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H. R. 4653

To prohibit the creation and use of fake social media accounts or profiles and the sending of fraudulent emails or other electronic messages, and to require certain social media companies to remove fake or harmful accounts and profiles from their platforms.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2021

Mr. KINZINGER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the creation and use of fake social media accounts or profiles and the sending of fraudulent emails or other electronic messages, and to require certain social media companies to remove fake or harmful accounts and profiles from their platforms.

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 “Social Media Account-
5 ability and Account Verification Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act, the following definitions apply:

1 (1) The term “appropriate congressional com-
2 mittees” means Committee on Energy and Com-
3 merce of the House of Representatives and the Com-
4 mittee on Commerce, Science, and Transportation of
5 the Senate.

6 (2) The term “Commission” means the Federal
7 Trade Commission.

8 (3) The term “deceptive account or profile”
9 means, with respect to a social media platform, an
10 account or profile created by a user that—

11 (A)(i) purports to be of an individual who
12 is not the individual who created such account
13 or profile; or

14 (ii) uses the name or likeness of another
15 individual; and

16 (B) is utilized by a user to—

17 (i) perpetrate or attempt to perpetrate
18 financial or physical harm, or threat of fi-
19 nancial or physical harm, or other crime
20 against another user; or

21 (ii) furnish information to other users
22 as a means of assisting or participating in
23 financial or physical harm, or threat of fi-
24 nancial or physical harm, or another crime
25 against another user.

1 (4) The term “social media company” means
2 any person that owns, manages, or operates a social
3 media platform.

4 (5) The term “social media platform”—

5 (A) means a website or internet medium
6 that—

7 (i) permits a person to become a reg-
8 istered user, establish an account, or create
9 a profile for the purpose of allowing users
10 to create, share, and view user-generated
11 content through such an account or profile;

12 (ii) enables one or more users to gen-
13 erate content that can be viewed by other
14 users of the medium; and

15 (iii) primarily serves as a medium for
16 users to interact with content generated by
17 other users of the medium; and

18 (B) does not include—

19 (i) any such platform that serves
20 fewer than 100,000 users;

21 (ii) an email program, email distribu-
22 tion lists, multi-person text message
23 groups, or a website that is primarily for
24 the purpose of internet commerce;

1 (iii) a private platform or messaging
2 service used by an entity solely to commu-
3 nicate with others employed by or affiliated
4 with such entity; or

5 (iv) an internet-based platform whose
6 primary purpose is—

7 (I) to allow users to post product
8 reviews, business reviews, travel infor-
9 mation and reviews; or

10 (II) to provide news or entertain-
11 ment content, but that may also in-
12 clude a comment section for users to
13 discuss such news or entertainment
14 content.

15 **SEC. 3. LIMITED RULEMAKING RELATED TO USER AC-**
16 **COUNT VERIFICATION.**

17 (a) **IN GENERAL.**—Not later than one year after the
18 date of enactment of this Act, the Commission shall issue
19 regulations under section 553 of title 5, United States
20 Code, to require social media companies to remove decep-
21 tive or fraudulent accounts or profiles from their social
22 media platforms and, to the greatest extent practicable,
23 verify the creator of such accounts.

1 (b) REQUIRED COMPONENTS.—The regulations
2 issued under this section shall include and be limited to
3 the following requirements for social media companies:

4 (1) Establishment of a readily available means
5 by which an individual user may request a social
6 media company to investigate and remove a decep-
7 tive account or profile or multiple similar accounts
8 or profiles, including a requirement that the social
9 media company, upon notification of a verified com-
10 plaint regarding a deceptive user account or profile
11 as described in this Act, responds expeditiously with-
12 in a reasonable time, but no later than 45 days, to
13 remove, or disable access to, any deceptive account
14 or profile and any other materials and messages
15 published through that account or profile named in
16 such request. The Commission shall include instruc-
17 tions on its internet website on how a user may
18 make such a request to a social media company.

19 (2) If, after an investigation into the deceptive
20 account or profile requested to be removed under
21 paragraph (1), a social media company determines
22 such account or profile is not deceptive, the social
23 media company shall expeditiously within a reason-
24 able time, but no later than 45 days, notify the indi-
25 vidual submitting the request the reasons for making

1 such determination. Such notification shall provide
2 such individual the website address (or a hyperlink
3 to such address) to the Commission's web page so
4 that the individual may register a complaint with the
5 Commission that the social media company may not
6 be in compliance with the regulations issued under
7 this section.

8 (3) A requirement that a social media company
9 take escalating actions against individuals who make
10 false or bad faith requests under paragraph (1), in-
11 cluding a warning, suspension of any accounts of
12 such individuals, and banning such individuals from
13 the social media platform.

14 (c) PUBLIC COMMENT ON OTHER MATTERS TO BE
15 CONSIDERED.—

16 (1) IN GENERAL.—The Commission shall solicit
17 public comment on including in its rulemaking—

18 (A) the most effective, feasible, and appro-
19 priate means for a social media company to
20 verify that an account or profile is not deceptive
21 and contrary to the purpose of this Act;

22 (B) the feasibility, potential effectiveness,
23 and appropriateness of a requirement for social
24 media companies to develop programs to con-
25 duct reverse-image searches across the social

1 media company’s social media platform, and
2 across the internet to determine if any image of
3 an individual used as a profile picture for a
4 user is—

5 (i) such individual’s actual likeness; or

6 (ii) an image also used by other users;

7 and

8 (C) a requirement that if a social media
9 company determines that a user’s profile pic-
10 ture is not their unique likeness after the re-
11 views conducted pursuant to paragraph (2) to
12 flag the account or profile for additional screen-
13 ing and review in an effort to determine if an
14 account is deceptive for purposes of this Act.

15 (2) LIMITATION.—Any reverse-image searches
16 conducted by a social media company pursuant to a
17 rulemaking under this section shall be conducted for
18 the sole purpose of determining if an account or pro-
19 file on such company’s social media platform is de-
20 ceptive for purposes of this Act.

21 (d) PERIODIC REVIEW AND UPDATES.—The Com-
22 mission shall, as appropriate, but not fewer than once
23 every 7 years, review the regulations issued pursuant to
24 this section, and if Commission determines such regula-
25 tions should be updated, the Commission shall report rec-

1 ommendations for such changes to the appropriate Con-
2 gressional committees for consideration whether to confer
3 additional rulemaking authority to the Commission. Noth-
4 ing in this section shall be construed to confer any new
5 authorities or powers upon the Commission beyond what
6 is described in this section.

7 (e) FACTORS TO CONSIDER.—In issuing the regula-
8 tions under this section and any requirements imposed by
9 such regulations, the Commission—

10 (1) may take into consideration—

11 (A) the size of, and the nature, scope, and
12 complexity of, the activities engaged in by such
13 social media companies;

14 (B) the feasibility of complying with each
15 regulation;

16 (C) the current state of the art in adminis-
17 trative and technical means for accomplishing
18 objectives described in subsections (a) and (b);
19 and

20 (D) the cost to social media companies of
21 implementing policies, practices, and procedures
22 necessary to comply with this Act; and

23 (2) shall strive to make each regulation reason-
24 able, flexible, and risk-based for different sizes and

1 practices of social media platforms covered by this
2 Act.

3 **SEC. 4. ENFORCEMENT BY COMMISSION.**

4 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
5 A violation of a regulation issued under section 3 shall
6 be treated as an unfair and deceptive act or practice in
7 violation of a regulation under section 18(a)(1)(B) of the
8 Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B))
9 regarding unfair or deceptive acts or practices.

10 (b) POWERS OF COMMISSION.—The Commission
11 shall enforce this Act in the same manner, by the same
12 means, and with the same jurisdiction, powers, and duties
13 as though all applicable terms and provisions of the Fed-
14 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
15 incorporated into and made a part of this Act, and any
16 social media company subject to the Commission’s author-
17 ity who violates this Act shall be subject to the penalties
18 and entitled to the privileges and immunities provided in
19 the Federal Trade Commission Act (15 U.S.C. 41 et seq.).
20 Nothing in this Act shall be construed to limit the author-
21 ity of the Federal Trade Commission under any other pro-
22 vision of law.

23 (c) EFFECT OF GUIDANCE.—No guidance issued by
24 the Commission with respect to this Act shall confer any
25 rights on any person, State, or locality, nor shall operate

1 to bind the Commission or any person to the approach
2 recommended in such guidelines. The Commission shall
3 not base an enforcement action on, or execute a consent
4 order based on, practices that are alleged to be incon-
5 sistent with any such guidelines, unless the practices alleg-
6 edly violate a provision of such regulations.

7 (d) OPPORTUNITY TO CURE.—Before being assessed
8 any civil penalty for a violation of such regulations, a so-
9 cial media company shall be afforded a reasonable oppor-
10 tunity to bring itself into compliance with such regula-
11 tions. If a social media company does not meet the re-
12 quirements of such regulations, the social media company
13 shall have an opportunity to explain to the Commission
14 the reasons for noncompliance as well as the actions the
15 social media company intends to come into compliance
16 with such requirements.

17 **SEC. 5. REPORT.**

18 Not later than 2 years after the date of enactment
19 of this Act, the Commission, in consultation with other
20 entities, as appropriate, shall issue a report to Congress,
21 including—

22 (1) an assessment of—

23 (A) general compliance with this Act by so-
24 cial media companies; and

1 (B) the efficacy of social media companies’
2 processes to comply with this Act; and
3 (2) any policy recommendations for Congress to
4 consider that the Commission determines to be nec-
5 essary for or would facilitate the enforcement of this
6 Act.

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