118TH CONGRESS  
1ST SESSION

S.

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

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Children and Teens’ Online Privacy Protection Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

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

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act:

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

(2) STANDARDS.—The term “standards” means benchmarks, guidelines, best practices, methodologies, procedures, and processes.

(b) OTHER DEFINITIONS.—The definitions set forth in section 1302 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501), as amended by section 3(a) of this Act, shall apply in this Act, except to the extent the Commission provides otherwise by regulations issued under section 553 of title 5, United States Code.

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

(a) DEFINITIONS.—Section 1302 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501) is amended—
(1) by amending paragraph (2) to read as follows:

“(2) OPERATOR.—The term ‘operator’—

“(A) means any person—

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

“(ii) who—

“(I) collects or maintains, either directly or through a service provider, personal information from or about the users of that website, service, application, or connected device;

“(II) allows another person to collect personal information directly from users of that website, service, application, or connected device (in which case, the operator is deemed to have collected the information); or

“(III) allows users of that website, service, application, or connected device to publicly disclose personal information (in which case, the
operator is deemed to have collected the information); and

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

(2) in paragraph (4)—

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

“(A) the release of personal information collected from a child or teen for any purpose, except where the personal information is provided to a person other than an operator who—

“(i) provides support for the internal operations of the website, online service, online application, mobile application, or connected device of the operator, excluding any activity relating to targeted marketing directed to children, teens, or connected devices; and

“(ii) does not disclose or use that personal information for any other purpose; and”; and

(B) in subparagraph (B)—
(i) by inserting “or teen” after “child” each place the term appears;
(ii) by inserting “or teens” after “children”; and
(iii) by striking “website or online service” and inserting “website, online service, online application, mobile application, or connected device”;
(3) in paragraph (8), by striking subparagraphs (F) and (G) and inserting the following:
“(F) geolocation information;
“(G) information generated from the measurement or technological processing of an individual’s biological, physical, or physiological characteristics, including—
“(i) fingerprints;
“(ii) voice prints;
“(iii) iris or retina imagery scans;
“(iv) facial imagery or templates;
“(v) deoxyribonucleic acid (DNA) information; or
“(vi) gait;
“(H) information reasonably associated with or attributed to a child or teen;
“(I) information (including an internet protocol address) that permits the identification of—

“(i) an individual; or

“(ii) any device used by an individual to directly or indirectly access the internet or an online service, online application, mobile application, or connected device; or

“(J) information concerning a child or teen or the parents of that child or teen (including any unique or substantially unique identifier, such as a customer number) that an operator collects online from the child or teen and combines with an identifier described in this paragraph.”;

(4) by amending paragraph (9) to read as follows:

“(9) VERIFIABLE CONSENT.—The term ‘verifiable consent’ means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that, in the case of a child, a parent of the child, or, in the case of a teen, the teen—
“(A) receives specific notice of the personal
information collection, use, and disclosure prac-
tices of the operator; and

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

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

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

(5) by striking paragraph (10) and redesig-
nating paragraphs (11) and (12) as paragraphs (10)
and (11), respectively; and

(6) by adding at the end the following:

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

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

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

“(B) includes a service or application of-
fered via a connected device.
“(14) ONLINE SERVICE.—

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

“(B) SCOPE.—Such term includes—

“(i) any service that the Federal Communications Commission finds to be providing a functionally equivalent service to a service described in subparagraph (A); and

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

“(15) DIRECTED TO CHILDREN OR TEENS.—

“(A) IN GENERAL.—The terms ‘directed to children’, ‘directed to teens’, and ‘directed to children or teens’ mean, with respect to a website, online service, online application, mobile application, or connected device, that the website, online service, online application, mobile application, or connected device, or a por-
tion thereof, is targeted to children or teens, as the case may be, as demonstrated by—

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

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

“(iii) the use of animated characters or child-oriented activities for children, or the use of teen-oriented characters or teen-oriented activities for teens, and related incentives on the website, online service, online application, mobile application, or connected device;

“(iv) the music or other audio content on the website, online service, online application, mobile application, or connected device;

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

“(vi) the presence, on the website, online service, online application, mobile application, or connected device, of—
“(I) child celebrities;

“(II) celebrities who appeal to

children;

“(III) teen celebrities; or

“(IV) celebrities who appeal to

teens;

“(vii) the language used on the

website, online service, online application,

mobile application, or connected device;

“(viii) advertising content used on, or

used to advertise, the website, online serv-

ice, online application, mobile application,

or connected device; or

“(ix) reliable empirical evidence relating to—

“(I) the composition of the audi-

ence of the website, online service, on-

line application, mobile application, or

connected device; and

“(II) the intended audience of

the website, online service, online ap-

lication, mobile application, or con-

nected device.

“(B) RULES OF CONSTRUCTION.—
“(i) Services deemed directed to children or teens.—For the purposes of this title, a website, online service, online application, mobile application, or connected device, or a portion thereof, shall be deemed to be directed to children or teens if it collects personal information directly from users of any other website, online service, online application, mobile application, or connected device that is—

“(I) directed to children or teens under the criteria described in subparagraph (A); or

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

“(ii) Services deemed directed to mixed audiences.—

“(I) in general.—A website, online service, online application, mobile application, or connected device that is directed to children or teens under the criteria described in subparagraph (A), but that does not target children or teens as the primary audience of the website, online service,
online application, mobile application, or connected device shall not be deemed to be directed to children or teens for purposes of this title if the website, online service, online application, mobile application, or connected device—

“(aa) does not collect personal information from any user of the website, online service, online application, mobile application, or connected device before verifying age information of the user; and

“(bb) does not, without first complying with any relevant notice and consent provision under this title, collect, use, or disclose personal information of any user who identifies themselves to the website, online service, online application, mobile application, or connected device as an individual who is age 16 or younger.
“(II) USE OF CERTAIN TOOLS.—

For purposes of this title, a website, online service, online application, mobile application, or connected device, shall not be deemed directed to children or teens solely because the website, online service, online application, mobile application, or connected device refers or links to any other website, online service, online application, mobile application, or connected device directed to children or teens by using information location tools, including—

“(aa) a directory;

“(bb) an index;

“(cc) a reference;

“(dd) a pointer; or

“(ee) a hypertext link.

“(16) MOBILE APPLICATION.—The term ‘mobile application’—

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

“(i) a cellular telephone;

“(ii) a tablet computer; or
“(iii) a similar portable computing device that transmits data over a wireless connection; and

“(B) includes a service or application offered via a connected device.

“(17) GEOLOCATION INFORMATION.—The term ‘geolocation information’ means information sufficient to identify a street name and name of a city or town.

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

“(19) TARGETED MARKETING.—

“(A) IN GENERAL.—The term ‘targeted marketing’ means advertising or any other effort to market a product or service that is directed to a specific individual or device—

“(i) based on—

“(I) the personal information of—

“(aa) the individual; or

“(bb) a group of individuals who are similar in gender, age, income level, race, or ethnicity to the specific individual to whom
the product or service is marketed;

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

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

“(ii) as a result of use by the individual, access by any device of the individual, or use by a group of individuals who are similar to the specific individual, of more than a single—

“(I) website;

“(II) online service;

“(III) online application;

“(IV) mobile application;

“(V) connected device; or

“(VI) operating system.

“(B) Exclusions.—The term ‘targeted marketing’ shall not include—

“(i) advertising or marketing to an individual or the device of an individual in response to the individual’s specific request for information or feedback;

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

“(iii) processing personal information solely for measuring or reporting advertising or content performance, reach, or frequency, including independent measurement.

“(C) Authority to further define.—The Commission may promulgate rules under section 553 of title 5, United States Code, to further define the term ‘targeted marketing’ but only as necessary to address changes to or innovations of technology, changes in how personal information is used or transferred, changes to the means and manners by which children or teens interact with a website, online service, online application, mobile application, or connected device, or evolving concerns regarding the privacy of children or teens.

“(20) Reasonably likely to be used.—The Commission may promulgate rules under section 553 of title 5, United States Code, or issue guidance to establish factors that should be considered in apply-
ing the term ‘reasonably likely to be used’ for the purposes of this title.

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

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

(1) by striking the heading and inserting the following: “ONLINE COLLECTION, USE, AND DISCLOSURE OF PERSONAL INFORMATION OF CHILDREN AND TEENS.”;

(2) in subsection (a)—

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

“(1) IN GENERAL.—It is unlawful for an operator of a website, online service, online application, mobile application, or connected device that is directed to children or teens or is used or reasonably likely to be used by children or teens in a manner that involves the collection of personal information,
to collect personal information from a child or teen in a manner that violates the regulations prescribed under subsection (b).”; and

(B) in paragraph (2)—

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

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

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “this Act” and inserting “the Children and Teens’ Online Privacy Protection Act”;

(ii) in subparagraph (A)—

(I) by striking “operator of any website” and all that follows through “from a child” and inserting “operator of a website, online service, online application, mobile application, or connected device that is directed to children or teens or is used or is reasonably likely to be used by children
or teens in a manner that involves the
collection of their personal informa-
tion”; 

(II) in clause (i)—

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

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

(cc) by striking “, and the
operator’s” and inserting “, the
operator’s”; and

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

(III) in clause (ii)—

(aa) by striking “parental”; and

(bb) by inserting “or teens”
after “children”;
(iii) in subparagraph (B)—

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

(II) in clause (ii), by inserting “to delete personal information collected from the child or” after “the opportunity at any time”; and

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

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

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

“(C) require the operator to provide, upon the request of a teen under this subparagraph who has provided personal information to the operator, upon proper identification of that teen—
“(i) a description of the specific types of personal information collected from the teen by the operator;

“(ii) the opportunity at any time to delete personal information collected from the teen and refuse further use or collection of personal information from the teen; and

“(iii) a means that is reasonable under the circumstances for the teen to obtain any personal information collected from the teen, if such information is available to the operator at the time the teen makes the request;”;

(vi) in subparagraph (D), as so redesignated, by striking “conditioning” and all that follows through “such activity” and inserting the following: “the collection from a child or teen of more personal information that is reasonably required to use the website, online service, online application, mobile application, or connected device”;

(vii) in subparagraph (E), as so redesignated—
(I) by striking “of such a website or online service”; and

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

(viii) by adding at the end the following flush text:

“The Commission shall review and update the regulations promulgated under this paragraph as necessary.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “verifiable parental consent” and inserting “verifiable consent”; and

(ii) in subparagraph (A)—

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

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

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

(iii) in subparagraph (B)—

(I) by striking “parent or child” and inserting “parent or teen”; and
(II) by striking “parental consent” each place the term appears and inserting “verifiable consent”;

(iv) in subparagraph (C)—

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

(II) in clause (i)—

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

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

(III) in clause (ii)—

(aa) by inserting “or teen, as applicable,” after “parent”; and

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

(v) in subparagraph (D)—

(I) in the matter preceding clause (i), by inserting “or teen” after “child” each place the term appears;
(II) in clause (ii), by inserting “or teen” after “child”; and

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

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

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

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

“(3) CONTINUATION OF SERVICE.—The regulations shall prohibit an operator from discontinuing service provided to a child or teen on the basis of a request by the parent of the child or by the teen, under the regulations prescribed under subparagraph (B) or (C) of paragraph (1), respectively, to delete personal information collected from the child or teen, to the extent that the operator is capable of providing such service without such information.”.

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

(1) in subsection (b)(1), by inserting “and teens” after “children”; and
(2) by adding at the end the following:

“(d) **Publication.**—

“(1) **In general.**—The Commission shall publish on the internet website of the Commission any report or documentation required by regulation to be submitted to the Commission to carry out this section.

“(2) **Restrictions on publication.**—The restrictions described in subsection (f) of section 6 of the Federal Trade Commission Act (15 U.S.C. 46(f)) applicable to the publication of information obtained by the Commission through investigations conducted under such section shall apply in same manner to the publication under this subsection of information obtained by the Commission from a report or documentation described in paragraph (1).”.

(d) **Administration and applicability of act.**—

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

(1) in subsection (b)—

(A) in paragraph (1), by striking “, in the case of” and all that follows through “the Board of Directors of the Federal Deposit Insurance Corporation;” and inserting the following: “by the appropriate Federal banking
agency, with respect to any insured depository
institution (as those terms are defined in sec-
tion 3 of that Act (12 U.S.C. 1813));’’; and

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

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

“(f) Telecommunications Carriers and Cable
Operators.—

“(1) Enforcement by commission.—Not-
withstanding sections 4, 5(a)(2), or 6 of the Federal
or any jurisdictional limitation of the Commission,
the Commission shall also enforce this Act and the
regulations promulgated under this Act, in the same
manner provided in subsection (d), with respect to
common carriers subject to the Communications Act
of 1934 (47 U.S.C. 151 et seq.) and Acts amend-
atory thereof and supplementary thereto.

“(2) Relationship to other law.—To the
extent that section 222, 338(i), or 631 of the Com-
munications Act of 1934 (47 U.S.C. 222, 338(i),
551) is inconsistent with this title, this title con-
trols.”.
SEC. 4. FAIR INFORMATION PRACTICES PRINCIPLES.

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

(1) COLLECTION LIMITATION PRINCIPLE.—Except as provided in paragraph (3), personal information should be collected from a child or teen only when collection of the personal information is—

(A) consistent with the context of a particular transaction or service or the relationship of the child or teen with the operator, including collection necessary to fulfill a transaction or provide a service requested by the child or teen; or

(B) required or specifically authorized by law.

(2) DATA QUALITY PRINCIPLE.—The personal information of a child or teen should be accurate, complete, and kept up-to-date to the extent necessary to fulfill the purposes described in subparagraphs (A) through (D) of paragraph (3).

(3) PURPOSE SPECIFICATION PRINCIPLE.—The purposes for which personal information is collected and used should be specified to the parent of a child or to a teen not later than at the time of the collection of the information. The subsequent use or disclosure of the information should be limited to—
(A) fulfillment of the transaction or service requested by the teen or parent of the child;

(B) support for the internal operations of the website, service, or application, as described in section 312.2 of title 16, Code of Federal Regulations (as in effect on the date of enactment of this Act), excluding any activity relating to targeted marketing directed to children, teens, or a device of a child or teen if the support for internal operations in consistent with the interest of the child or teen;

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

(D) other purposes—

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

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

(4) RETENTION LIMITATION PRINCIPLE.—

(A) IN GENERAL.—The personal information of a child or teen should not be retained for longer than is necessary to fulfill a trans-
action or provide a service requested by the child or teen or such other purposes specified in subparagraphs (A) through (D) of paragraph (3).

(B) DATA DISPOSAL.—The operator should implement a reasonable and appropriate data disposal policy based on the nature and sensitivity of personal information described in subparagraph (A).

(5) SECURITY SAFEGUARDS PRINCIPLE.—The personal information of a child or teen should be protected by reasonable and appropriate security safeguards against risks such as loss or unauthorized access, destruction, use, modification, or disclosure.

(6) TRANSPARENCY PRINCIPLE.—

(A) GENERAL PRINCIPLE.—The operator should be transparent about developments, practices, and policies with respect to the personal information of a child or teen.

(B) PROVISION OF INFORMATION.—The operator should provide to each parent of a child, or to each teen, using the website, online service, online application, mobile application,
or connected device of the operator with a clear
and prominent means—

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

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

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

(ii) to determine whether the operator
possesses any personal information of the
child or teen, the nature of any such infor-
mination, and the purposes for which the in-
formation was collected and is being re-
tained;
(iii) to obtain any personal information of the child or teen that is in the possession of the operator from the operator, or from a person specified by the operator, within a reasonable time after making a request, at a charge (if any) that is not excessive, in a reasonable manner, and in a form that is readily intelligible to the child or teen;

(iv) to challenge the accuracy of personal information of the child or teen that is in the possession of the operator;

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

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

(C) LIMITATION.—Nothing in this paragraph shall be construed to permit an operator to erase or otherwise modify personal informa-
tion requested by a law enforcement agency pursuant to legal authority.

(7) **INDIVIDUAL PARTICIPATION PRINCIPLE.**—

The operator should—

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

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

(8) **RACIAL AND SOCIOECONOMIC PROFILING.**—

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

(b) **RULE OF CONSTRUCTION.**—Nothing in this section, including compliance with the Fair Information Principles, shall be construed to permit an operator to avoid
compliance with other requirements set forth in this Act or the Children’s Online Privacy Protection Act (15 U.S.C. 6501 et seq.).

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

(a) Acts Prohibited.—

(1) Prohibition.—

(A) In general.—Except as provided in subparagraph (B), it shall be unlawful for an operator of a website, online service, online application, mobile application, or connected device to collect personal information from a user if—

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

(ii) the website, online service, online application, mobile application, or connected device is directed to teens.

(B) Exception.—Subparagraph (A) shall not apply to an operator that has adopted and complies with a Digital Marketing Bill of Rights for Teens that meets the Fair Information Practices Principles described in section 4.

(2) Effective date.—This subsection shall take effect on the date that is 180 days after the promulgation of regulations under subsection (b).
(b) Regulations.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Commission shall promulgate, under section 553 of title 5, United States Code, regulations to implement this section, including regulations further defining the Fair Information Practices Principles described in section 4.

(2) Updates.—Not less frequently than once every 4 years after the date on which regulations are promulgated under paragraph (1), the Commission shall review and update those regulations as necessary.

SEC. 6. TARGETED MARKETING TO CHILDREN AND TEENS.

(a) Prohibited Acts With Respect to Children and Teens.—It shall be unlawful for an operator of a website, online service, online application, mobile application, or connected device to collect, use, disclose to third parties, or compile personal information of a user for purposes of targeted marketing (or to allow another person to collect, use, disclose, or compile such information for such purpose) if—

(1) such use, disclosure, or compiling of personal information involves or is reasonably likely to
35

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

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

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

SEC. 7. REMOVAL OF CONTENT.

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

(b) REQUIREMENT.—

(1) In general.—An operator, to the extent
technologically feasible, shall—

(A) implement mechanisms that permit a
user of the website, online service, online appli-
cation, mobile application, or connected device
of the operator (and, in the case of a user that
is a child, a parent of that user) to erase or
otherwise eliminate content or information that is—

(i) submitted to the website, online service, online application, mobile application, or connected device by that user;

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

(iii) contains or displays personal information of children or teens; and

(B) take appropriate steps to—

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

(ii) provide notice to users and parents of users who are children that the mechanisms described in subparagraph (A) do not necessarily provide comprehensive removal of the content or information submitted by users.

(2) EXCEPTIONS.—Paragraph (1) shall not be construed to require an operator or third party to erase or otherwise eliminate content or information that—
(A) any other provision of Federal or State law requires the operator or third party to maintain; or

(B) was submitted to the website, online service, online application, mobile application, or connected device of the operator by any person other than the user who is attempting to erase or otherwise eliminate the content or information, including content or information submitted by the user that was republished or resubmitted by another person.

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

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

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

For the purposes of this Act, an operator of a website, online service, online application, mobile application, or connected device that is directed to children or
teens shall treat each user of that website, online service, online application, mobile application, or connected device as a child or teen, except as permitted by the Commission pursuant to a regulation promulgated under this Act, and except to the extent the website, online service, online application, mobile application, or connected device is deemed directed to mixed audiences.

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

Not later than 3 years after the date of enactment of this Act, the Commission shall submit to each committee of the Senate and each committee of the House of Representatives that has jurisdiction over the Commission a report on the processes of platforms that offer mobile and online applications for ensuring that, of those applications that are directed to children or teens, the applications operate in accordance with—

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

(2) rules promulgated by the Commission under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) relating to unfair or deceptive acts or practices in marketing.
SEC. 10. YOUTH PRIVACY AND MARKETING DIVISION.

(a) Establishment.—There is established within the Commission a division to be known as the Youth Privacy and Marketing Division.

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

(c) Duties.—The Youth Privacy and Marketing Division established under subsection (a) shall be responsible for assisting the Commission to address, as it relates to this Act and the amendments made by this Act—

(1) the privacy of children and teens; and

(2) marketing directed at children and teens.

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

(e) Reports.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Director of the Youth and Privacy Marketing Division shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

(1) a description of the work of the Youth Privacy and Marketing Division on emerging concerns
relating to youth privacy and marketing practices;
and

(2) an assessment of how effectively the Commission has, during the period for which the report is submitted, addressed youth privacy and marketing practices.

SEC. 11. ENFORCEMENT AND APPLICABILITY.

(a) Enforcement by the Commission.—

(1) In general.—Except as otherwise provided, this Act and the regulations prescribed under this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(2) Unfair or deceptive acts or practices.—Subject to subsection (b), a violation of this Act or a regulation prescribed under this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(3) Actions by the Commission.—

(A) In general.—Subject to subsection (b), and except as provided in subsection (d)(1), the Commission shall prevent any person from violating this Act or a regulation prescribed
under this Act in the same manner, by the
same means, and with the same jurisdiction,
powers, and duties as though all applicable
terms and provisions of the Federal Trade
Commission Act (15 U.S.C. 41 et seq.) were in-
corporated into and made a part of this Act,
and any person who violates this Act or such
regulation shall be subject to the penalties and
entitled to the privileges and immunities pro-

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

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

(1) Under section 8 of the Federal Deposit In-
surance Act (12 U.S.C. 1818) by the appropriate
Federal banking agency, with respect to an insured
depository institution (as such terms are defined in
section 3 of such Act (12 U.S.C. 1813)).

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

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

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

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

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

(1) IN GENERAL.—

(A) CIVIL ACTIONS.—In any case in which
the attorney general of a State has reason to
believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates this Act or a regulation prescribed under this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(i) enjoin that practice;

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

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

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

(B) NOTICE.—

(i) IN GENERAL.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Commission—

(I) written notice of that action;

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

(ii) Exemption.—

(I) In general.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph if the attorney general of the State determines that it is not feasible to provide the notice described in that clause before the filing of the action.

(II) Notification.—In an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(2) Intervention.—

(A) In general.—On receiving notice under paragraph (1)(B), the Commission shall have the right to intervene in the action that is the subject of the notice.

(B) Effect of intervention.—If the Commission intervenes in an action under paragraph (1), it shall have the right—
(i) to be heard with respect to any matter that arises in that action; and
(ii) to file a petition for appeal.

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

(A) conduct investigations;
(B) administer oaths or affirmations; or
(C) compel the attendance of witnesses or the production of documentary and other evidence.

(4) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of this Act or a regulation prescribed under this Act, no State may, during the pendency of that action, institute a separate action under paragraph (1) against any defendant named in the complaint in the action instituted by or on behalf of the Commission for that violation.

(5) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in the district
court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) Service of Process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) Telecommunications Carriers and Cable Operators.—

(1) Enforcement by Commission.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Commission, the Commission shall also enforce this Act and regulations promulgated under this Act, in the same manner provided in paragraph (a), with respect to common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and Acts amendatory thereof and supplementary thereto.

(2) Relationship to Other Laws.—To the extent that section 222, 338(i), or 631 of the Communications Act of 1934 (47 U.S.C. 222, 338(i), 551) is inconsistent with this Act, this Act controls.

(e) Safe Harbors.—
(1) DEFINITION.—In this subsection—

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

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

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

(D) the term “safe harbor request” means a request to have self-regulatory guidelines described in paragraph (2)(A) approved under that paragraph.

(2) GUIDELINES.—

(A) IN GENERAL.—An operator may satisfy the requirements of regulations issued under an applicable section by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, that, after notice and an opportunity for comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under that applicable section.
(B) EXPEDITED RESPONSE TO REQUESTS.—Not later than 180 days after the date on which a safe harbor request is filed under subparagraph (A), the Commission shall act upon the request set forth in writing the conclusions of the Commission with regard to the request.

(C) APPEALS.—A requesting entity may appeal the final action of the Commission under subparagraph (B), or a failure by the Commission to act in the period described in that paragraph, to a district court of the United States of appropriate jurisdiction, as provided for in section 706 of title 5, United States Code.

(3) INCENTIVES.—

(A) SELF-REGULATORY INCENTIVES.—In prescribing regulations under an applicable section, the Commission shall provide incentives for self-regulation by covered operators to implement the protections afforded children and teens, as applicable, under the regulatory requirements described in those sections.

(B) DEEMED COMPLIANCE.—The incentives under subparagraph (A) shall include provisions for ensuring that a covered operator will
be deemed to be in compliance with the requirements of the regulations under an applicable section if that person complies with guidelines approved under paragraph (2).

(4) Regulations.—

(A) In general.—In prescribing regulations relating to safe harbor guidelines under an applicable section, the Commission shall—

(i) establish criteria for the approval of guidelines that will ensure that a covered operator provides substantially the same or greater protections for children and teens, as applicable, as those contained in the regulations issued under the applicable section; and

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

(B) Restrictions on publication.—

The restrictions described in subsection (f) of section 6 of the Federal Trade Commission Act (15 U.S.C. 46(f)) applicable to the publication
of information obtained by the Commission through investigations conducted under such section shall apply in same manner to the publication under this paragraph of information included in a report or documentation described in subparagraph (A).

(5) REPORT BY THE INSPECTOR GENERAL.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and once each 2 years thereafter, the Inspector General of the Commission shall submit to the Commission and each committee of the Senate and each committee of the House of Representatives that has jurisdiction over the Commission a report regarding the safe harbor provisions under this subparagraph, which shall include—

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

(I) operating fairly and effectively; and

(II) effectively protecting the interests of children and teens; and

(ii) proposals for policy changes that would improve the effectiveness of the safe harbor provisions.
(B) Publication.—Not later than 10 days after the date on which a report under subparagraph (A) is submitted, the Commission shall publish the report on the internet website of the Commission.

(f) Effective Date.—This section shall take effect on the date that is 90 days after the date of enactment of this Act.

(g) Rule of Construction.—Nothing in this Act may be construed to authorize any action by the Commission that would violate section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)).

SEC. 12. GAO Study.

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

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

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

(3) determine whether existing laws are sufficient to address such risks to teens’ privacy.

(b) Report.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall
submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.