3               “(2) EXCLUSION.—Paragraph (1) shall not  
4       apply to any acquisition that is not subject to sec-  
5       tion 7A of division A.

6               “(c) ORDER.—Not later than the end of the 120-day  
7       period beginning on the date on which the notification de-  
8       scribed in subsection (a) is filed with the Commission, the  
9       Commission shall, after providing notice and an oppor-  
10      tunity for a hearing to the parties of an acquisition de-  
11      scribed in subsection (a), issue an order barring the con-  
12      summation of the acquisition if the Commission deter-  
13      mines that the parties to the acquisition failed to dem-  
14      onstrate that the acquisition would serve the public inter-  
15      est.

16              “(d) STANDARDS REGARDING THE PUBLIC INTER-  
17      EST.—

18                      “(1) IN GENERAL.—For the purposes of this  
19      section, effects on the public interest include effects  
20      on—

21                              “(A) competition;

22                              “(B) workers;

23                              “(C) consumers;

24                              “(D) customer choice;

25                              “(E) sellers;

1           “(F) local, rural, or low-income commu-  
2           nities;

3           “(G) privacy;

4           “(H) national security or public safety;

5           “(I) quality;

6           “(J) entrepreneurship;

7           “(K) innovation;

8           “(L) price; or

9           “(M) accessibility of goods or services.

10           “(2) INHERENT HARMS.—In addition to other  
11           effects that may be assessed when evaluating an ac-  
12           quisition for which any party (or its ultimate parent  
13           entity) is the operator of a dominant platform, the  
14           acquisition would not serve the public interest if—

15           “(A) another party to the acquisition offers  
16           overlapping, competing, or functionally equiva-  
17           lent services or products;

18           “(B) another party to the acquisition is a  
19           critical trading partner in the supply chains or  
20           business ecosystems of the parties; or

21           “(C) the acquisition would create a plat-  
22           form conflict of interest.

23           “(3) POTENTIAL HARMS.—In addition to other  
24           effects that may be assessed when evaluating an ac-  
25           quisition for which any party (or its ultimate parent

1 entity) is the operator of a dominant platform, it  
2 may be determined that the acquisition would not  
3 serve the public interest if—

4 “(A) the acquisition would result in a  
5 postacquisition market share of greater than 33  
6 percent of any relevant market (including labor  
7 markets);

8 “(B) the acquisition would—

9 “(i) result in a Herfindahl-Hirschman  
10 Index greater than 1,800 in any relevant  
11 market; and

12 “(ii) increase the Herfindahl-  
13 Hirschman Index by more than 100 in any  
14 relevant market; or

15 “(C) the acquisition would result in an ag-  
16 gregation of data or access to data in a matter  
17 that harms the competitive process or creates or  
18 helps maintain a monopoly, a monopsony, mar-  
19 ket power, or unfair methods of competition.

20 “(e) NONREPORTABLE ACQUISITIONS.—Nothing in  
21 this section shall prevent the Commission from barring the  
22 consummation of—

23 “(1) any acquisition for which the operator of  
24 a dominant platform is not required to file a notifi-  
25 cation under section 7A of division A if the Commis-

1 sion determines that the acquisition would not serve  
2 the public interest; or

3 “(2) any acquisition that would result in a dom-  
4 inant platform if the Commission determines that  
5 the acquisition would not serve the public interest.

6 **“SEC. 2314. RETROSPECTIVE REVIEWS.**

7 “(a) IN GENERAL.—The Commission may retrospec-  
8 tively review any acquisition—

9 “(1) consummated by the operator of a domi-  
10 nant platform; or

11 “(2) that resulted in a dominant platform.

12 “(b) MATERIAL HARM TO THE PUBLIC INTEREST.—

13 If, after the review under subsection (a), the Commission  
14 determines that the acquisition materially harmed the  
15 public interest, the Commission, as applicable, may order  
16 a remedy to improve the public interest, restore competi-  
17 tion, or otherwise address the anticompetitive or harmful  
18 impacts of the acquisition, including—

19 “(1) unwinding the acquisition; or

20 “(2) requiring that the acquiring person make  
21 divestitures, which, to the extent practicable, shall be  
22 specified, standalone business units or lines.

23 “(c) STANDARDS REGARDING MATERIAL HARM TO  
24 THE PUBLIC INTEREST.—For the purposes of this sec-  
25 tion, in addition to other effects on the public interest that

1 may be assessed (including those described in section  
2 313), an acquisition described in subsection (a) materially  
3 harms the public interest under subsection (b) if—

4 “(1) the operator of a dominant platform ac-  
5 quired a critical trading partner;

6 “(2) the acquisition resulted in a  
7 postacquisition market share of greater than 50 per-  
8 cent of any relevant market (including labor mar-  
9 kets); or

10 “(3) the acquisition—

11 “(A) resulted in a Herfindahl-Hirschman  
12 Index greater than 2,500 in any relevant mar-  
13 ket; and

14 “(B) increased the Herfindahl-Hirschman  
15 Index by more than 200 in any relevant mar-  
16 ket.

17 **“SEC. 2315. ADDITIONAL REMEDIES.**

18 “(a) IN GENERAL.—The Commission may investigate  
19 any platform operator for violations of this title and order  
20 remedies, including structural, behavioral, or other rem-  
21 edies, to restore competition.

22 “(b) DIVESTITURES.—The Commission may order  
23 divestitures, which, to the extent practicable, shall be spec-  
24 ified, standalone business units or lines, with respect to

1 any previously completed acquisition to which a platform  
2 operator was a party.

3 “(c) DIVESTITURE BUYERS.—The Commission shall  
4 approve any proposed divestiture buyer unless the Com-  
5 mission determines that—

6 “(1) selling the divested assets to the proposed  
7 buyer would harm the public interest;

8 “(2) the proposed buyer does not have a mate-  
9 rial incentive to use the divested assets to compete  
10 in the relevant market; or

11 “(3) the proposed buyer lacks the sufficient  
12 acumen, experience, or financial capability to com-  
13 pete in the relevant market over the long term or is  
14 otherwise unlikely to do so based on the historical  
15 activity of the buyer.

16 **“SEC. 2316. CONTRACTUAL TRANSPARENCY.**

17 “The Commission may promulgate rules that require  
18 operators of dominant platforms to file with the Commis-  
19 sion or make publicly available, in such forms as the Com-  
20 mission may designate, certain pricing or other contrac-  
21 tual terms, including pricing terms for business users of  
22 the dominant platform.

1 **“SEC. 2317. PROHIBITION ON ABUSIVE ACTS OR PRACTICES.**  
2 **TICES.**

3 “(a) **DECLARATION OF UNLAWFULNESS.**—An abusive act or practice committed by a covered entity is unlawful.  
5

6 “(b) **ABUSIVE ACT OR PRACTICE DEFINED.**—

7 “(1) **IN GENERAL.**—For purposes of this section, the term ‘abusive act or practice’ means any  
8  
9 conduct that—

10 “(A) materially interferes with the ability  
11 of a user of a platform owned or controlled by  
12 a covered entity to understand a term, condition, benefit, or consequence of an agreement  
13 between the covered entity and the user; or  
14

15 “(B) takes unreasonable advantage of—

16 “(i) a lack of understanding on the  
17 part of a user of a platform owned or controlled by a covered entity of the material  
18 risks, costs, or conditions of a product or service offered by the covered entity;  
19  
20

21 “(ii) the inability of a user of a platform owned or controlled by a covered entity  
22 to protect the interests of the user in selecting or using a product or service of the  
23 covered entity; or  
24  
25

1                   “(iii) the reasonable reliance by a user  
2                   of a platform owned or controlled by a cov-  
3                   ered entity on the representation of the  
4                   covered entity to act in the best interests  
5                   of the user.

6                   “(2) COMMISSION ENFORCEMENT.—The Com-  
7                   mission may promulgate rules to further define the  
8                   term ‘abusive act or practice’ for purposes of this  
9                   section.

10 **“SEC. 2318. DATA BROKERS.**

11                   “An operator of a dominant platform may not, for  
12                   monetary or other consideration, sell, resell, license, or  
13                   trade to a data broker personal data, except in accordance  
14                   with other laws permitting disclosure of personal data and  
15                   rules promulgated by the Commission to implement this  
16                   section.

17                   **“Subtitle B—Data Portability and**  
18                   **Interoperability.**

19 **“SEC. 2321. DATA PORTABILITY AND INTEROPERABILITY.**

20                   “(a) DATA PORTABILITY.—An operator of a domi-  
21                   nant platform, with respect to the dominant platform,  
22                   shall maintain a set of interfaces that are transparent and  
23                   accessible to third parties (including application program-  
24                   ming interfaces) to provide a user (or a third party au-  
25                   thorized by a user), upon the request of the user (or such

1 a third party) and free of charge, with effective portability  
2 of data provided by the user or generated through the ac-  
3 tivity of the user in the context of the use of the relevant  
4 core platform service of the dominant platform, including  
5 by providing free of charge tools to facilitate the effective  
6 exercise of that data portability.

7 “(b) INTEROPERABILITY.—An operator of a domi-  
8 nant platform, with respect to the dominant platform,  
9 shall, free of charge—

10 “(1) allow a business user, provider of services,  
11 provider of ancillary services, or provider of hard-  
12 ware access to and interoperability with the same  
13 hardware features and software features accessed or  
14 controlled via an operating system that are available  
15 to services on the dominant platform or hardware  
16 provided by the operator;

17 “(2) provide a business user (or a third party  
18 authorized by a business user), upon the request of  
19 the business user (or such a third party), with con-  
20 tinuous and real-time access and use of aggregated  
21 and non-aggregated data, that is provided for or  
22 generated in the context of the use of the relevant  
23 core platform services of the dominant platform or  
24 ancillary services offered by the dominant platform  
25 to the business user and each end user engaging

1 with a product or service provided by the business  
2 user; and

3 “(3) provide, at the request of a business user,  
4 the possibility and necessary tools to access and ana-  
5 lyze data on the dominant platform without a trans-  
6 fer from the dominant platform.

7 “(c) SECURITY MEASURES.—Nothing in subsection  
8 (a) or (b) shall be construed to prohibit an operator of  
9 a dominant platform from taking indispensable measures,  
10 duly justified by the operator, to ensure that data port-  
11 ability and interoperability do not—

12 “(1) compromise the integrity of the operating  
13 system, hardware features, or software features pro-  
14 vided by the operator; or

15 “(2) undermine end-user data protection or  
16 cyber security.

## 17 **“Subtitle C—Miscellaneous**

### 18 **“SEC. 2331. RULE OF CONSTRUCTION.**

19 “Nothing in this title shall be construed to limit li-  
20 ability under the Federal Trade Commission Act (15  
21 U.S.C. 12 et seq.) or the antitrust laws, as defined in sec-  
22 tion 1(a) of division A.

1       **“TITLE IV—PRIVACY REFORM**  
2       **“Subtitle A—Covered Entity Duties**  
3               **and Requirements.**

4       **“SEC. 2411. DUTY OF LOYALTY.**

5           “A covered entity may not process personal data or  
6 design information technologies in a way that substantially  
7 conflicts with the best interests of a person with respect  
8 to—

9                   “(1) the experience of the person when using a  
10           platform owned or controlled by the covered entity;  
11           or

12                   “(2) the personal data of the person.

13       **“SEC. 2412. DUTY OF CARE.**

14           “(a) IN GENERAL.—A covered entity may not design  
15 or employ services or algorithms, or process, collect, store,  
16 or transfer personal data, in a manner that causes or is  
17 likely to cause any of the following:

18                   “(1) Physical, economic, relational, or  
19           reputational injury to a person.

20                   “(2) Psychological injuries that would be highly  
21           offensive to a reasonable person.

22                   “(3) Discrimination on the basis of a person’s  
23           or class of persons’ actual or perceived race, color,  
24           ethnicity, sex (including sexual orientation, gender  
25           identity, and sex characteristics), religion, national

1 origin, familial status, biometric information, or dis-  
2 ability status.

3 “(4) Discrimination regarding a decision that  
4 produces a legal effect or similarly significant effect  
5 concerning a person.

6 “(b) DEFINITION.—For purposes of subsection  
7 (a)(4), the term ‘decision that produces a legal effect or  
8 similarly significant effect concerning a person’ includes  
9 denial or degradation of consequential services or support,  
10 such as financial or lending services, housing, insurance,  
11 educational enrollment, criminal justice, employment op-  
12 portunities, health care services, and access to basic neces-  
13 sities, such as food and water.

14 “(c) EXCEPTIONS.—Subsection (a) shall not apply  
15 to—

16 “(1) the design or employment of services or al-  
17 gorithms, or the processing, collecting, storing, or  
18 transferring of personal data, for the purpose of—

19 “(A) a covered entity’s self-testing to pre-  
20 vent or mitigate unlawful discrimination;

21 “(B) diversifying an applicant, participant,  
22 or customer pool; or

23 “(C) providing resources for the prevention  
24 of harm, consistent with evidence-based medical  
25 information; or

1           “(2) any private club or group not open to the  
2           public, as described in section 201(e) of the Civil  
3           Rights Act of 1964 (42 U.S.C. 2000a(e)).

4   **“SEC. 2413. DUTY OF MITIGATION.**

5           “(a) IN GENERAL.—A covered entity shall mitigate  
6           the heightened risks of physical, emotional, developmental,  
7           or material harms posed by materials on, or engagement  
8           with, any platform owned or controlled by the covered en-  
9           tity, including—

10           “(1) promotion of self-harm and other matters  
11           that pose a risk to physical and mental health con-  
12           sistent with evidence-based medical information;

13           “(2) patterns of use that indicate or encourage  
14           addiction-like behaviors;

15           “(3) physical harm, online bullying, and harass-  
16           ment; and

17           “(4) predatory, unfair, or deceptive marketing  
18           practices.

19           “(b) SAFEGUARDS.—A covered entity shall—

20           “(1) provide a user of a platform owned or con-  
21           trolled by the covered entity with readily accessible  
22           and easy-to-use safeguards to control the experience  
23           and personal data of the user, including settings  
24           to—

1           “(A) limit the ability of other persons to  
2           contact or find the user;

3           “(B) prevent other persons from viewing  
4           the personal data of the user that is collected  
5           by the covered entity or shared on the platform,  
6           and in particular restrict public access to that  
7           personal data;

8           “(C) limit features that increase, sustain,  
9           or extend use of the platform, such as auto-  
10          matic playing of media, rewards for time spent  
11          on the platform, and notifications;

12          “(D) opt out of algorithmic recommenda-  
13          tion systems that use personal data;

14          “(E) delete the user’s account and request  
15          removal of personal data;

16          “(F)(i) restrict the sharing of the  
17          geolocation of the user; and

18          “(ii) provide notice regarding the tracking  
19          of the geolocation of the user; and

20          “(G) limit time spent by the user on the  
21          platform; and

22          “(2) by default, set the safeguards provided  
23          under paragraph (1) at the most protective setting.

1 **“SEC. 2414. DUTY OF CONFIDENTIALITY; DATA COLLECTION**  
2 **AND PROCESSING.**

3 “(a) **REQUIREMENT FOR A LEGITIMATE BASIS FOR**  
4 **PROCESSING DATA.**—A covered entity may only process  
5 the personal data of a person if 1 or more of the following  
6 applies:

7 “(1) Processing is necessary—

8 “(A) for the performance of a contract to  
9 which the person is party; or

10 “(B) in order to take steps at the request  
11 of the person before entering into a contract.

12 “(2) Processing is necessary for compliance  
13 with a legal obligation to which the covered entity is  
14 subject.

15 “(3) Processing is necessary in order to protect  
16 the vital interests of the person or another indi-  
17 vidual.

18 “(4) Processing is necessary for the perform-  
19 ance of a task carried out in the public interest or  
20 in the exercise of official authority vested in the cov-  
21 ered entity.

22 “(5) Processing is necessary for the purposes of  
23 the legitimate interests pursued by the covered enti-  
24 ty, unless those interests are overridden by the inter-  
25 ests (including constitutional rights, civil rights, and  
26 civil liberties) of the person that require protection

1 of personal data, in particular if the person is a  
2 child.

3 “(b) PURPOSE LIMITATION REQUIREMENT.—A cov-  
4 ered entity—

5 “(1) shall articulate to a person through clear  
6 and conspicuous disclosure a specific, explicit, and  
7 legitimate purpose for any processing of personal  
8 data of the person; and

9 “(2) may not process personal data in a man-  
10 ner that is incompatible with the purpose articulated  
11 under paragraph (1).

12 “(c) DATA MINIMIZATION REQUIREMENT.—A cov-  
13 ered entity shall ensure that all personal data that the cov-  
14 ered entity collects and processes is adequate, relevant,  
15 and limited to what is necessary in relation to the pur-  
16 poses for which the covered entity processes the personal  
17 data.

18 “(d) ACCURACY REQUIREMENT.—A covered entity  
19 shall—

20 “(1) ensure that personal data that the covered  
21 entity maintains regarding a person is accurate;

22 “(2) where necessary, keep the personal data  
23 described in paragraph (1) up-to-date; and

24 “(3) take every reasonable step to erase or rec-  
25 tify without delay any personal data that the covered

1       entity maintains regarding a person that is inac-  
2       curate.

3       “(e) STORAGE LIMITATION REQUIREMENT.—A cov-  
4       ered entity shall ensure that personal data that the cov-  
5       ered entity maintains regarding a person is kept in a form  
6       that permits identification of data subjects for no longer  
7       than is necessary for the purposes for which the data is  
8       processed.

9       “(f) GOVERNMENTAL ENTITIES.—A covered entity  
10      may not transfer to, share with, or otherwise provide or  
11      make available to any governmental entity personal data  
12      absent a search warrant, except in accordance with rules  
13      promulgated by the Commission to implement this section.

14      “(g) RULEMAKING.—The Commission shall promul-  
15      gate rules to implement this section and to protect the  
16      confidentiality of personal data.

17      **“SEC. 2415. LIMITATIONS ON TARGETED ADVERTISING.**

18      “(a) PROHIBITED CROSS-PLATFORM TARGETED AD-  
19      VERTISING.—A covered entity that is an operator of a  
20      platform may not target advertising to a user of the plat-  
21      form based on the user’s personal data obtained from the  
22      user’s activity across other, distinctly branded platforms.

23      “(b) PERMISSIBLE TARGETED ADVERTISING.—A  
24      covered entity that is an operator of a platform may target  
25      advertising to a user of the platform—

1           “(1) based on the user’s first-party personal  
2           data obtained from the user’s activity on that plat-  
3           form; or

4           “(2) in response to the user’s request for infor-  
5           mation or feedback.

6   **“SEC. 2416. RIGHTS OF DATA SUBJECTS TO ACCESS, COR-**  
7                           **RECTION, PORTABILITY, AND DELETION.**

8           “(a) ACCESS TO AND PORTABILITY OF PERSONAL  
9   DATA.—A person shall have the right to—

10           “(1) access all personal data of the person that  
11           is processed by a covered entity;

12           “(2) access all information pertaining to the  
13           collection and processing of the personal data of the  
14           person by a covered entity, including—

15                   “(A) where, or from whom, the covered en-  
16                   tity obtained the personal data, such as whether  
17                   the personal data was obtained—

18                           “(i) from the person or a third party;

19                           and

20                           “(ii) online or offline;

21                   “(B) the types of third parties to which  
22                   the covered entity has disclosed or will disclose  
23                   the personal data;

24                           “(C) the purposes of the processing;

25                           “(D) the categories of the personal data;

1           “(E) the names of third parties to which  
2           the covered entity has disclosed the personal  
3           data and a log showing when the disclosure oc-  
4           curred; and

5           “(F) the period of retention of the per-  
6           sonal data;

7           “(3) obtain any personal data of the person  
8           that has been processed by a covered entity in a  
9           structured, readily usable, portable, and machine-  
10          readable format;

11          “(4) with respect to personal data of the person  
12          that is stored by a covered entity, transmit or cause  
13          the covered entity to transmit the personal data to  
14          another covered entity, where technically feasible;  
15          and

16          “(5) request that a covered entity stop col-  
17          lecting and processing the personal data of the per-  
18          son.

19          “(b) CORRECTION AND DELETION OF PERSONAL  
20          DATA.—A person shall have the right to—

21                 “(1) correct inaccurate personal data of the  
22                 person that is stored by a covered entity; and

23                 “(2) delete all the personal data of the user  
24                 that is stored by a covered entity.

25          “(c) EXERCISE OF RIGHTS.—

1           “(1) IN GENERAL.—A covered entity shall pro-  
2           vide a person with a reasonable means to exercise  
3           the rights provided under subsections (a) and (b) in  
4           a request form that—

5                   “(A) contains a clear and conspicuous dis-  
6                   closure of the rights;

7                   “(B) is made available at no additional  
8                   cost and with no transactional penalty to the  
9                   person; and

10                   “(C) is in English and any other language  
11                   in which the covered entity communicates with  
12                   the person, as applicable.

13           “(2) DEADLINE TO COMPLY WITH REQUEST.—  
14           The Commission shall promulgate rules to establish  
15           deadlines for a covered entity to comply with a re-  
16           quest under paragraph (1).

17 **“SEC. 2417. RIGHT TO KNOW.**

18           “(a) IN GENERAL.—A person shall have the right to  
19           know what personal data a covered entity will collect and  
20           process about the person (including through a data proc-  
21           essor), including the categories and specific pieces of per-  
22           sonal data the covered entity processes, before giving con-  
23           sent for the collection and processing of the personal data  
24           of the user.

25           “(b) MEANINGFUL NOTICE.—

1           “(1) IN GENERAL.—A covered entity shall make  
2 publicly available—

3           “(A) a current long-form privacy policy;

4           “(B) a current short-form privacy policy;

5           and

6           “(C) all privacy policies that were pre-  
7 viously in effect.

8           “(2) REQUIREMENTS FOR PRIVACY POLICIES.—

9           “(A) IN GENERAL.—A covered entity shall  
10 make each current privacy policy of the covered  
11 entity persistently and conspicuously available  
12 at or prior to—

13           “(i) the point of sale of, subscription  
14 to, or sign up for a product or service; or

15           “(ii) at or prior to the point of cre-  
16 ation of an account with a platform owned  
17 or controlled by the covered entity.

18           “(B) SHORT-FORM PRIVACY POLICY.—The  
19 short-form privacy policy required under para-  
20 graph (1) shall—

21           “(i) use plain language; and

22           “(ii) include—

23           “(I) the personal data being  
24 processed;

1                   “(II) whether personal data will  
2                   be processed for purposes of targeted  
3                   advertisements or monetization; and

4                   “(III) the period of retention of  
5                   the personal data expressed in exact  
6                   dates.

7                   “(3) RULEMAKING.—The Commission shall  
8                   promulgate rules specifying requirements for the pri-  
9                   vacy policies required by this subsection, including  
10                  rules regarding the online and offline accessibility,  
11                  time of availability, and contents of the policies.

12                  “(4) STANDARDIZED SHORT-FORM PRIVACY  
13                  POLICY.—The Commission shall establish a stand-  
14                  ardized short-form privacy policy that complies with  
15                  paragraph (2)(B) and any associated rules promul-  
16                  gated by the Commission.

## 17   **“Subtitle B—Data Security Reform**

### 18   **“SEC. 2421. DATA SECURITY SAFEGUARDS.**

19                  “(a) IN GENERAL.—A covered entity shall ensure ap-  
20                  propriate security of personal data, including protection  
21                  against unauthorized or unlawful processing and against  
22                  accidental loss, destruction, or damage, using reasonable  
23                  technical, physical, and organizational safeguards and  
24                  using reasonably designed technological systems to protect

1 persons exposed by their interactions with the covered en-  
2 tity.

3 “(b) INFORMATION SECURITY PROGRAM.—

4 “(1) IN GENERAL.—As part of the duty to en-  
5 sure appropriate security of personal data under  
6 subsection (a), a covered entity shall establish and  
7 implement, and thereafter maintain, a comprehen-  
8 sive information security program (referred to in  
9 this subsection as the ‘Information Security Pro-  
10 gram’) that is designed to protect the security, con-  
11 fidentiality, and integrity of personal data.

12 “(2) REQUIREMENTS.—To satisfy the require-  
13 ment under paragraph (1), a covered entity shall, at  
14 a minimum—

15 “(A) document in writing the content, im-  
16 plementation, and maintenance of the Informa-  
17 tion Security Program;

18 “(B) designate 1 or more qualified employ-  
19 ees to coordinate and be responsible for the In-  
20 formation Security Program;

21 “(C) not less frequently than once every 12  
22 months, and promptly following a covered  
23 breach, assess and document internal and exter-  
24 nal risks to the security, confidentiality, or in-  
25 tegrity of personal data that could result in the

1 unauthorized disclosure, misuse, loss, alteration,  
2 destruction, or other compromise of such per-  
3 sonal data;

4 “(D) design, implement, and document  
5 safeguards that—

6 “(i) address the internal and external  
7 risks to the security, confidentiality, or in-  
8 tegrity of personal data that the covered  
9 entity identifies under subparagraph (C);  
10 and

11 “(ii) take into account the sensitivity  
12 of the personal data at issue;

13 “(E) not less frequently than once every  
14 12 months, and promptly following a covered  
15 breach, assess the sufficiency of any safeguards  
16 in place to address the risks to the security,  
17 confidentiality, or integrity of personal data,  
18 which shall include an evaluation of safeguards  
19 in each area of relevant operation, including—

20 “(i) employee training and manage-  
21 ment;

22 “(ii) information systems, such as net-  
23 work and software design, information  
24 processing, storage, transmission, and dis-  
25 posal; and

1           “(iii) prevention, detection, and re-  
2           sponse to attacks, intrusions, or other sys-  
3           tem failures; and

4           “(F)(i) not less frequently than once every  
5           12 months and promptly following a covered  
6           breach, test and monitor the effectiveness of the  
7           safeguards described in subparagraph (E); and

8           “(ii) modify the Information Security Pro-  
9           gram based on the results of testing and moni-  
10          toring under clause (i).

11 **“SEC. 2422. CIVIL PENALTIES AND DAMAGES FOR DATA**  
12 **BREACHES.**

13          “(a) STANDARD PENALTY.—

14           “(1) IN GENERAL.—The Commission may issue  
15          an order to—

16           “(A) impose on a covered entity a civil  
17          penalty of \$150 for each covered breach of the  
18          personal data of a person held by the covered  
19          entity; and

20           “(B) pay \$50 of the amount collected for  
21          a civil penalty under subparagraph (A) to the  
22          affected person.

23           “(2) CAP.—The total amount collected from a  
24          covered entity under paragraph (1) in a single ad-  
25          ministrative action may not exceed 50 percent of the

1 revenue of the ultimate parent entity of the covered  
2 entity during the preceding calendar year.

3 “(b) ENHANCED PENALTY.—

4 “(1) IN GENERAL.—The Commission may dou-  
5 ble the amount of a civil penalty imposed under sub-  
6 section (a)(1)(A) and the corresponding amount paid  
7 to an affected person under subsection (a)(1)(B) if  
8 the covered entity fails to notify the Commission or  
9 the affected person of the covered breach by the date  
10 that is 30 days after the date on which the covered  
11 entity knew or had reason to know of the covered  
12 breach.

13 “(2) CAP.—The total amount collected from a  
14 covered entity under paragraph (1) may not exceed  
15 75 percent of the revenue of the ultimate parent en-  
16 tity of the covered entity during the preceding cal-  
17 endar year.

18 “(c) SAFE HARBOR.—Neither the Commission nor  
19 any State, person, or other Federal agency may (as appli-  
20 cable) issue an order under subsection (a) or bring an ac-  
21 tion against a covered entity for a covered breach if the  
22 covered entity has complied with section 2421 and any  
23 rules promulgated by the Commission to implement that  
24 section.

1 “(d) DAMAGES.—In a civil action brought by an af-  
 2 fected person under section 2701(b) for a violation of sec-  
 3 tion 2421 that resulted in a covered breach, the court may  
 4 award damages in an amount that is the greater of—

5 “(1) \$100 per covered breach; or

6 “(2) actual damages.

## 7 **“Subtitle C—Miscellaneous**

### 8 **“SEC. 2431. AUTHORITY TO PROPOSE AND ESTABLISH** 9 **HEIGHTENED REQUIREMENTS FOR DOMI-** 10 **NANT PLATFORM OPERATORS.**

11 “For purposes of this title—

12 “(1) an advisory board established under sec-  
 13 tion 2117 may propose heightened requirements for  
 14 covered entities that are operators of dominant plat-  
 15 forms; and

16 “(2) the Commission may promulgate rules  
 17 under section 2116 with heightened requirements for  
 18 covered entities that are operators of dominant plat-  
 19 forms.

## 20 **“TITLE V—NATIONAL SECURITY** 21 **REFORM**

### 22 **“SEC. 2501. CORPORATE CITIZENSHIP AND OWNERSHIP.**

23 “(a) DEFINITION.—In this section, the term ‘foreign  
 24 adversary’ has the meaning given the term in section 8(c)

1 of the Secure and Trusted Communications Networks Act  
2 of 2019 (47 U.S.C. 1607(c)).

3 “(b) CORPORATE CITIZENSHIP.—

4 “(1) IN GENERAL.—An operator of a dominant  
5 platform shall—

6 “(A) be a citizen of the United States; or

7 “(B) own a subsidiary corporation—

8 “(i) that is a citizen of the United  
9 States; and

10 “(ii) the number of directors of which  
11 who are noncitizens is less than half of the  
12 number of directors necessary to constitute  
13 a quorum.

14 “(2) DIRECTORS.—No director of a subsidiary  
15 corporation described in paragraph (1)(B) may be a  
16 citizen of a foreign adversary.

17 “(c) OWNERSHIP.—If more than 10 percent of the  
18 owners of an operator of a dominant platform are citizens  
19 of a foreign adversary, the operator of the dominant plat-  
20 form shall sequester any back-end data, algorithm, or in-  
21 formation about United States users on the dominant  
22 platform so that the back-end data, algorithm, or informa-  
23 tion is inaccessible to any subsidiary, affiliate, director,  
24 employee, or agent of the operator of the dominant plat-  
25 form that is based outside of the United States.

1       “(d) REVIEW BY COMMITTEE ON FOREIGN INVEST-  
2       MENT IN THE UNITED STATES.—

3               “(1) IN GENERAL.—The Committee on Foreign  
4       Investment in the United States shall—

5                       “(A) treat the application of a foreign per-  
6                       son (as defined in section 800.224 of title 31,  
7                       Code of Federal Regulations (or a successor  
8                       regulation)) for a license under title VI as a  
9                       covered transaction, as defined in subsection (a)  
10                      of section 721 of the Defense Production Act of  
11                      1950 (50 U.S.C. 4565); and

12                      “(B) review and, as appropriate, inves-  
13                      tigate the application in accordance with the  
14                      procedures set forth in such section 721.

15               “(2) DENIAL OF LICENSE.—If the Committee  
16       determines pursuant to paragraph (1) that providing  
17       a license under title VI to a foreign person threatens  
18       to impair the national security of the United States,  
19       the Office of Licensing for Dominant Platforms shall  
20       deny the application for the license.

21               “(3) CONSULTATION WITH DEPARTMENT OF  
22       JUSTICE.—The Committee may, in its discretion,  
23       consult with the National Security Division of the  
24       Department of Justice in making a determination  
25       under paragraph (1).

1 **“SEC. 2502. LIMITATION OF DATA PROCESSING IN RE-**  
2 **STRICTED COUNTRIES.**

3 “An operator of a dominant platform may not process  
4 the personal data of a United States person in any re-  
5 stricted country.

6 **“SEC. 2503. BOT AND COUNTRY-OF-ORIGIN IDENTIFICA-**  
7 **TIONS.**

8 “(a) BOTS.—An operator of a dominant platform  
9 shall identify any post on the dominant platform that is  
10 generated by a software program as a post by a non-  
11 human user.

12 “(b) COUNTRY OF ORIGIN.—An operator of a domi-  
13 nant platform shall publicly identify the country of origin  
14 of any post on the dominant platform.

15 “(c) SCOPE.—An identification described in sub-  
16 section (a) or (b) shall publicly accompany the post any-  
17 where that the post appears on the dominant platform.

18 **“TITLE VI—LICENSES FOR OPER-**  
19 **ATORS OF DOMINANT PLAT-**  
20 **FORMS**

21 **“SEC. 2601. LICENSING OFFICE.**

22 “(a) ESTABLISHMENT.—There is established within  
23 the Commission the Office of Licensing for Dominant  
24 Platforms (referred to in this section as the ‘Office’).

25 “(b) DIRECTOR.—

1           “(1) ESTABLISHMENT OF POSITION.—There is  
2 established the position of Director of the Office,  
3 who shall be the head of the Office.

4           “(2) APPOINTMENT; TERM.—

5           “(A) APPOINTMENT.—The Director shall  
6 be appointed by the President.

7           “(B) TERM.—The Director shall be ap-  
8 pointed for a term of 4 years, unless removed  
9 before the end of that term by the President for  
10 neglect of duty or malfeasance in office.

11           “(C) VACANCY.—A vacancy in the position  
12 of Director that occurs before the expiration of  
13 the term for which a Director was appointed  
14 shall be filled in the manner established under  
15 subparagraph (A), and the Director appointed  
16 to fill that vacancy shall be appointed only for  
17 the remainder of that term.

18           “(D) SERVICE AFTER END OF TERM.—An  
19 individual may serve as the Director after the  
20 expiration of the term for which the individual  
21 was appointed until a successor has been ap-  
22 pointed.

23           “(c) DUTIES.—The Office shall—

24           “(1) review and grant license applications for  
25 operators of dominant platforms;

1           “(2) monitor whether operators of dominant  
2 platforms have obtained a license in accordance with  
3 this title;

4           “(3) monitor and manage complaints submitted  
5 under section 2118;

6           “(4) except as provided in paragraph (5)(B),  
7 refer any violation of this title, a rule promulgated  
8 to implement this title, or an administrative order  
9 issued to enforce this title to the appropriate Fed-  
10 eral agency for enforcement; and

11           “(5) when appropriate—

12                   “(A) rescind the license of an operator of  
13 a dominant platform under section 2602; or

14                   “(B) revoke the license of an operator of  
15 a dominant platform under section 2603.

16 **“SEC. 2602. REQUIREMENT FOR OPERATORS OF DOMINANT**  
17 **PLATFORMS TO OBTAIN LICENSES.**

18           “(a) IN GENERAL.—The Office shall grant a license  
19 to each operator of a platform designated as a dominant  
20 platform under section 2121, subject to any subsequent  
21 rescission or revocation of the license under this title.

22           “(b) CONSEQUENCES OF FAILURE TO OBTAIN LI-  
23 CENSE.—An operator of a dominant platform may not op-  
24 erate as a corporation, body corporate, body politic, joint-  
25 stock company, or limited liability company, as applicable,

1 for the purposes of Federal law if the operator of the dom-  
2 inant platform does not have a license granted by the  
3 Commission under subsection (a).

4 “(c) RESCISSIONS.—The Office shall rescind a license  
5 granted to an operator of a platform under subsection (a)  
6 if the Commission grants a request to remove the designa-  
7 tion of that operator’s platform as a dominant platform  
8 under section 2121(d).

9 **“SEC. 2603. REVOCATION OF LICENSE.**

10 “(a) FILING OF REVOCATION PETITION.—The Office  
11 may file a petition with the Commission to revoke the li-  
12 cense of an operator of a dominant platform.

13 “(b) TIMING OF RESPONSE AND DECISION.—If a  
14 revocation petition is filed under subsection (a) with re-  
15 spect to an operator of a dominant platform—

16 “(1) not later than 180 days after the date on  
17 which the petition is filed, the operator may file a  
18 response that explains why revoking the license of  
19 the operator is not justified in consideration of the  
20 factors described in subsection (c)(2); and

21 “(2) the Commission shall issue a ruling with  
22 respect to the petition not later than 180 days after  
23 the earlier of the date that is—

24 “(A) 180 days after the date on which the  
25 petition is filed; or

1           “(B) the date on which the operator files  
2           a response under paragraph (1).

3           “(c) GRANTING REVOCATION PETITION.—

4           “(1) IN GENERAL.—The Commission, after con-  
5           sideration of the factors described in paragraph (2),  
6           may grant a revocation petition that is filed under  
7           subsection (a).

8           “(2) FACTORS.—In determining whether to  
9           grant a revocation petition under paragraph (1) with  
10          respect to an operator of a dominant platform, the  
11          Commission shall consider whether the operator—

12           “(A) subject to paragraph (4), has engaged  
13           in repeated, egregious, and illegal misconduct  
14           (including violations of this division, a rule pro-  
15           mulgated under this division, or an administra-  
16           tive order issued under this division) that has  
17           caused significant harm to—

18           “(i) users of the dominant platform or  
19           employees, shareholders, or business part-  
20           ners of the operator; or

21           “(ii) communities in which the oper-  
22           ator does business; and

23           “(B) has not undertaken measures to ad-  
24           dress the causes of the misconduct described in  
25           subparagraph (A), such as terminating the em-

1           ployment of any officer or executive of the oper-  
2           ator who oversaw that misconduct.

3           “(3) REVIEW OF GRANTING OF PETITION.—A  
4           decision by the Commission to grant a revocation pe-  
5           tition under this subsection shall be subject to judi-  
6           cial review under section 706 of title 5, United  
7           States Code, provided that a complaint is filed in the  
8           appropriate court not later than 90 days after the  
9           date on which the petition is granted.

10          “(d) REVOCATION OF LICENSE.—If the Commission  
11         grants a revocation petition under subsection (c) with re-  
12         spect to an operator of a dominant platform, the Office  
13         shall revoke the license of that operator on the date that  
14         is 1 year after the later of—

15                 “(1) the date on which the Commission grants  
16                 the petition; or

17                 “(2) the date on which the Commission deter-  
18                 mines that judicial review under section 706 of title  
19                 5, United States Code, as described in subsection  
20                 (c)(3), will not invalidate the decision by the Com-  
21                 mission to grant the revocation.

22          “(e) EFFECT OF REVOCATION.—An operator of a  
23         dominant platform whose license is revoked under this sec-  
24         tion—

1           “(1) shall not be treated as a corporation, body  
2           corporate, body politic, joint-stock company, or lim-  
3           ited liability company, as applicable, for the pur-  
4           poses of Federal law; and

5           “(2) may not operate in the United States.

6           “(f) RULEMAKING.—The Commission may issue any  
7           rules as necessary to carry out this section.

8           **“SEC. 2604. COMPLIANCE CERTIFICATION.**

9           “(a) CERTIFICATION.—On an annual basis, the chief  
10          executive officer, the chief financial officer, and the chief  
11          information security officer (or the respective equivalents)  
12          of an operator of a dominant platform shall jointly certify  
13          to the Office, in a manner prescribed by the Commission,  
14          that the operator is in compliance with titles II, III, IV,  
15          and V of this division, any rules promulgated to implement  
16          those titles, and any administrative orders issued to en-  
17          force those titles.

18          “(b) FALSE STATEMENTS.—

19                 “(1) OFFENSE.—It shall be unlawful for an in-  
20          dividual certifying compliance under subsection (a)  
21          to knowingly—

22                         “(A) falsify, conceal, or cover up by any  
23                         trick, scheme, or device a material fact;

24                         “(B) make any materially false, fictitious,  
25                         or fraudulent statement or representation; or

1           “(C) make or use any false writing or doc-  
 2           ument knowing the same to contain any materi-  
 3           ally false, fictitious, or fraudulent statement or  
 4           entry.

5           “(2) PENALTY.—Any individual who violates  
 6           paragraph (1) shall be fined not more than  
 7           \$10,000,000, imprisoned for not more than 5 years,  
 8           or both.

9           “(3) RULEMAKING.—The Commission may pro-  
 10          mulgate rules for dominant platforms necessary to  
 11          ensure that an individual who is directed by an oper-  
 12          ator of a dominant platform to certify compliance  
 13          under this section is provided sufficient resources to  
 14          make such determinations.

15          **“TITLE VII—ENFORCEMENT BY**  
 16                                   **OTHER ENTITIES**

17          **“SEC. 2701. ENFORCEMENT BY STATES, PRIVATE PARTIES,**  
 18                                   **AND FEDERAL AGENCIES.**

19          “(a) ENFORCEMENT BY STATES.—

20           “(1) IN GENERAL.—In any case in which the  
 21           attorney general of a State has reason to believe  
 22           that an interest of the residents of the State has  
 23           been or is threatened or adversely affected by the  
 24           engagement of any covered entity, including any  
 25           platform operator, in a practice that violates title II,

1 III, IV, or V, or a rule promulgated to implement  
2 any of those titles, the attorney general of the State  
3 may, as *parens patriae*, bring a civil action on behalf  
4 of the residents of the State in an applicable district  
5 court of the United States (as provided in section  
6 2702) to—

7 “(A) enjoin any further such violation by  
8 the covered entity;

9 “(B) enforce compliance with the applica-  
10 ble title or rule, including through deletion of  
11 the relevant data;

12 “(C) obtain a permanent, temporary, or  
13 preliminary injunction;

14 “(D) in an action joined by the Commis-  
15 sion, obtain civil penalties not to exceed 15 per-  
16 cent of the total annual revenue of the ultimate  
17 parent entity of the covered entity during the  
18 preceding 12-month period;

19 “(E) obtain damages (whether actual, pu-  
20 nitive, or otherwise), restitution, disgorgement  
21 of unjust enrichment, or other compensation on  
22 behalf of aggrieved persons; or

23 “(F) obtain any other appropriate equi-  
24 table relief.

1           “(2) RELATIONSHIP WITH STATE-LAW  
2 CLAIMS.—If the attorney general of a State has au-  
3 thority to bring an action under State law directed  
4 at acts or practices that also violate a title or rule  
5 described in paragraph (1), the attorney general  
6 may assert a claim under State law and a claim  
7 under that paragraph in the same civil action.

8           “(3) INVESTIGATORY POWERS.—Nothing in this  
9 subsection may be construed to prevent the attorney  
10 general of a State from exercising the powers con-  
11 ferred on the attorney general by the laws of the  
12 State to—

13                   “(A) conduct investigations;

14                   “(B) administer oaths or affirmations; or

15                   “(C) compel the attendance of witnesses or  
16 the production of documentary or other evi-  
17 dence.

18           “(b) PRIVATE ENFORCEMENT.—Any person whose  
19 interest has been or is threatened or adversely affected  
20 by the engagement of any covered entity, including any  
21 platform operator, in a practice that violates title II, IV,  
22 or V, section 2311 or 2321, or a rule promulgated to im-  
23 plement any of those titles or sections, may bring a civil  
24 action in an applicable district court of the United States  
25 (as provided in section 2702) to—

1           “(1) enjoin any further such violation by the  
2 covered entity;

3           “(2) enforce compliance with the applicable  
4 title, section, or rule, including through deletion of  
5 the relevant data;

6           “(3) obtain a permanent, temporary, or prelimi-  
7 nary injunction;

8           “(4) obtain damages (whether actual, statutory  
9 (as provided under section 2422), punitive, or other-  
10 wise), restitution, or other compensation;

11           “(5) obtain reasonable attorney fees, including  
12 litigation expenses, and costs; or

13           “(6) obtain any other appropriate equitable re-  
14 lief.

15           “(c) FEDERAL AGENCIES.—

16           “(1) FEDERAL TRADE COMMISSION.—

17           “(A) ENFORCEMENT AUTHORITY.—Except  
18 as provided in this paragraph and in section  
19 2702, the Federal Trade Commission shall en-  
20 force titles III and IV in the same manner, by  
21 the same means, and with the same jurisdic-  
22 tion, powers, and duties as though all applicable  
23 terms of the Federal Trade Commission Act  
24 (15 U.S.C. 41 et seq.) were incorporated into  
25 and made a part of such titles.

1           “(B) SCOPE OF JURISDICTION.—Notwith-  
2 standing sections 4, 5(a)(2), or 6 of the Federal  
3 Trade Commission Act (15 U.S.C. 44, 45(a)(2),  
4 46), or any jurisdictional limitation of the Fed-  
5 eral Trade Commission, the Federal Trade  
6 Commission shall also enforce titles III and IV,  
7 in the same manner provided in subparagraph  
8 (A), with respect to any covered entity, includ-  
9 ing banks, savings and loan institutions de-  
10 scribed in section 18(f)(3) of the Federal Trade  
11 Commission Act (15 U.S.C. 57a(f)(3)), Federal  
12 credit unions described in section 18(f)(4) of  
13 such Act, common carriers subject to the Acts  
14 to regulate commerce (as defined in section 4 of  
15 the Federal Trade Commission Act (15 U.S.C.  
16 44)), air carriers and foreign air carriers sub-  
17 ject to the Federal Aviation Act of 1958 (49  
18 U.S.C. App. 1301 et seq.), and persons, part-  
19 nerships, or corporations insofar as they are  
20 subject to the Packers and Stockyards Act,  
21 1921, as amended.

22           “(2) DEPARTMENT OF JUSTICE.—The Attorney  
23 General shall enforce title III in the same manner,  
24 by the same means, and with the same jurisdiction,  
25 powers, and duties as though all applicable terms of

1 the Sherman Act (15 U.S.C. 1 et seq.), division A  
2 of this Act, and Antitrust Civil Process Act (15  
3 U.S.C. 1311 et seq.) were incorporated into and  
4 made a part of that title.

5 “(d) CONSIDERATIONS FOR PUNITIVE DAMAGES.—  
6 In assessing the amount of punitive damages to award in  
7 an action brought under section 2115(f) or this section,  
8 the court shall consider each relevant circumstance pre-  
9 sented by a party to the action, including—

10 “(1) the nature and seriousness of the mis-  
11 conduct;

12 “(2) the number of violations;

13 “(3) the persistence of the misconduct;

14 “(4) the length of time over which the mis-  
15 conduct occurred;

16 “(5) the willfulness of the defendant’s mis-  
17 conduct; and

18 “(6) the defendant’s assets, liabilities, and net  
19 worth.

20 **“SEC. 2702. EXCLUSIVE JURISDICTION.**

21 “(a) DISTRICT COURTS.—

22 “(1) STATE ACTIONS.—The district court of the  
23 United States for the judicial district in which the  
24 capital of the State is located shall have exclusive ju-

1 jurisdiction of an action brought by a State attorney  
2 general under section 2701(a).

3 “(2) PRIVATE AND FEDERAL ACTIONS.—The  
4 following district courts shall have exclusive jurisdic-  
5 tion of an action brought under section 2115(f) or  
6 subsection (b) or (c) of section 2701:

7 “(A) The United States District Court for  
8 the District of Columbia.

9 “(B) The district court of the United  
10 States for any judicial district in which—

11 “(i) the violation took place; or

12 “(ii) any defendant resides or does  
13 business.

14 “(3) OTHER CHALLENGES.—The United States  
15 District Court for the District of Columbia shall  
16 have exclusive jurisdiction of any action challenging  
17 the constitutionality of any provision of this division.

18 “(b) COURT OF APPEALS.—The United States Court  
19 of Appeals for the District of Columbia Circuit shall have  
20 exclusive jurisdiction of appeals from all decisions in ac-  
21 tions described in subsection (a).

## 22 **“TITLE VIII—MISCELLANEOUS**

### 23 **“SEC. 2801. FUNDING.**

24 “(a) AUTHORIZATIONS OF APPROPRIATIONS.—There  
25 is authorized to be appropriated to the Commission to

1 carry out the functions of the Commission \$500,000,000  
2 for—

3 “(1) fiscal year 2023; and

4 “(2) each fiscal year thereafter.

5 “(b) PENALTIES.—The Commission may use any  
6 amounts collected from civil penalties, damages, and set-  
7 tlements under this division that are not returned to con-  
8 sumers to carry out the functions of the Commission,  
9 without further appropriation.

10 **“SEC. 2802. INTERAGENCY COOPERATION.**

11 “(a) IN GENERAL.—To facilitate interagency co-  
12 operation regarding the execution and enforcement of this  
13 division, the Commission may enter into memoranda of  
14 understanding with other Federal agencies.

15 “(b) REQUIRED COOPERATION.—Not later than 180  
16 days after the date of enactment of this division, the Com-  
17 mission shall enter into a memorandum of understanding  
18 with—

19 “(1) the Federal Trade Commission, to facili-  
20 tate cooperation regarding the execution and en-  
21 forcement of titles III and IV, including enforcement  
22 under section 2701(c)(1); and

23 “(2) the Attorney General, to facilitate coopera-  
24 tion regarding any criminal proceedings and the exe-

1        cution and enforcement of title III, including en-  
2        forcement under section 2701(c)(2).

3        **“SEC. 2803. EFFECTIVE DATE.**

4        “(a) IN GENERAL.—Except as provided in subsection  
5 (b), this division shall take effect on the date that is 1  
6 year after the date of enactment of this division.

7        “(b) EXCEPTION.—Subtitle A of title III shall take  
8 effect on the date of enactment of this division.

9        **“SEC. 2804. RULES OF CONSTRUCTION.**

10       “(a) IN GENERAL.—Nothing in this division shall be  
11 construed to—

12                “(1) preempt the law of any State that provides  
13 greater protections to users of platforms and con-  
14 sumers generally than the protections provided  
15 under this division; or

16                “(2) limit the Federal Trade Commission, the  
17 Attorney General, or any other Federal agency from  
18 taking any action.

19        “(b) EFFECT OF FINDINGS, ACTIONS, AND CONCLU-  
20 SIONS.—No finding reached, action taken, or conclusion  
21 drawn by the Commission under this division shall limit  
22 or impact the enforcement of any other law by the Federal  
23 Trade Commission, the Attorney General, or any other  
24 Federal agency.

1 **“SEC. 2805. SEVERABILITY.**

2 “If any provision of this division, or the application  
3 of such a provision to any person or circumstance, is held  
4 to be unconstitutional, the remaining provisions of this di-  
5 vision, and the application of the provision to any other  
6 person or circumstance, shall not be affected thereby.”.

7 **TITLE II—AMENDMENTS TO**  
8 **OTHER LAWS**

9 **SEC. 201. EXECUTIVE ACCOUNTABILITY FOR OPERATORS**  
10 **OF DOMINANT PLATFORMS.**

11 (a) **CRIMINAL LIABILITY.**—Part I of title 18, United  
12 States Code, is amended by inserting after chapter 27 the  
13 following:

14 **“CHAPTER 28—DOMINANT PLATFORMS**

“Sec.

“571. Negligence of executive officers.

15 **“§ 571. Negligence of executive officers**

16 “(a) **DEFINITIONS.**—In this section—

17 “(1) the term ‘executive officer’, with respect to  
18 a corporation, means an individual who—

19 “(A) is described in section 240.3b–7 of  
20 title 17, Code of Federal Regulations, or any  
21 successor thereto; and

22 “(B) by reason of the position of the indi-  
23 vidual in the corporation, has the responsibility

1           and authority to take necessary measures to  
2           prevent or remedy violations of law; and

3           “(2) the terms ‘dominant platform’ and ‘oper-  
4           ator’ have the meanings given those terms in section  
5           2002 of the Clayton Act.

6           “(b) CRIMINAL LIABILITY.—

7           “(1) IN GENERAL.—It shall be unlawful for an  
8           executive officer of a corporation that is an operator  
9           of a dominant platform to negligently permit or fail  
10          to prevent a violation of law described in paragraph  
11          (2).

12          “(2) VIOLATIONS DESCRIBED.—A violation of  
13          law described in this paragraph is—

14                 “(A) a criminal violation of Federal or  
15                 State law for which the operator of a dominant  
16                 platform is convicted or enters into a deferred  
17                 prosecution or non-prosecution agreement;

18                 “(B) a civil violation of Federal or State  
19                 law—

20                         “(i) for which the operator of a domi-  
21                         nant platform is found liable or enters into  
22                         a settlement agreement with any Federal  
23                         or State agency; and

24                         “(ii) that affects the health, safety, fi-  
25                         nances, or personal data of—

1                   “(I) not less than 1 percent of  
2                   the population of the United States;  
3                   or

4                   “(II) not less than 1 percent of  
5                   the population of a State; or

6                   “(C) a criminal or civil violation of Federal  
7                   or State law—

8                   “(i) for which the operator of a domi-  
9                   nant platform is convicted or found liable,  
10                  as the case may be; and

11                  “(ii) if, during the 5-year period pre-  
12                  ceding the commission of the violation—

13                         “(I) a court entered a criminal or  
14                         civil judgment against the operator of  
15                         the dominant platform relating to a  
16                         different violation;

17                         “(II) the operator of the domi-  
18                         nant platform entered into a deferred  
19                         prosecution agreement or non-pros-  
20                         ecution agreement relating to a dif-  
21                         ferent violation; or

22                         “(III) the operator of the domi-  
23                         nant platform entered into a settle-  
24                         ment with a Federal or State agency  
25                         relating to a different violation.

1       “(c) PENALTY.—Any executive officer who violates  
2 subsection (b) shall—

3               “(1) for a first offense, be fined under this title,  
4 imprisoned for not more than 1 year, or both; and

5               “(2) for a second or subsequent offense, be  
6 fined under this title, imprisoned for not more than  
7 3 years, or both.”.

8       (b) TECHNICAL AND CONFORMING AMENDMENT.—

9 The tables of chapters in part I of title 18, United States  
10 Code, is amended by inserting after the item relating to  
11 chapter 27 the following:

**“28. Dominant platforms ..... 571”.**

12 **SEC. 202. CRIMINAL FINES UNDER THE SHERMAN ACT.**

13       The Sherman Act (15 U.S.C. 1 et seq.) is amended—

14               (1) in section 1 (15 U.S.C. 1), in the second  
15 sentence—

16                       (A) by striking “\$100,000,000” and in-  
17 serting “\$500,000,000”; and

18                       (B) by striking “\$1,000,000” and insert-  
19 ing “\$2,000,000”;

20               (2) in section 2 (15 U.S.C. 2)—

21                       (A) by striking “\$100,000,000” and in-  
22 serting “\$500,000,000”; and

23                       (B) by striking “\$1,000,000” and insert-  
24 ing “\$2,000,000”; and

25               (3) in section 3 (15 U.S.C. 3)—

1 (A) by striking “\$100,000,000” and in-  
2 serting “\$500,000,000”; and

3 (B) by striking “\$1,000,000” and insert-  
4 ing “\$2,000,000”.

5 **SEC. 203. CRIMINAL FINES UNDER THE ROBINSON-PATMAN**  
6 **ACT.**

7 Section 3 of the Act of June 19, 1936 (commonly  
8 known as the “Robinson-Patman Act”) (15 U.S.C. 13a),  
9 is amended by striking “\$5,000” and inserting “10,000”.

10 **SEC. 204. DIRECTING THE ATTORNEY GENERAL TO DE-**  
11 **VELOP VICTIM-CENTERED GUIDANCE.**

12 (a) VICTIM-CENTERED GUIDANCE.—

13 (1) IN GENERAL.—Not later than 18 months  
14 after the date of enactment of this Act, the Attorney  
15 General, in consultation with Federal, State, and  
16 local law enforcement agencies and prosecutors, sex  
17 trafficking victim advocates, sex trafficking sur-  
18 vivors, and pediatric mental health experts, shall de-  
19 velop and publish victim-centered guidance to  
20 strengthen protections for child sex trafficking vic-  
21 tims testifying against human traffickers, includ-  
22 ing—

23 (A) practices to minimize the adverse con-  
24 sequences of testifying on child sex trafficking  
25 victim witnesses, including the use of closed cir-

1           cuit television testimony or digitally recorded  
2           depositions;

3           (B) safe travel, lodging, and accompani-  
4           ment for child sex trafficking victim witnesses;

5           (C) use of child advocacy centers and fam-  
6           ily justice centers, where appropriate; and

7           (D) safety planning, including post-trial  
8           safety planning.

9           (2) TRAINING REQUIRED.—Not later than 180  
10          days after the publication of the guidance required  
11          under paragraph (1), the Attorney General shall dis-  
12          seminate and provide training to each office of the  
13          United States Attorney on the victim-centered guid-  
14          ance.

15          (b) TRAINING ON VICTIM-CENTERED PROTOCOLS.—

16                 (1) DEPARTMENT OF JUSTICE TRAINING AND  
17                 POLICY FOR LAW ENFORCEMENT OFFICERS, PROS-  
18                 ECUTORS, AND JUDGES.—Subsection (c)(1)(A) of  
19                 the Combat Human Trafficking Act of 2015 (34  
20                 U.S.C. 20709(c)(1)(A)) is amended—

21                         (A) in clause (iii), by striking “and” at the  
22                         end;

23                         (B) in clause (iv)(II), by striking the pe-  
24                         riod at the end and inserting “; and”; and

25                         (C) by adding at the end the following:

1           “(v) protections for child sex traf-  
2           ficking victims testifying against human  
3           traffickers based on the victim-centered  
4           guidance published by the Attorney Gen-  
5           eral in accordance with section 204(a)(1)  
6           of the Digital Consumer Protection Com-  
7           mission Act of 2023.”.

8           (2)    FEDERAL    PROSECUTORS.—Subsection  
9           (c)(1)(B) of the Combat Human Trafficking Act of  
10          2015 (34 U.S.C. 20709(c)(1)(B)) is amended to  
11          read as follows:

12               “(B) FEDERAL PROSECUTORS.—The At-  
13               torney General shall ensure that each anti-  
14               human trafficking program operated by the De-  
15               partment of Justice for United States attorneys  
16               or other Federal prosecutors includes training  
17               on—

18               “(i) seeking restitution for offenses  
19               under chapter 77 of title 18, United States  
20               Code, to ensure that each United States  
21               attorney or other Federal prosecutor, upon  
22               obtaining a conviction for such an offense,  
23               requests a specific amount of restitution  
24               for each victim of the offense without re-

1           gard to whether the victim requests res-  
2           titution; and

3                   “(ii) victim-centered guidance to  
4           strengthen protections for child sex traf-  
5           ficking victims testifying against human  
6           traffickers based on victim-centered guid-  
7           ance published by the Attorney General in  
8           accordance with section 204(a)(1) of the  
9           Digital Consumer Protection Commission  
10          Act of 2023.”.

11          (c) ADDITIONAL USES FOR VICTIM-CENTERED  
12 CHILD HUMAN TRAFFICKING DETERRENCE BLOCK  
13 GRANT.—Section 203(b)(1) of the Trafficking Victims  
14 Protection Reauthorization Act of 2005 (34 U.S.C.  
15 20703(b)(1)) is amended—

16           (1) in subparagraph (D), by striking “and” at  
17          the end;

18           (2) in subparagraph (E), by adding “and” at  
19          the end; and

20           (3) by adding at the end the following:

21                   “(F) strengthen protections for child sex  
22          trafficking victims testifying against human  
23          traffickers based on victim-centered guidance  
24          published by the Attorney General in accord-

1           ance with section 204(a)(1) of the Digital Con-  
2           sumer Protection Commission Act of 2023.”.

3 **SEC. 205. USE OF TERM “CHILD SEXUAL ABUSE MATERIAL”.**

4           (a) SENSE OF CONGRESS.—It is the sense of Con-  
5           gress that the term “child sexual abuse material” has the  
6           same legal meaning as the term “child pornography”, as  
7           that term was used in Federal statutes and case law before  
8           the date of enactment of this Act.

9           (b) AMENDMENTS.—

10           (1) TITLE 5, UNITED STATES CODE.—Chapter  
11           65 of title 5, United States Code, is amended—

12                   (A) in section 6502(a)(2)(B), by striking  
13                   “child pornography” and inserting “child sexual  
14                   abuse material”; and

15                   (B) in section 6504(c)(2)(F), by striking  
16                   “child pornography” and inserting “child sexual  
17                   abuse material”.

18           (2) HOMELAND SECURITY ACT OF 2002.—The  
19           Homeland Security Act of 2002 (6 U.S.C. 101 et  
20           seq.) is amended—

21                   (A) in section 307(b)(3)(D) (6 U.S.C.  
22                   187(b)(3)(D)), by striking “child pornography”  
23                   and inserting “child sexual abuse material”;  
24                   and

25                   (B) in section 890A (6 U.S.C. 473)—

1 (i) in subsection (b)(2)(A)(ii), by  
2 striking “child pornography” and inserting  
3 “child sexual abuse material”; and

4 (ii) in subsection (e)(3)(B)(ii), by  
5 striking “child pornography” and inserting  
6 “child sexual abuse material”.

7 (3) IMMIGRATION AND NATIONALITY ACT.—Sec-  
8 tion 101(a)(43)(I) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1101(a)(43)(I)) is amended by  
10 striking “child pornography” and inserting “child  
11 sexual abuse material”.

12 (4) SMALL BUSINESS JOBS ACT OF 2010.—Sec-  
13 tion 3011(c) of the Small Business Jobs Act of 2010  
14 (12 U.S.C. 5710(c)) is amended by striking “child  
15 pornography” and inserting “child sexual abuse ma-  
16 terial”.

17 (5) BROADBAND DATA IMPROVEMENT ACT.—  
18 Section 214(a)(2) of the Broadband Data Improve-  
19 ment Act (15 U.S.C. 6554(a)(2)) is amended by  
20 striking “child pornography” and inserting “child  
21 sexual abuse material”.

22 (6) CAN-SPAM ACT OF 2003.—Section  
23 4(b)(2)(B) of the CAN-SPAM Act of 2003 (15  
24 U.S.C. 7703(b)(2)(B)) is amended by striking “child

1 pornography” and inserting “child sexual abuse ma-  
2 terial”.

3 (7) TITLE 18, UNITED STATES CODE.—Title 18,  
4 United States Code, is amended—

5 (A) in section 1956(c)(7)(D), by striking  
6 “child pornography” each place the term ap-  
7 pears and inserting “child sexual abuse mate-  
8 rial”;

9 (B) in chapter 110—

10 (i) in section 2251(e), by striking  
11 “child pornography” and inserting “child  
12 sexual abuse material”;

13 (ii) in section 2252(b)—

14 (I) in paragraph (1), by striking  
15 “child pornography” and inserting  
16 “child sexual abuse material”; and

17 (II) in paragraph (2), by striking  
18 “child pornography” and inserting  
19 “child sexual abuse material”;

20 (iii) in section 2252A—

21 (I) in the section heading, by  
22 striking “**material constituting**  
23 **or containing child pornog-**  
24 **raphy**” and inserting “**child sex-**  
25 **ual abuse material**”;

- 1 (II) in subsection (a)—
- 2 (aa) in paragraph (1), by
- 3 striking “child pornography” and
- 4 inserting “child sexual abuse ma-
- 5 terial”;
- 6 (bb) in paragraph (2)—
- 7 (AA) in subparagraph
- 8 (A), by striking “child por-
- 9 nography” and inserting
- 10 “child sexual abuse mate-
- 11 rial”; and
- 12 (BB) in subparagraph
- 13 (B), by striking “material
- 14 that contains child pornog-
- 15 raphy” and inserting “child
- 16 sexual abuse material”;
- 17 (cc) in paragraph (3)(A), by
- 18 striking “child pornography” and
- 19 inserting “child sexual abuse ma-
- 20 terial”;
- 21 (dd) in paragraph (4)—
- 22 (AA) in subparagraph
- 23 (A), by striking “child por-
- 24 nography” and inserting

1 “child sexual abuse mate-  
2 rial”; and

3 (BB) in subparagraph  
4 (B), by striking “child por-  
5 nography” and inserting  
6 “child sexual abuse mate-  
7 rial”;

8 (ee) in paragraph (5)—

9 (AA) in subparagraph  
10 (A), by striking “material  
11 that contains an image of  
12 child pornography” and in-  
13 sserting “item containing  
14 child sexual abuse material”;  
15 and

16 (BB) in subparagraph  
17 (B), by striking “material  
18 that contains an image of  
19 child pornography” and in-  
20 sserting “item containing  
21 child sexual abuse material”;  
22 and

23 (ff) in paragraph (7)—

24 (AA) by striking “child  
25 pornography” and inserting

1 “child sexual abuse mate-  
2 rial”; and

3 (BB) by striking the  
4 period at the end and insert-  
5 ing a comma;

6 (III) in subsection (b)—

7 (aa) in paragraph (1), by  
8 striking “child pornography” and  
9 inserting “child sexual abuse ma-  
10 terial”; and

11 (bb) in paragraph (2), by  
12 striking “child pornography”  
13 each place the term appears and  
14 inserting “child sexual abuse ma-  
15 terial”;

16 (IV) in subsection (c)—

17 (aa) in paragraph (1)(A), by  
18 striking “child pornography” and  
19 inserting “child sexual abuse ma-  
20 terial”;

21 (bb) in paragraph (2), by  
22 striking “child pornography” and  
23 inserting “child sexual abuse ma-  
24 terial”; and

- 1                   (cc) in the undesignated  
2 matter following paragraph (2),  
3 by striking “child pornography”  
4 and inserting “child sexual abuse  
5 material”;
- 6                   (V) in subsection (d)(1), by strik-  
7 ing “child pornography” and inserting  
8 “child sexual abuse material”; and
- 9                   (VI) in subsection (e), by striking  
10 “child pornography” each place the  
11 term appears and inserting “child sex-  
12 ual abuse material”;
- 13                   (iv) in section 2256(8)—
- 14                   (I) by striking “child pornog-  
15 raphy” and inserting “child sexual  
16 abuse material”; and
- 17                   (II) by striking the period at the  
18 end and inserting a semicolon;
- 19                   (v) in section 2257A(h)—
- 20                   (I) in paragraph (1)(A)(iii)—
- 21                   (aa) by inserting a comma  
22 after “marketed”;
- 23                   (bb) by striking “such than”  
24 and inserting “such that”; and

1 (cc) by striking “a visual de-  
2 piction that is child pornog-  
3 raphy” and inserting “child sex-  
4 ual abuse material”; and

5 (II) in paragraph (2), by striking  
6 “any visual depiction that is child por-  
7 nography” and inserting “child sexual  
8 abuse material”;

9 (vi) in section 2258A—

10 (I) in subsection (a)(2)—

11 (aa) in subparagraph (A),  
12 by striking “child pornography”  
13 and inserting “child sexual abuse  
14 material”; and

15 (bb) in subparagraph (B),  
16 by striking “child pornography”  
17 and inserting “child sexual abuse  
18 material”;

19 (II) in subsection (b)—

20 (aa) in paragraph (4)—

21 (AA) in the paragraph  
22 heading, by striking “VIS-  
23 UAL DEPICTIONS OF APPAR-  
24 ENT CHILD PORNOGRAPHY”  
25 and inserting “APPARENT

1 CHILD SEXUAL ABUSE MA-  
2 TERIAL”; and

3 (BB) by striking “vis-  
4 ual depiction of apparent  
5 child pornography” and in-  
6 serting “apparent child sex-  
7 ual abuse material”; and

8 (bb) in paragraph (5), by  
9 striking “visual depiction of ap-  
10 parent child pornography” and  
11 inserting “apparent child sexual  
12 abuse material”; and

13 (III) in subsection (g)(2)(B), by  
14 striking “visual depictions of apparent  
15 child pornography” and inserting “ap-  
16 parent child sexual abuse material”;  
17 (vii) in section 2258C—

18 (I) in the section heading, by  
19 striking “**Use to combat child**  
20 **pornography of technical ele-**  
21 **ments relating to reports**  
22 **made to the CyberTipline”** and  
23 inserting “**Use of technical ele-**  
24 **ments from reports made to**

1 **the CyberTipline to combat**  
2 **child sexual abuse material”;**

3 (II) in subsection (a)—

4 (aa) in paragraph (2), by  
5 striking “child pornography” and  
6 inserting “child sexual abuse ma-  
7 terial”; and

8 (bb) in paragraph (3), by  
9 striking “the actual visual depic-  
10 tions of apparent child pornog-  
11 raphy” and inserting “any appar-  
12 ent child sexual abuse material”;

13 (III) in subsection (d), by strik-  
14 ing “child pornography visual depic-  
15 tion” and inserting “child sexual  
16 abuse material visual depiction”; and

17 (IV) in subsection (e), by striking  
18 “child pornography visual depiction”  
19 and inserting “child sexual abuse ma-  
20 terial visual depiction”;

21 (viii) in section 2259—

22 (I) in paragraph (b)(2)—

23 (aa) in the paragraph head-  
24 ing, by striking “CHILD PORNOG-

1 RAPHY” and inserting “CHILD  
2 SEXUAL ABUSE MATERIAL”;

3 (bb) in the matter preceding  
4 subparagraph (A), by striking  
5 “child pornography” and insert-  
6 ing “child sexual abuse mate-  
7 rial”; and

8 (cc) in subparagraph (A), by  
9 striking “child pornography” and  
10 inserting “child sexual abuse ma-  
11 terial”;

12 (II) in subsection (c)—

13 (aa) in paragraph (1)—

14 (AA) in the paragraph  
15 heading, by striking “CHILD  
16 PORNOGRAPHY PRODUCTION”  
17 and inserting “PRO-  
18 DUCATION OF CHILD SEXUAL  
19 ABUSE MATERIAL”;

20 (BB) by striking “child  
21 pornography production”  
22 and inserting “production of  
23 child sexual abuse material”;  
24 and

1                   (CC) by striking “pro-  
2                   duction of child pornog-  
3                   raphy” and inserting “pro-  
4                   duction of child sexual abuse  
5                   material”;

6                   (bb) in paragraph (2), in the  
7                   matter preceding subparagraph  
8                   (A), by striking “trafficking in  
9                   child pornography offenses” each  
10                  place the term appears and in-  
11                  serting “offenses for trafficking  
12                  in child sexual abuse material”;  
13                  and

14                  (cc) in paragraph (3)—

15                         (AA) in the paragraph  
16                         heading, by striking “CHILD  
17                         PORNOGRAPHY” and insert-  
18                         ing “CHILD SEXUAL ABUSE  
19                         MATERIAL”; and

20                         (BB) by striking “child  
21                         pornography” and inserting  
22                         “child sexual abuse mate-  
23                         rial”; and

24                  (III) in subsection (d)(1)—

25                         (aa) in subparagraph (A)—

1 (AA) by striking “child  
2 pornography” each place the  
3 term appears and inserting  
4 “child sexual abuse mate-  
5 rial”; and

6 (BB) by striking “Child  
7 Pornography Victims Re-  
8 serve” and inserting “Re-  
9 serve for Victims of Child  
10 Sexual Abuse Material”;

11 (bb) in subparagraph (B),  
12 by striking “child pornography”  
13 and inserting “child sexual abuse  
14 material”; and

15 (cc) in subparagraph (C)—

16 (AA) by striking “child  
17 pornography” and inserting  
18 “child sexual abuse mate-  
19 rial”; and

20 (BB) by striking “Child  
21 Pornography Victims Re-  
22 serve” and inserting “Re-  
23 serve for Victims of Child  
24 Sexual Abuse Material”;

25 (ix) in section 2259A—

1 (I) in the section heading, by  
2 striking “**child pornography**  
3 **cases**” and inserting “**cases in-**  
4 **volving child sexual abuse**  
5 **material**”;

6 (II) in subsection (a)—

7 (aa) in paragraph (2), by  
8 striking “child pornography” and  
9 inserting “child sexual abuse ma-  
10 terial”; and

11 (bb) in paragraph (3), by  
12 striking “a child pornography  
13 production offense” and inserting  
14 “an offense for production of  
15 child sexual abuse material”; and

16 (III) in subsection (d)(2)(B), by  
17 striking “child pornography produc-  
18 tion or trafficking offense that the de-  
19 fendant committed” and inserting “of-  
20 fense for production of child sexual  
21 abuse material or trafficking in child  
22 sexual abuse material committed by  
23 the defendant”; and

24 (x) in section 2259B—

1 (I) in the section heading, by  
2 striking “**Child pornography**  
3 **victims reserve**” and inserting  
4 “**Reserve for child sexual**  
5 **abuse material**”;

6 (II) in subsection (a), by striking  
7 “Child Pornography Victims Reserve”  
8 each place the term appears and in-  
9 serting “Reserve for Victims of Child  
10 Sexual Abuse Material”;

11 (III) in subsection (b), by strik-  
12 ing “Child Pornography Victims Re-  
13 serve” each place the term appears  
14 and inserting “Reserve for Victims of  
15 Child Sexual Abuse Material”; and

16 (IV) in subsection (c), by striking  
17 “Child Pornography Victims Reserve”  
18 and inserting “Reserve for Victims of  
19 Child Sexual Abuse Material”;

20 (C) in chapter 117—

21 (i) in section 2423(f)(3), by striking  
22 “child pornography” and inserting “child  
23 sexual abuse material”; and

24 (ii) in section 2427—

1 (I) in the section heading, by  
2 striking “**child pornography**”  
3 and inserting “**child sexual abuse**  
4 **material**”; and

5 (II) by striking “child pornog-  
6 raphy” and inserting “child sexual  
7 abuse material”;

8 (D) in section 2516—

9 (i) in paragraph (1)(c), by striking  
10 “material constituting or containing child  
11 pornography” and inserting “child sexual  
12 abuse material”; and

13 (ii) in paragraph (2), by striking  
14 “child pornography production” and in-  
15 sserting “production of child sexual abuse  
16 material”;

17 (E) in section 3014(h)(3), by striking  
18 “child pornography victims” and inserting “vic-  
19 tims of child sexual abuse material”;

20 (F) in section 3509—

21 (i) in subsection (a)(6), by striking  
22 “child pornography” and inserting “child  
23 sexual abuse material”; and

24 (ii) in subsection (m)—

1 (I) in the subsection heading, by  
2 striking “CHILD PORNOGRAPHY” and  
3 inserting “CHILD SEXUAL ABUSE  
4 MATERIAL”;

5 (II) in paragraph (1), by striking  
6 “property or material that constitutes  
7 child pornography (as defined by sec-  
8 tion 2256 of this title)” and inserting  
9 “child sexual abuse material (as de-  
10 fined by section 2256 of this title), or  
11 property or items containing such ma-  
12 terial,”;

13 (III) in paragraph (2)—

14 (aa) in subparagraph (A)—

15 (AA) by striking “prop-  
16 erty or material that con-  
17 stitutes child pornography  
18 (as defined by section 2256  
19 of this title)” and inserting  
20 “child sexual abuse material  
21 (as defined by section 2256  
22 of this title), or property or  
23 items containing such mate-  
24 rial,”; and

1 (BB) by striking “the  
2 property or material” and  
3 inserting “the child sexual  
4 abuse material, property, or  
5 items”; and

6 (bb) in subparagraph (B),  
7 by striking “property or mate-  
8 rial” each place the term appears  
9 and inserting “child sexual abuse  
10 material, property, or items”;  
11 and

12 (IV) in paragraph (3)—

13 (aa) by striking “property or  
14 material that constitutes child  
15 pornography, as defined under  
16 section 2256(8)” and inserting  
17 “child sexual abuse material (as  
18 defined by section 2256 of this  
19 title)”;

20 (bb) by striking “such child  
21 pornography” and inserting  
22 “such child sexual abuse mate-  
23 rial”; and

24 (cc) by striking “Such prop-  
25 erty or material” and inserting

1                   “Such child sexual abuse mate-  
2                   rial”; and

3                   (G) in section 3632(d)(4)(D)(xlii), by  
4                   striking “material constituting or containing  
5                   child pornography” and inserting “child sexual  
6                   abuse material”.

7                   (8) TARIFF ACT OF 1930.—Section  
8                   583(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C.  
9                   1583(a)(2)(B)) is amended by striking “child por-  
10                  nography” and inserting “child sexual abuse mate-  
11                  rial”.

12                  (9) ELEMENTARY AND SECONDARY EDUCATION  
13                  ACT OF 1965.—Section 4121 of the Elementary and  
14                  Secondary Education Act of 1965 (20 U.S.C. 7131)  
15                  is amended—

16                  (A) in subsection (a)—

17                         (i) in paragraph (1)(A)(ii), by striking  
18                         “child pornography” and inserting “child  
19                         sexual abuse material”; and

20                         (ii) in paragraph (2)(A)(ii), by strik-  
21                         ing “child pornography” and inserting  
22                         “child sexual abuse material”; and

23                  (B) in subsection (e)(5)—

1 (i) in the paragraph heading, by strik-  
2 ing “CHILD PORNOGRAPHY” and inserting  
3 “CHILD SEXUAL ABUSE MATERIAL”; and

4 (ii) by striking “child pornography”  
5 and inserting “child sexual abuse mate-  
6 rial”.

7 (10) MUSEUM AND LIBRARY SERVICES ACT.—  
8 Section 224(f) of the Museum and Library Services  
9 Act (20 U.S.C. 9134(f)) is amended—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)(i)(II), by  
12 striking “child pornography” and inserting  
13 “child sexual abuse material”; and

14 (ii) in subparagraph (B)(i)(II), by  
15 striking “child pornography” and inserting  
16 “child sexual abuse material”; and

17 (B) in paragraph (7)(A)—

18 (i) in the subparagraph heading, by  
19 striking “CHILD PORNOGRAPHY” and in-  
20 sserting “CHILD SEXUAL ABUSE MATE-  
21 RIAL”; and

22 (ii) by striking “child pornography”  
23 and inserting “child sexual abuse mate-  
24 rial”.

1           (11) OMNIBUS CRIME CONTROL AND SAFE  
2 STREETS ACT OF 1968.—Section 3031(b)(3) of title  
3 I of the Omnibus Crime Control and Safe Streets  
4 Act of 1968 (34 U.S.C. 10721(b)(3)) is amended by  
5 striking “child pornography” and inserting “child  
6 sexual abuse material”.

7           (12) JUVENILE JUSTICE AND DELINQUENCY  
8 PREVENTION ACT OF 1974.—Section 404(b)(1)(K) of  
9 the Juvenile Justice and Delinquency Prevention Act  
10 of 1974 (34 U.S.C. 11293(b)(1)(K)) is amended—

11           (A) in clause (i)(I)(aa), by striking “child  
12 pornography” and inserting “child sexual abuse  
13 material”; and

14           (B) in clause (ii), by striking “child por-  
15 nography” and inserting “child sexual abuse  
16 material”.

17           (13) VICTIMS OF CRIME ACT OF 1984.—Section  
18 1402(d)(6)(A) of the Victims of Crime Act of 1984  
19 (34 U.S.C. 20101(d)(6)(A)) is amended by striking  
20 “Child Pornography Victims Reserve” and inserting  
21 “Reserve for Victims of Child Sexual Abuse Mate-  
22 rial”.

23           (14) VICTIMS OF CHILD ABUSE ACT OF 1990.—  
24 The Victims of Child Abuse Act of 1990 (34 U.S.C.  
25 20301 et seq.) is amended—

1 (A) in section 212(4) (34 U.S.C.  
2 20302(4)), by striking “child pornography” and  
3 inserting “child sexual abuse material”;

4 (B) in section 214(b) (34 U.S.C.  
5 20304(b))—

6 (i) in the subsection heading, by strik-  
7 ing “CHILD PORNOGRAPHY” and inserting  
8 “CHILD SEXUAL ABUSE MATERIAL”; and

9 (ii) by striking “child pornography”  
10 and inserting “child sexual abuse mate-  
11 rial”; and

12 (C) in section 226(c)(6) (34 U.S.C.  
13 20341(c)(6)), by striking “child pornography”  
14 and inserting “child sexual abuse material”.

15 (15) SEX OFFENDER REGISTRATION AND NOTI-  
16 FICATION ACT.—Section 111 of the Sex Offender  
17 Registration and Notification Act (34 U.S.C. 20911)  
18 is amended—

19 (A) in paragraph (3)(B)(iii), by striking  
20 “child pornography” and inserting “child sexual  
21 abuse material”; and

22 (B) in paragraph (7)(G), by striking “child  
23 pornography” and inserting “child sexual abuse  
24 material”.

1           (16) ADAM WALSH CHILD PROTECTION AND  
2 SAFETY ACT OF 2006.—Section 143(b)(3) of the  
3 Adam Walsh Child Protection and Safety Act of  
4 2006 (34 U.S.C. 20942(b)(3)) is amended by strik-  
5 ing “child pornography and enticement cases” and  
6 inserting “cases involving child sexual abuse mate-  
7 rial and enticement of children”.

8           (17) PROTECT OUR CHILDREN ACT OF 2008.—  
9 The PROTECT Our Children Act of 2008 (34  
10 U.S.C. 21101 et seq.) is amended—

11           (A) in section 101(c) (34 U.S.C.  
12 21111(c))—

13           (i) in paragraph (16)—

14           (I) in the matter preceding sub-  
15 paragraph (A), by striking “child por-  
16 nography trafficking” and inserting  
17 “trafficking in child sexual abuse ma-  
18 terial”;

19           (II) in subparagraph (A), by  
20 striking “child pornography” and in-  
21 serting “child sexual abuse material”;

22           (III) in subparagraph (B), by  
23 striking “child pornography” and in-  
24 serting “child sexual abuse material”;

1 (IV) in subparagraph (C), by  
2 striking “child pornography” and in-  
3 serting “child sexual abuse material”;  
4 and

5 (V) in subparagraph (D), by  
6 striking “child pornography” and in-  
7 serting “child sexual abuse material”;  
8 and

9 (ii) in paragraph (17)(A), by striking  
10 “child pornography” and inserting “child  
11 sexual abuse material”; and

12 (B) in section 105(e)(1)(C) (34 U.S.C.  
13 21115(e)(1)(C)), by striking “child pornog-  
14 raphy trafficking” and inserting “trafficking in  
15 child sexual abuse material”.

16 (18) SOCIAL SECURITY ACT.—Section  
17 471(a)(20)(A)(i) of the Social Security Act (42  
18 U.S.C. 671(a)(20)(A)(i)) is amended by striking  
19 “child pornography” and inserting “offenses involv-  
20 ing child sexual abuse material”.

21 (19) PRIVACY PROTECTION ACT OF 1980.—Sec-  
22 tion 101 of the Privacy Protection Act of 1980 (42  
23 U.S.C. 2000aa) is amended—

1 (A) in subsection (a)(1), by striking “child  
2 pornography” and inserting “child sexual abuse  
3 material”; and

4 (B) in subsection (b)(1), by striking “child  
5 pornography” and inserting “child sexual abuse  
6 material”.

7 (20) CHILD CARE AND DEVELOPMENT BLOCK  
8 GRANT ACT OF 1990.—Section 658H(c)(1) of the  
9 Child Care and Development Block Grant Act of  
10 1990 (42 U.S.C. 9858f(c)(1)) is amended—

11 (A) in subparagraph (D)(iii), by striking  
12 “child pornography” and inserting “offenses re-  
13 lating to child sexual abuse material”; and

14 (B) in subparagraph (E), by striking  
15 “child pornography” and inserting “child sexual  
16 abuse material”.

17 (21) COMMUNICATIONS ACT OF 1934.—Title II  
18 of the Communications Act of 1934 (47 U.S.C. 201  
19 et seq.) is amended—

20 (A) in section 223 (47 U.S.C. 223)—

21 (i) in subsection (a)(1)—

22 (I) in subparagraph (A), in the  
23 undesignated matter following clause

24 (ii), by striking “child pornography”

1 and inserting “which constitutes child  
2 sexual abuse material”; and

3 (II) in subparagraph (B), in the  
4 undesignated matter following clause  
5 (ii), by striking “child pornography”  
6 and inserting “which constitutes child  
7 sexual abuse material”; and

8 (ii) in subsection (d)(1), in the undes-  
9 ignated matter following subparagraph  
10 (B), by striking “child pornography” and  
11 inserting “that constitutes child sexual  
12 abuse material”; and

13 (B) in section 254(h) (47 U.S.C.  
14 254(h))—

15 (i) in paragraph (5)—

16 (I) in subparagraph (B)(i)(II), by  
17 striking “child pornography” and in-  
18 serting “child sexual abuse material”;  
19 and

20 (II) in subparagraph (C)(i)(II),  
21 by striking “child pornography” and  
22 inserting “child sexual abuse mate-  
23 rial”;

24 (ii) in paragraph (6)—

1 (I) in subparagraph (B)(i)(II), by  
 2 striking “child pornography” and in-  
 3 serting “child sexual abuse material”;  
 4 and

5 (II) in subparagraph (C)(i)(II),  
 6 by striking “child pornography” and  
 7 inserting “child sexual abuse mate-  
 8 rial”; and

9 (iii) in paragraph (7)(F)—

10 (I) in the subparagraph heading,  
 11 by striking “CHILD PORNOGRAPHY”  
 12 and inserting “CHILD SEXUAL ABUSE  
 13 MATERIAL”; and

14 (II) by striking “child pornog-  
 15 raphy” and inserting “child sexual  
 16 abuse material”.

17 (c) TABLE OF SECTIONS AMENDMENTS.—

18 (1) CHAPTER 110 OF TITLE 18.—The table of  
 19 sections for chapter 110 of title 18, United States  
 20 Code, is amended—

21 (A) by striking the item relating to section  
 22 2252A and inserting the following:

“2252A. Certain activities relating to child sexual abuse material.”;

23 (B) by striking the item relating to section  
 24 2258C and inserting the following:

“2258C. Use of technical elements from reports made to the CyberTipline to combat child sexual abuse material.”;

1 (C) by striking the item relating to section  
2 2259A and inserting the following:

“2259A. Assessments in cases involving child sexual abuse material.”;

3 and

4 (D) by striking the item relating to section  
5 2259B and inserting the following:

“2259B. Reserve for victims of child sexual abuse material.”.

6 (2) CHAPTER 117 OF TITLE 18.—The table of  
7 sections for chapter 117 of title 18, United States  
8 Code, is amended by striking the item relating to  
9 section 2427 and inserting the following:

“2427. Inclusion of offenses relating to child sexual abuse material in definition of sexual activity for which any person can be charged with a criminal offense.”.

10 (d) AMENDMENT TO THE FEDERAL SENTENCING  
11 GUIDELINES.—Pursuant to its authority under section  
12 994(p) of title 28, United States Code, and in accordance  
13 with this section, the United States Sentencing Commis-  
14 sion shall amend the Federal sentencing guidelines, in-  
15 cluding application notes, to replace the terms “child por-  
16 nography” and “child pornographic material” with “child  
17 sexual abuse material”.

18 (e) EFFECTIVE DATE.—The amendments made by  
19 this section to title 18 of the United States Code shall  
20 apply to conduct that occurred before, on, or after the date  
21 of enactment of this Act.

1 **SEC. 206. INELIGIBILITY DUE TO DISQUALIFYING MENTAL**  
2 **STATUS.**

3 (a) **UNLAWFUL ACTS RELATED TO FIREARMS.**—Sec-  
4 tion 922 of title 18, United States Code, is amended by  
5 striking “adjudicated as a mental defective” each place  
6 such term appears and inserting “adjudicated as ineligible  
7 due to disqualifying mental status”.

8 (b) **POSSESSION BY RESTRICTED PERSONS.**—Section  
9 175b(d)(2)(F) of title 18, United States Code, is amended  
10 by striking “adjudicated as a mental defective” and insert-  
11 ing “adjudicated as ineligible due to disqualifying mental  
12 status”.

13 (c) **UNLAWFUL ACTS RELATED TO EXPLOSIVES.**—  
14 Section 842 of title 18, United States Code, is amended—

15 (1) in subsection (d)(6), by striking “adju-  
16 dicated a mental defective” and inserting “adju-  
17 dicated as ineligible due to disqualifying mental sta-  
18 tus”; and

19 (2) in subsection (i)(4), by striking “adju-  
20 dicated as a mental defective” and inserting “adju-  
21 dicated as ineligible due to disqualifying mental sta-  
22 tus”.

23 (d) **NICS IMPROVEMENT AMENDMENTS ACT OF**  
24 **2007.**—The NICS Improvement Amendments Act of 2007  
25 (34 U.S.C. 40902 et seq.) is amended—

1           (1) by striking “adjudicated as a mental defec-  
2           tive” each place such term appears and inserting  
3           “adjudicated as ineligible due to disqualifying men-  
4           tal status”; and

5           (2) in section 101(c)(3) (34 U.S.C.  
6           40911(c)(3))—

7           (A) in the matter preceding subparagraph  
8           (A), by striking “adjudicate a person as a men-  
9           tal defective” and inserting “adjudicate a per-  
10          son as ineligible due to disqualifying mental  
11          status”; and

12          (B) in subparagraph (A), by striking “ad-  
13          judicate the person as a mental defective” and  
14          inserting “adjudicate the person as ineligible  
15          due to disqualifying mental status”.

○