

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address cyberbullying on the platforms of such companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To require internet platform companies to implement and maintain reasonable content moderation policies and practices to address cyberbullying on the platforms of such companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the [“ _____ Act
5 of 2021”].

1 **SEC. 2. REASONABLE CONTENT MODERATION POLICIES**
2 **AND PRACTICES TO ADDRESS**
3 **CYBERBULLYING.**

4 (a) IN GENERAL.—Each covered company shall im-
5 plement and maintain reasonable content moderation poli-
6 cies and practices to address cyberbullying of users under
7 the age of 18 on such covered company’s platform, taking
8 into consideration—

9 (1) the size of, and the nature, scope, and com-
10 plexity of the activities engaged in by, such covered
11 company; and

12 (2) the current state of the art in administra-
13 tive, technical, and technological means for moder-
14 ating such content.

15 (b) MATTERS TO BE INCLUDED.—Each covered com-
16 pany shall maintain content moderation policies and prac-
17 tices that include the following:

18 (1) A written content moderation policy with re-
19 spect to identifying and removing content regarding
20 cyberbullying of users, including users under the age
21 of 18, on such covered company’s platform.

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

1 cyberbullying of users, including users under the age
2 of 18.

3 (3) A process for identifying content regarding
4 cyberbullying of users, including users under the age
5 of 18, on such covered company's platform.

6 (4) A process for taking preventive measures to
7 mitigate against reasonably foreseeable content re-
8 garding cyberbullying of users, including users under
9 the age of 18, on such covered company's platform.

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

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

19 (1) technology; and

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

22 (A) mergers and acquisitions;

23 (B) alliances and joint ventures;

24 (C) outsourcing arrangements;

25 (D) bankruptcy; and

1 (E) changes to personal information sys-
2 tems.

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

4 (a) IN GENERAL.—A covered company or group of
5 covered companies may apply to the Commission for ap-
6 proval of one or more sets of self-regulatory guidelines re-
7 lated to content moderation policies and practices to ad-
8 dress cyberbullying of users under the age of 18 on such
9 covered company’s platform or such group of covered com-
10 panies’ platforms.

11 (b) COMMISSION REVIEW.—

12 (1) INITIAL APPROVAL.—

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

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

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

1 (ii) provide for the regular review and
2 validation by an independent organization
3 not associated with the covered company or
4 group of covered companies and approved
5 by the Commission to conduct such reviews
6 of the content moderation policies and
7 practices of such covered company or
8 group of covered companies to ensure that
9 such covered company or group of covered
10 companies continues to meet or exceed the
11 requirements of this Act; and

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

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

25 (2) APPROVAL OF MODIFICATIONS.—

1 (A) APPROVAL REQUIRED.—If a covered
2 company or group of covered companies makes
3 material changes to guidelines previously ap-
4 proved by the Commission, such covered com-
5 pany or group of covered companies shall sub-
6 mit the updated guidelines to the Commission
7 for approval.

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

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

1 Commission may not withdraw approval of such
2 guidelines.

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

10 **SEC. 4. ENFORCEMENT.**

11 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
12 SION.—

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

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

1 that violates this Act shall be subject to the pen-
2 alties and entitled to the privileges and immunities
3 provided in the Federal Trade Commission Act.

4 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
5 ERAL.—

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

13 (A) enjoin further such violation by the de-
14 fendant;

15 (B) enforce compliance with this Act;

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

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

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

23 (2) NOTICE.—The attorney general of a State
24 shall provide prior written notice of any action under
25 paragraph (1) to the Commission and provide the

1 Commission with a copy of the complaint in the ac-
2 tion, except in any case in which such prior notice
3 is not feasible, in which case the attorney general
4 shall serve such notice immediately upon instituting
5 such action.

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

9 (A) to intervene in the action;

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

12 (C) to file petitions for appeal.

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

23 (5) RULE OF CONSTRUCTION.—For purposes of
24 bringing a civil action under paragraph (1), nothing
25 in this Act shall be construed to prevent the attor-

1 ney general of a State from exercising the powers
2 conferred on such attorney general by the laws of
3 the State to conduct investigations, administer oaths
4 or affirmations, or compel the attendance of wit-
5 nesses or the production of documentary and other
6 evidence.

7 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

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

1 **SEC. 5. RELATIONSHIP BETWEEN FEDERAL AND STATE**
2 **LAW.**

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

7 **SEC. 6. DEFINITIONS.**

8 In this Act:

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

11 [(2) COVERED COMPANY.—The term “covered
12 company” means a company that provides any inter-
13 net platform that—]

14 [(A) generates \$1,000,000,000 or more in
15 annual revenue; or]

16 [(B) has 100,000,000 or more global ac-
17 tive users.]

18 [(3) CYBERBULLYING.—The term
19 “cyberbullying” means to intentionally engage in a
20 course of conduct that was reasonably foreseeable
21 and—]

22 [(A) places an individual in reasonable
23 fear of death or serious bodily injury; and]

24 [(B) causes, attempts to cause, or would
25 be reasonably expected to cause an individual to
26 commit suicide.]

