

118TH CONGRESS
1ST SESSION

S. 1671

To establish a new Federal body to provide reasonable oversight and regulation of digital platforms.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Mr. BENNET (for himself and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a new Federal body to provide reasonable oversight and regulation of digital 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Digital Platform Commission Act of 2023”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; sense of Congress.
- Sec. 3. Definitions.
- Sec. 4. Establishment of Federal Digital Platform Commission.
- Sec. 5. Jurisdiction.
- Sec. 6. Organization and general powers.

- Sec. 7. Organization and functioning of the Commission.
- Sec. 8. Code Council.
- Sec. 9. Rulemaking authority, requirements, and considerations.
- Sec. 10. Systemically important digital platforms.
- Sec. 11. Inter-agency support.
- Sec. 12. Petitions.
- Sec. 13. Research.
- Sec. 14. Investigative authority.
- Sec. 15. HSR filings.
- Sec. 16. Enforcement by private persons and governmental entities.
- Sec. 17. Enforcement by Commission and Department of Justice.
- Sec. 18. Proceedings to enjoin, set aside, annul, or suspend orders of the Commission.
- Sec. 19. Report to Congress.
- Sec. 20. Authorization of appropriations.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) In the United States and around the world,
 4 digital platforms and online services play a central
 5 role in modern life by providing new tools for com-
 6 munication, commerce, entrepreneurship, and de-
 7 bate.

8 (2) The United States takes pride in the suc-
 9 cess of its technology sector, which leads the world
 10 in innovation and dynamism, provides valuable serv-
 11 ices to the people of the United States, and supports
 12 thousands of good-paying jobs in the United States.

13 (3) In recent years, a few digital platforms have
 14 benefitted from the combination of economies of
 15 scale, network effects, and unique characteristics of
 16 the digital marketplace to achieve vast power over
 17 the economy, society, and democracy of the United
 18 States.

1 (4) The last time Congress enacted legislation
2 to meaningfully regulate the technology or tele-
3 communications sector was the Telecommunications
4 Act of 1996 (Public Law 104–104; 110 Stat 56.),
5 years before many of today’s largest digital plat-
6 forms even existed.

7 (5) Digital platforms remain largely unregu-
8 lated and are left to write their own rules without
9 meaningful democratic input or accountability.

10 (6) The unregulated policies and operations of
11 some of the most powerful digital platforms have at
12 times produced demonstrable harm, including—

13 (A) undercutting small businesses;

14 (B) abetting the collapse of trusted local
15 journalism;

16 (C) enabling addiction and other harms to
17 the mental health of the people of the United
18 States, especially minors;

19 (D) disseminating disinformation and hate
20 speech;

21 (E) undermining privacy and monetizing
22 the personal data of individuals in the United
23 States without their informed consent;

24 (F) in some cases, radicalizing individuals
25 to violence; and

1 (G) perpetuating discriminatory treatment
2 of communities of color and underserved popu-
3 lations.

4 (7) The development of increasingly powerful
5 algorithmic processes for communication, research,
6 content generation, and decision making, such as
7 generative artificial intelligence, threatens to mag-
8 nify the harms identified in paragraph (6) without
9 mechanisms for proper oversight and regulation to
10 protect the public interest.

11 (8) The failure of the United States Govern-
12 ment to establish appropriate regulations for digital
13 platforms cedes to foreign competitors the historic
14 role played by the United States in setting reason-
15 able rules of the road and technical standards for
16 emerging technologies.

17 (9) Throughout the history of the United
18 States, Congress has often responded to the emer-
19 gence of powerful and complex new sectors of the
20 economy by empowering sector-specific expert Fed-
21 eral regulators.

22 (10) Throughout the history of the United
23 States, the Federal Government has established rea-
24 sonable regulation, consistent with the First Amend-
25 ment to the Constitution of the United States, to

1 promote a diversity of viewpoints, support civic en-
2 gagement, and preserve the right of citizens to com-
3 municate with each other, which is foundational to
4 self-governance.

5 (11) The unique power and complexity of sev-
6 eral digital platforms, combined with the absence of
7 modern Federal regulations, reinforces the need for
8 a new Federal body equipped with the authorities,
9 tools, and expertise to regulate digital platforms to
10 ensure their operations remain consistent, where ap-
11 propriate, with the public interest.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the Federal agency established under this Act
14 should—

15 (1) develop appropriate regulations and policies
16 grounded in the common law principles of the duty
17 of care and the duty to deal, insofar as those prin-
18 ciples are relevant and practical; and

19 (2) adopt, where relevant and practical, a risk
20 management regulatory approach that prioritizes an-
21 ticipating, limiting, and balancing against other in-
22 terests the broad economic, societal, and political
23 risks of harm posed by the activities and operations
24 of a person or class of persons.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **ALGORITHMIC PROCESS.**—The term “algo-
4 rithmic process” means a computational process, in-
5 cluding one derived from machine learning or other
6 artificial intelligence techniques, that processes per-
7 sonal information or other data for the purpose of—

8 (A) making a decision;

9 (B) generating content; or

10 (C) determining the order or manner in
11 which a set of information is provided, rec-
12 ommended to, or withheld from a user of a dig-
13 ital platform, including—

14 (i) the provision of commercial con-
15 tent;

16 (ii) the display of social media posts;

17 (iii) the display of search results or
18 rankings; or

19 (iv) any other method of automated
20 decision making, content selection, or con-
21 tent amplification.

22 (2) **CODE COUNCIL; COUNCIL.**—The term
23 “Code Council” or “Council” means the Code Coun-
24 cil established under section 8(a).

1 (3) COMMISSION.—The term “Commission”
2 means the Federal Digital Platform Commission es-
3 tablished under section 4.

4 (4) DIGITAL PLATFORM.—

5 (A) IN GENERAL.—The term “digital plat-
6 form” means an online service that serves as an
7 intermediary facilitating interactions—

8 (i) between users; and

9 (ii) between users and—

10 (I) entities offering goods and
11 services through the online service; or

12 (II) the online service with re-
13 spect to goods and services offered di-
14 rectly by the online service, including
15 content primarily generated by algo-
16 rithmic processes.

17 (B) DE MINIMIS EXCEPTION.—

18 (i) IN GENERAL.—Notwithstanding
19 subparagraph (A)(ii)(II), the term “digital
20 platform” does not include an entity that
21 offers goods and services to the public on-
22 line if the offering of goods and services
23 online is a de minimis part of the entity’s
24 overall business.

1 (ii) ONLINE SERVICES THAT DO NOT
2 QUALIFY FOR DE MINIMIS EXCEPTION.—
3 Notwithstanding clause (i), if an online
4 service described in subparagraph
5 (A)(ii)(II) is owned by an entity but is of-
6 fered through an affiliate, partnership, or
7 joint venture of, or is otherwise segregable
8 from, the entity—

9 (I) the online service shall be
10 considered a digital platform; and

11 (II) the entity shall not be con-
12 sidered a digital platform.

13 (C) SMALL DIGITAL PLATFORM BUSI-
14 NESSES.—

15 (i) IN GENERAL.—The term “digital
16 platform” does not include a small digital
17 platform business, except as provided in
18 clause (iii).

19 (ii) SBA RULEMAKING.—Not later
20 than 180 days after the date of enactment
21 of this Act, the Administrator of the Small
22 Business Administration shall by regula-
23 tion define the term “small digital plat-
24 form business” for purposes of clause (i).

1 (iii) NON-APPLICABILITY TO SYSTEM-
2 ICALLY IMPORTANT DIGITAL PLAT-
3 FORMS.—Clause (i) shall not apply to a
4 systemically important digital platform.

5 (D) NEWS ORGANIZATIONS.—The term
6 “digital platform” does not include an entity
7 whose primary purpose is the delivery to the
8 public of news that the entity writes, edits, and
9 reports.

10 (5) IMMEDIATE FAMILY MEMBER.—The term
11 “immediate family member”, with respect to an indi-
12 vidual, means a spouse, parent, sibling, or child of
13 the individual.

14 (6) ONLINE SERVICE.—The term “online serv-
15 ice” includes a consumer-facing website, back-end
16 online-support system, or other facilitator of online
17 transactions and activities.

18 (7) SYSTEMICALLY IMPORTANT DIGITAL PLAT-
19 FORM.—The term “systemically important digital
20 platform” means a digital platform that the Com-
21 mission has designated as a systemically important
22 digital platform under section 10.

1 **SEC. 4. ESTABLISHMENT OF FEDERAL DIGITAL PLATFORM**
2 **COMMISSION.**

3 (a) **ESTABLISHMENT.**—There is established a com-
4 mission to be known as the “Federal Digital Platform
5 Commission”, which shall—

6 (1) be constituted as provided in this Act; and

7 (2) execute and enforce the provisions of this
8 Act.

9 (b) **PURPOSES OF COMMISSION.**—The purpose of the
10 Commission is to regulate digital platforms, consistent
11 with the public interest, convenience, and necessity, to pro-
12 mote to all the people of the United States, so far as pos-
13 sible, the following:

14 (1) Access to digital platforms for civic engage-
15 ment and economic and educational opportunities.

16 (2) Access to government services and public
17 safety.

18 (3) Competition to encourage the creation of
19 new online services and innovation, and to provide to
20 consumers benefits such as lower prices and better
21 quality of service.

22 (4) Prevention of harmful levels of concentra-
23 tion of private power over critical digital infrastruc-
24 ture.

1 (5) A robust and competitive marketplace of
2 ideas with a diversity of views at the local, State,
3 and national levels.

4 (6) Protection for consumers, including those in
5 communities of color and underserved populations,
6 from deceptive, unfair, unjust, unreasonable, or abu-
7 sive practices committed by digital platforms.

8 (7) Assurance that the algorithmic processes of
9 digital platforms are fair, transparent, and safe.

10 (c) **RULE OF CONSTRUCTION.**—Nothing in this Act,
11 or any amendment made by this Act, shall be construed
12 to modify, impair, or supersede the applicability of any
13 antitrust laws.

14 **SEC. 5. JURISDICTION.**

15 (a) **PLENARY JURISDICTION.**—The Commission shall
16 have jurisdiction over any digital platform, the services of
17 which—

18 (1) originate or are received within the United
19 States; and

20 (2) affect interstate or foreign commerce.

21 (b) **PROVISIONS RELATIVE TO SYSTEMICALLY IM-**
22 **PORTANT DIGITAL PLATFORMS.**—Not later than 180 days
23 after the earliest date as of which not fewer than 3 Com-
24 missioners have been confirmed, the Commission shall de-
25 termine whether to promulgate rules, with input from the

1 Code Council as appropriate, to establish for systemically
2 important digital platforms—

3 (1) commercial and technical standards for—

4 (A) data portability; and

5 (B) interoperability, which shall be defined
6 as the functionality of information systems to—

7 (i) exchange data; and

8 (ii) enable sharing of information;

9 (2) requirements—

10 (A) for recommendation systems and other
11 algorithmic processes of systemically important
12 digital platforms to ensure that the algorithmic
13 processes are fair, transparent, and without
14 harmful, abusive, anticompetitive, or deceptive
15 bias; and

16 (B) for auditing, accountability, and
17 explainability of algorithmic processes;

18 (3) transparency requirements for terms of
19 service, including content moderation policies;

20 (4) requirements for regular public risk assess-
21 ments of the distribution of harmful content on a
22 systemically important digital platform and steps the
23 systemically important digital platform has taken, or
24 plans to take, to mitigate those harms, including
25 harms arising from algorithmic processes;

1 (5) transparency and disclosure obligations to
2 enable—

3 (A) oversight by the Commission;

4 (B) third-party audits to ensure the accu-
5 racy of any public risk assessments required
6 under paragraph (4); and

7 (C) trusted third-party research in the
8 public interest; and

9 (6) commercial and technical standards to en-
10 sure accessibility to individuals with a disability, as
11 defined in section 3 of the Americans with Disabil-
12 ities Act of 1990 (42 U.S.C. 12102), including to
13 provide the ability for an individual who has a hear-
14 ing impairment, speech impairment, or vision im-
15 pairment to engage with systemically important dig-
16 ital platforms in a manner that is functionally equiv-
17 alent to the ability of an individual who does not
18 have a hearing impairment, speech impairment, or
19 vision impairment to engage with systemically im-
20 portant digital platforms.

21 (c) SPECIFIC CODES AND STANDARDS.—

22 (1) AGE-APPROPRIATE DESIGN CODE.—

23 (A) ESTABLISHMENT.—Not later than 180
24 days after the earliest date as of which not
25 fewer than 3 Commissioners have been con-

1 firmed, the Commission shall, with input from
2 the Code Council as appropriate, establish by
3 rule an age-appropriate design code.

4 (B) CONTENTS.—The age-appropriate de-
5 sign code established under subparagraph (A)
6 shall include—

7 (i) requirements governing the design
8 and data privacy standards for the entities
9 that the Commission designates as being
10 subject to the code; and

11 (ii) prohibited design features and
12 data practices for the entities described in
13 clause (i).

14 (2) AGE VERIFICATION STANDARDS.—Not later
15 than 180 days after the earliest date as of which not
16 fewer than 3 Commissioners have been confirmed,
17 the Commission shall, with input from the Code
18 Council as appropriate, begin the process of devel-
19 oping age verification standards.

20 (3) PROCEDURE.—

21 (A) PUBLIC REVIEW; COMMISSION EXAM-
22 INATION AND VOTE.—In establishing an age-ap-
23 propriate design code and age verification
24 standards under paragraphs (1) and (2), the
25 Commission shall first develop a proposed code

1 and standards, respectively, and comply with
2 the requirements under paragraph (4) of sec-
3 tion 8(e) in the same manner as with respect to
4 a proposed behavioral code, technical standard,
5 or other policy submitted to the Commission by
6 the Code Council under paragraph (3) of that
7 section.

8 (B) UPDATES.—Paragraph (5) of section
9 8(e) shall apply to the age-appropriate design
10 code and age verification standards established
11 under paragraphs (1) and (2) of this subsection
12 in the same manner as it applies to a behavioral
13 code, technical standard, or other policy estab-
14 lished by rule under paragraph (4) of that sec-
15 tion.

16 (d) FORBEARANCE.—

17 (1) IN GENERAL.—The Commission may for-
18 bear from exercising jurisdiction over a digital plat-
19 form or class of digital platforms based on size, rev-
20 enue, market share, or other attributes the Commis-
21 sion determines appropriate.

22 (2) FLEXIBILITY.—The Commission may re-
23 assert jurisdiction over a digital platform or class of
24 digital platform over which the Commission forbore
25 from exercising jurisdiction under paragraph (1).

1 **SEC. 6. ORGANIZATION AND GENERAL POWERS.**

2 (a) IN GENERAL.—The Commission shall be com-
3 posed of 5 Commissioners appointed by the President, by
4 and with the advice and consent of the Senate, one of
5 whom the President shall designate as chair.

6 (b) QUALIFICATIONS.—

7 (1) CITIZENSHIP.—Each member of the Com-
8 mission shall be a citizen of the United States.

9 (2) CONFLICTS OF INTEREST.—

10 (A) IN GENERAL.—Subject to subpara-
11 graphs (B) and (C), no member of the Commis-
12 sion or person employed by the Commission,
13 and no immediate family member thereof,
14 shall—

15 (i) be financially interested in—

16 (I) any person significantly regu-
17 lated by the Commission under this
18 Act; or

19 (II) a third party in direct and
20 substantial competition with a person
21 described in subclause (I); or

22 (ii) be employed by, hold any official
23 relation to, or own any stocks, bonds, or
24 other securities of, any person or third
25 party described in clause (i).

1 (B) SIGNIFICANT INTEREST.—The prohibi-
2 tions under subparagraph (A) shall apply only
3 to financial interests in any company or other
4 entity that has a significant interest in activi-
5 ties subject to regulation by the Commission.

6 (C) WAIVER.—

7 (i) IN GENERAL.—Subject to section
8 208 of title 18, United States Code, the
9 Commission may waive, from time to time,
10 the application of the prohibitions under
11 subparagraph (A) to persons employed by
12 the Commission, or immediate family
13 members thereof, if the Commission deter-
14 mines that the financial interests of a per-
15 son that are involved in a particular case
16 are minimal.

17 (ii) NO WAIVER FOR COMMIS-
18 SIONERS.—The waiver authority under
19 clause (i) shall not apply with respect to
20 members of the Commission.

21 (iii) PUBLICATION.—If the Commis-
22 sion exercises the waiver authority under
23 clause (i), the Commission shall publish
24 notice of that action in the Federal Reg-
25 ister.

1 (3) DETERMINATION OF SIGNIFICANT INTER-
2 EST.—The Commission, in determining for purposes
3 of paragraph (2) whether a company or other entity
4 has a significant interest in activities that are sub-
5 ject to regulation by the Commission, shall consider,
6 without excluding other relevant factors—

7 (A) the revenues, investments, profits, and
8 managerial efforts directed to the related activi-
9 ties of the company or other entity, as com-
10 pared to the other aspects of the business of the
11 company or other entity;

12 (B) the extent to which the Commission
13 regulates and oversees the activities of the com-
14 pany or other entity;

15 (C) the degree to which the economic inter-
16 ests of the company or other entity may be af-
17 fected by any action of the Commission; and

18 (D) the perceptions held by the public re-
19 garding the business activities of the company
20 or other entity.

21 (4) NO OTHER EMPLOYMENT.—A member of
22 the Commission may not engage in any other busi-
23 ness, vocation, profession, or employment while serv-
24 ing as a member of the Commission.

1 (5) POLITICAL PARTIES.—The maximum num-
2 ber of commissioners who may be members of the
3 same political party shall be a number equal to the
4 least number of commissioners that constitutes a
5 majority of the full membership of the Commission.

6 (c) TERM.—

7 (1) IN GENERAL.—A commissioner—

8 (A) shall be appointed for a term of 5
9 years; and

10 (B) may continue to serve after the expira-
11 tion of the fixed term of office of the commis-
12 sioner until a successor is appointed and has
13 been confirmed and taken the oath of office.

14 (2) FILLING OF VACANCIES.—Any person cho-
15 sen to fill a vacancy in the Commission—

16 (A) shall be appointed for the unexpired
17 term of the commissioner that the person suc-
18 ceeds;

19 (B) except as provided in subparagraph
20 (C), may continue to serve after the expiration
21 of the fixed term of office of the commissioner
22 that the person succeeds until a successor is ap-
23 pointed and has been confirmed and taken the
24 oath of office; and

1 (C) may not continue to serve after the ex-
2 piration of the session of Congress that begins
3 after the expiration of the fixed term of office
4 of the commissioner that the person succeeds.

5 (3) EFFECT OF VACANCY ON POWERS OF COM-
6 MISSION.—Except as provided in section 9(e) (relat-
7 ing to repeal of prior rules), no vacancy in the Com-
8 mission shall impair the right of the remaining com-
9 missioners to exercise all the powers of the Commis-
10 sion.

11 (d) SALARY OF COMMISSIONERS.—

12 (1) IN GENERAL.—Each Commissioner shall re-
13 ceive an annual salary at the annual rate payable
14 from time to time for grade 16 of the pay scale of
15 the Securities and Exchange Commission, payable in
16 monthly installments.

17 (2) CHAIR.—The Chair of the Commission,
18 during the period of service as Chair, shall receive
19 an annual salary at the annual rate payable from
20 time to time for grade 17 of the pay scale of the Se-
21 curities and Exchange Commission.

22 (e) PRINCIPAL OFFICE.—

23 (1) GENERAL SESSIONS.—The principal office
24 of the Commission shall be in the District of Colum-
25 bia, where its general sessions shall be held.

1 (2) SPECIAL SESSIONS.—Whenever the conven-
2 ience of the public or of the parties may be pro-
3 moted or delay or expense prevented thereby, the
4 Commission may hold special sessions in any part of
5 the United States.

6 (f) EMPLOYEES.—

7 (1) IN GENERAL.—The Commission may, sub-
8 ject to the civil service laws and the Classification
9 Act of 1949, as amended, appoint such officers, en-
10 gineers, accountants, attorneys, inspectors, exam-
11 iners, and other employees as are necessary in the
12 exercise of its functions.

13 (2) ASSISTANTS.—

14 (A) PROFESSIONAL ASSISTANTS; SEC-
15 RETARY.—Without regard to the civil-service
16 laws, but subject to the Classification Act of
17 1949, each commissioner may appoint profes-
18 sional assistants and a secretary, each of whom
19 shall perform such duties as the commissioner
20 shall direct.

21 (B) ADMINISTRATIVE ASSISTANT TO
22 CHAIR.—In addition to the authority under sub-
23 paragraph (A), the Chair of the Commission
24 may appoint, without regard to the civil-service
25 laws, but subject to the Classification Act of

1 1949, an administrative assistant who shall per-
2 form such duties as the Chair shall direct.

3 (3) USE OF VOLUNTEERS TO MONITOR VIOLA-
4 TIONS RELATING TO ONLINE SERVICES.—

5 (A) RECRUITMENT AND TRAINING OF VOL-
6 UNTEERS.—The Commission, for purposes of
7 monitoring violations of any provision of this
8 Act (and of any regulation prescribed by the
9 Commission under this Act), may—

10 (i) recruit and train any software en-
11 gineer, computer scientist, data scientist,
12 or other individual with skills or expertise
13 relevant to the responsibilities of the Com-
14 mission; and

15 (ii) accept and employ the voluntary
16 and uncompensated services of individuals
17 described in clause (i).

18 (B) NO LIMITATIONS ON VOLUNTARY
19 SERVICES.—The authority of the Commission
20 under subparagraph (A) shall not be subject to
21 or affected by—

22 (i) part III of title 5, United States
23 Code; or

24 (ii) section 1342 of title 31, United
25 States Code.

1 (C) NO FEDERAL EMPLOYMENT.—Any in-
2 dividual who provides services under this para-
3 graph or who provides goods in connection with
4 such services shall not be considered a Federal
5 or special government employee.

6 (D) BROAD REPRESENTATION.—The Com-
7 mission, in accepting and employing services of
8 individuals under subparagraph (A), shall seek
9 to achieve a broad representation of individuals
10 and organizations.

11 (E) RULES OF CONDUCT.—The Commis-
12 sion may establish rules of conduct and other
13 regulations governing the service of individuals
14 under this paragraph.

15 (F) REGULATIONS FOR PERSONNEL PRAC-
16 TICES.—The Commission may prescribe regula-
17 tions to select, oversee, sanction, and dismiss
18 any individual authorized under this paragraph
19 to be employed by the Commission.

20 (g) EXPENDITURES.—

21 (1) IN GENERAL.—The Commission may make
22 such expenditures (including expenditures for rent
23 and personal services at the seat of government and
24 elsewhere, for office supplies, online subscriptions,
25 electronics, law books, periodicals, subscriptions, and

1 books of reference), as may be necessary for the exe-
2 cution of the functions vested in the Commission
3 and as may be appropriated for by Congress in ac-
4 cordance with the authorizations of appropriations
5 under section 20.

6 (2) REIMBURSEMENT.—All expenditures of the
7 Commission, including all necessary expenses for
8 transportation incurred by the commissioners or by
9 their employees, under their orders, in making any
10 investigation or upon any official business in any
11 other places than in the city of Washington, shall be
12 allowed and paid on the presentation of itemized
13 vouchers therefor approved by the Chair of the Com-
14 mission or by such other members or officer thereof
15 as may be designated by the Commission for that
16 purpose.

17 (3) GIFTS.—

18 (A) IN GENERAL.—Notwithstanding any
19 other provision of law, in furtherance of its
20 functions the Commission is authorized to ac-
21 cept, hold, administer, and use unconditional
22 gifts, donations, and bequests of real, personal,
23 and other property (including voluntary and un-
24 compensated services, as authorized by section
25 3109 of title 5, United States Code).

1 (B) TAXES.—For the purpose of Federal
2 law on income taxes, estate taxes, and gift
3 taxes, property or services accepted under the
4 authority of subparagraph (A) shall be deemed
5 to be a gift, bequest, or devise to the United
6 States.

7 (C) REGULATIONS.—

8 (i) IN GENERAL.—The Commission
9 shall promulgate regulations to carry out
10 this paragraph.

11 (ii) CONFLICTS OF INTEREST.—The
12 regulations promulgated under clause (i)
13 shall include provisions to preclude the ac-
14 ceptance of any gift, bequest, or donation
15 that would create a conflict of interest or
16 the appearance of a conflict of interest.

17 (h) QUORUM; SEAL.—

18 (1) QUORUM.—Three members of the Commis-
19 sion shall constitute a quorum thereof.

20 (2) SEAL.—The Commission shall have an offi-
21 cial seal which shall be judicially noticed.

22 (i) DUTIES AND POWERS.—The Commission may
23 perform any and all acts, including collection of any infor-
24 mation from digital platforms under the jurisdiction of the
25 Commission as the Commission determines necessary,

1 without regard to any final determination of the Office
2 on Management and Budget under chapter 35 of title 44,
3 United States Code (commonly referred to as the “Paper-
4 work Reduction Act”), make such rules and regulations,
5 and issue such orders, not inconsistent with this Act, as
6 may be necessary in the execution of its functions.

7 (j) CONDUCT OF PROCEEDINGS; HEARINGS.—

8 (1) IN GENERAL.—The Commission may con-
9 duct its proceedings in such manner as will best con-
10 duce to the proper dispatch of business and to the
11 ends of justice.

12 (2) CONFLICT OF INTEREST.—No commissioner
13 shall participate in any hearing or proceeding in
14 which he has a pecuniary interest.

15 (3) OPEN TO ALL PARTIES.—Any party may
16 appear before the Commission and be heard in per-
17 son or by attorney.

18 (4) RECORD OF PROCEEDINGS.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (B)—

21 (i) every vote and official act of the
22 Commission shall be entered of record; and

23 (ii) the Commission shall endeavor to
24 make each proceeding public, while recog-

1 nizing the occasional need for private con-
2 vening and deliberation.

3 (B) DEFENSE INFORMATION.—The Com-
4 mission may withhold publication of records or
5 proceedings containing secret information af-
6 fecting the national defense.

7 (k) RECORD OF REPORTS.—All reports of investiga-
8 tions made by the Commission shall be entered of record,
9 and a copy thereof shall be furnished to the party who
10 may have complained, and to any digital platform or li-
11 censee that may have been complained of.

12 (l) PUBLICATION OF REPORTS; ADMISSIBILITY AS
13 EVIDENCE.—The Commission shall provide for the publi-
14 cation of its reports and decisions in such form and man-
15 ner as may be best adapted for public information and
16 use, and such authorized publications shall be competent
17 evidence of the reports and decisions of the Commission
18 therein contained in all courts of the United States and
19 of the several States without any further proof or authen-
20 tication thereof.

21 (m) COMPENSATION OF APPOINTEES.—Rates of
22 compensation of persons appointed under this section shall
23 be subject to the reduction applicable to officers and em-
24 ployees of the Federal Government generally.

1 (n) MEMORANDA OF UNDERSTANDING.—The Com-
2 mission shall enter into memoranda of understanding with
3 the Federal Communications Commission, the Federal
4 Trade Commission, and the Department of Justice to en-
5 sure, to the greatest extent possible, coordination, collabo-
6 ration, and the effective use of Federal resources con-
7 cerning areas of overlapping jurisdiction.

8 **SEC. 7. ORGANIZATION AND FUNCTIONING OF THE COM-**
9 **MISSION.**

10 (a) CHAIR; DUTIES; VACANCY.—

11 (1) IN GENERAL.—The member of the Commis-
12 sion designated by the President as Chair shall be
13 the chief executive officer of the Commission.

14 (2) DUTIES.—The Chair of the Commission
15 shall—

16 (A) preside at all meetings and sessions of
17 the Commission;

18 (B) represent the Commission in all mat-
19 ters relating to legislation and legislative re-
20 ports, except that any commissioner may
21 present the commissioner's own or minority
22 views or supplemental reports;

23 (C) represent the Commission in all mat-
24 ters requiring conferences or communications

1 with other governmental officers, departments,
2 or agencies; and

3 (D) generally coordinate and organize the
4 work of the Commission in such manner as to
5 promote prompt and efficient disposition of all
6 matters within the jurisdiction of the Commis-
7 sion.

8 (3) VACANCY.—In the case of a vacancy in the
9 office of the Chair of the Commission, or the ab-
10 sence or inability of the Chair to serve, the Commis-
11 sion may temporarily designate a member of the
12 Commission to act as Chair until the cause or cir-
13 cumstance requiring the designation is eliminated or
14 corrected.

15 (b) ORGANIZATION OF STAFF.—

16 (1) IN GENERAL.—From time to time as the
17 Commission may find necessary, the Commission
18 shall organize its staff into—

19 (A) bureaus, to function on the basis of
20 the Commission's principal workload operations;
21 and

22 (B) such other divisional organizations as
23 the Commission may determine necessary.

1 (2) INTEGRATION.—The Commission, to the ex-
2 tent practicable, shall organize the bureaus and
3 other divisions of the Commission to—

4 (A) promote collaboration and cross-cut-
5 ting subject matter and technical expertise; and

6 (B) avoid organization silos.

7 (3) PERSONNEL.—Each bureau established
8 under paragraph (1)(A) shall include such legal, en-
9 gineering, accounting, administrative, clerical, and
10 other personnel as the Commission may determine to
11 be necessary to perform its functions.

12 (4) EXPERT PERSONNEL.—The Commission
13 shall prioritize, to the extent practicable, the hiring
14 of staff with a demonstrated academic or profes-
15 sional background in computer science, data science,
16 application development, technology policy, and
17 other areas the Commission may determine nec-
18 essary to perform its functions.

19 (c) DELEGATION OF FUNCTIONS; EXCEPTIONS TO
20 INITIAL ORDERS; FORCE, EFFECT, AND ENFORCEMENT
21 OF ORDERS; ADMINISTRATIVE AND JUDICIAL REVIEW;
22 QUALIFICATIONS AND COMPENSATION OF DELEGATES;
23 ASSIGNMENT OF CASES; SEPARATION OF REVIEW AND
24 INVESTIGATIVE OR PROSECUTING FUNCTIONS; SEC-
25 RETARY; SEAL.—

1 (1) DELEGATION OF FUNCTIONS.—

2 (A) IN GENERAL.—When necessary to the
3 proper functioning of the Commission and the
4 prompt and orderly conduct of its business, the
5 Commission may, by published rule or by order,
6 delegate any of its functions to a panel of com-
7 missioners, an individual commissioner, an em-
8 ployee board, or an individual employee, includ-
9 ing functions with respect to hearing, deter-
10 mining, ordering, certifying, reporting, or other-
11 wise acting as to any work, business, or matter;
12 except that in delegating review functions to
13 employees in cases of adjudication (as defined
14 in section 551 of title 5, United States Code),
15 the delegation in any such case may be made
16 only to an employee board consisting of 2 or
17 more employees referred to in paragraph (7).

18 (B) MINIMUM VOTE.—Any rule or order
19 described in subparagraph (A) may be adopted,
20 amended, or rescinded only by a vote of a ma-
21 jority of the members of the Commission then
22 holding office.

23 (2) FORCE, EFFECT, AND ENFORCEMENT OF
24 ORDERS.—Any order, decision, report, or action
25 made or taken pursuant to a delegation under para-

1 graph (1), unless reviewed as provided in paragraph
2 (3), shall have the same force and effect, and shall
3 be made, evidenced, and enforced in the same man-
4 ner, as orders, decisions, reports, or other actions of
5 the Commission.

6 (3) ADMINISTRATIVE AND JUDICIAL REVIEW.—

7 (A) AGGRIEVED PERSONS.—Any person
8 aggrieved by an order, decision, report, or ac-
9 tion described in paragraph (1) may file an ap-
10 plication for review by the Commission within
11 such time and in such manner as the Commis-
12 sion shall prescribe, and every such application
13 shall be passed upon by the Commission.

14 (B) INITIATIVE OF COMMISSION.—The
15 Commission, on its own initiative, may review
16 in whole or in part, at such time and in such
17 manner as it shall determine, any order, deci-
18 sion, report, or action made or taken pursuant
19 to any delegation under paragraph (1).

20 (4) REVIEW.—

21 (A) IN GENERAL.—In passing upon an ap-
22 plication for review filed under paragraph (3),
23 the Commission may grant, in whole or in part,
24 or deny the application without specifying any
25 reasons therefor.

1 (B) QUESTIONS OF FACT OR LAW.—No ap-
2 plication for review filed under paragraph
3 (3)(A) shall rely on questions of fact or law
4 upon which the panel of commissioners, indi-
5 vidual commissioner, employee board, or indi-
6 vidual employee has been afforded no oppor-
7 tunity to pass.

8 (5) GRANT OF APPLICATION.—If the Commis-
9 sion grants an application for review filed under
10 paragraph (3)(A), the Commission may—

11 (A) affirm, modify, or set aside the order,
12 decision, report, or action; or

13 (B) order a rehearing upon the order, deci-
14 sion, report, or action.

15 (6) APPLICATION REQUIRED FOR JUDICIAL RE-
16 VIEW.—The filing of an application for review under
17 paragraph (3)(A) shall be a condition precedent to
18 judicial review of any order, decision, report, or ac-
19 tion made or taken pursuant to a delegation under
20 paragraph (1).

21 (7) QUALIFICATIONS AND COMPENSATION OF
22 DELEGATES; ASSIGNMENT OF CASES; SEPARATION
23 OF REVIEW AND INVESTIGATIVE OR PROSECUTING
24 FUNCTIONS.—

1 (A) QUALIFICATIONS OF DELEGATES.—

2 The employees to whom the Commission may
3 delegate review functions in any case of adju-
4 dication (as defined in the Administrative Pro-
5 cedure Act)—

6 (i) shall be qualified, by reason of
7 their training, experience, and competence,
8 to perform such review functions; and

9 (ii) shall perform no duties incon-
10 sistent with such review functions.

11 (B) COMPENSATION.—An employee de-
12 scribed in subparagraph (A) shall be in a grade
13 classification or salary level commensurate with
14 the important duties of the employee, and in no
15 event less than the grade classification or salary
16 level of the employee or employees whose ac-
17 tions are to be reviewed.

18 (C) SEPARATION.—In the performance of
19 review functions described in subparagraph (A),
20 employees described in that subparagraph—

21 (i) shall be assigned to cases in rota-
22 tion so far as practicable; and

23 (ii) shall not be responsible to or sub-
24 ject to the supervision or direction of any
25 officer, employee, or agent engaged in the

1 performance of investigative or prosecuting
2 functions for any agency.

3 (8) SECRETARY; SEAL.—The secretary and seal
4 of the Commission shall be the secretary and seal of
5 each panel of the Commission, each individual com-
6 missioner, and each employee board or individual
7 employee exercising functions delegated pursuant to
8 paragraph (1) of this subsection.

9 (d) MEETINGS.—Meetings of the Commission shall
10 be held at regular intervals, not less frequently than once
11 each calendar month, at which times the functioning of
12 the Commission and the handling of its workload shall be
13 reviewed and such orders shall be entered and other action
14 taken as may be necessary or appropriate to expedite the
15 prompt and orderly conduct of the business of the Com-
16 mission with the objective of rendering a final decision in
17 a timely fashion.

18 (e) MANAGING DIRECTOR.—

19 (1) IN GENERAL.—The Commission shall have
20 a Managing Director who shall be appointed by the
21 Chair subject to the approval of the Commission.

22 (2) FUNCTIONS.—The Managing Director,
23 under the supervision and direction of the Chair,
24 shall perform such administrative and executive
25 functions as the Chair shall delegate.

1 (3) PAY.—The Managing Director shall be paid
2 at a rate equal to the rate then payable for grade
3 15 of the pay scale of the Securities and Exchange
4 Commission.

5 **SEC. 8. CODE COUNCIL.**

6 (a) ESTABLISHMENT.—The Commission shall estab-
7 lish a Code Council that shall develop proposed voluntary
8 or enforceable behavioral codes, technical standards, or
9 other policies for digital platforms through the code proc-
10 ess under subsection (e), including with respect to trans-
11 parency and accountability for algorithmic processes.

12 (b) MEMBERSHIP.—

13 (1) IN GENERAL.—The Council shall consist of
14 18 members, of whom—

15 (A) 6 shall be representatives of digital
16 platforms or associations of digital platforms,
17 not fewer than 3 of whom shall be representa-
18 tives of systemically important digital platforms
19 or associations that include systemically impor-
20 tant digital platforms;

21 (B) 6 shall be representatives of nonprofit
22 public interest groups, academics, and other ex-
23 perts not affiliated with commercial enterprises,
24 with demonstrated expertise in technology pol-
25 icy, law, consumer protection, privacy, competi-

1 tion, disinformation, or another area the Chair
2 determines relevant; and

3 (C) 6 shall be technical experts in engi-
4 neering, application development, computer
5 science, data science, machine learning, commu-
6 nications, media studies, and any other dis-
7 cipline the Chair determines relevant.

8 (2) APPOINTMENT.—The Chair shall appoint
9 each member of the Council, subject to approval by
10 the Commission.

11 (3) TERMS.—

12 (A) IN GENERAL.—A member of the Coun-
13 cil shall be appointed for a term of 3 years.

14 (B) STAGGERED TERMS.—The terms of
15 members of the Council shall be staggered such
16 that one-third of the membership of the Council
17 changes each year.

18 (c) MEETINGS.—The Council shall meet publicly not
19 less frequently than once a month.

20 (d) CHAIR AND VICE CHAIR.—

21 (1) IN GENERAL.—There shall be a Chair and
22 Vice Chair of the Council—

23 (A) one of whom shall be a member de-
24 scribed in subparagraph (A) of subsection
25 (b)(1); and

1 (B) one of whom shall be a member de-
 2 scribed in subparagraph (B) of subsection
 3 (b)(1).

4 (2) ANNUAL ROTATION.—The Chair or Vice
 5 Chair for a calendar year shall be a member de-
 6 scribed in a different subparagraph of subsection
 7 (b)(1) than the member who served as Chair or Vice
 8 Chair, respectively, for the preceding calendar year.

9 (e) CODE PROCESS.—

10 (1) IN GENERAL.—The Commission may, at
 11 any time, initiate a process to develop a voluntary or
 12 enforceable behavioral code, technical standard, or
 13 other policy for digital platforms or a class of digital
 14 platforms.

15 (2) INITIATION BASED ON PETITION OR COUN-
 16 CIL VOTE.—The Commission may initiate the proc-
 17 ess described in paragraph (1) if—

18 (A) the Commission receives a petition
 19 from the public, including from a digital plat-
 20 form or an association of digital platforms; or

21 (B) the Council votes to initiate the proc-
 22 ess.

23 (3) COUNCIL EXAMINATION AND VOTE.—If the
 24 process described in paragraph (1) is initiated, the
 25 Council—

1 (A) shall consider and develop, if appro-
2 priate, a proposed behavioral code, technical
3 standard, or other policy for digital platforms
4 or a class of digital platforms;

5 (B) in considering and developing a pro-
6 posed code, standard, or policy under subpara-
7 graph (A), shall—

8 (i) allow for submission of feedback by
9 any interested party; and

10 (ii) make available to the public a fac-
11 tual record, developed during the consider-
12 ation and development of the proposed
13 code, standard, or policy, that includes any
14 submission received under clause (i);

15 (C) not earlier than 180 days and not later
16 than 360 days after the date on which the proc-
17 ess is initiated, shall vote on whether to submit
18 a recommendation for the proposed code, stand-
19 ard, or policy to the Commission; and

20 (D) may submit minority views along with
21 a recommendation under subparagraph (C), as
22 appropriate.

23 (4) PUBLIC REVIEW; COMMISSION EXAMINATION
24 AND VOTE.—Upon receipt of a recommendation for
25 a proposed behavioral code, technical standard, or

1 other policy from the Council under paragraph (3),
2 the Commission shall—

3 (A) allow for submission of comments on
4 the proposed code, standard, or policy by any
5 interested party for a period of not fewer than
6 45 days and not more than 90 days, and pub-
7 licly disclose any comments received;

8 (B) examine the proposed code, standard,
9 or policy, along with comments received under
10 subparagraph (A);

11 (C) determine whether to adopt, reject, or
12 adopt with modifications the proposed code,
13 standard, or policy;

14 (D) provide a public rationale for the de-
15 termination under subparagraph (C); and

16 (E) promulgate rules to carry out the de-
17 termination under subparagraph (C) in accord-
18 ance with section 553 of title 5, United States
19 Code.

20 (5) UPDATES.—Not less frequently than once
21 every 5 years, the Commission shall review and up-
22 date, as necessary, any behavioral code, technical
23 standard, or other policy established by rule under
24 paragraph (4).

1 (6) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to affect the authority
3 of the Commission to promulgate rules under section
4 9.

5 (f) QUALIFICATIONS.—

6 (1) CITIZENSHIP.—Each member of the Council
7 shall be a United States citizen or an alien lawfully
8 admitted for permanent residence to the United
9 States.

10 (2) CONFLICTS OF INTEREST.—

11 (A) IN GENERAL.—Subject to subpara-
12 graphs (B) and (C), no member of the Council
13 other than a member appointed under sub-
14 section (b)(1)(A) shall—

15 (i) be financially interested in any
16 company or other entity engaged in the
17 business of providing online services;

18 (ii) be financially interested in any
19 company or other entity that controls any
20 company or other entity specified in clause
21 (i), or that derives a significant portion of
22 its total income from ownership of stocks,
23 bonds, or other securities of any such com-
24 pany or other entity; or

1 (iii) be employed by, hold any official
2 relation to, or own any stocks, bonds, or
3 other securities of, any person significantly
4 regulated by the Commission under this
5 Act.

6 (B) SIGNIFICANT INTEREST.—The prohibi-
7 tions under subparagraph (A) shall apply only
8 to financial interests in any company or other
9 entity that has a significant interest in activi-
10 ties subject to regulation by the Commission.

11 (C) WAIVER.—

12 (i) IN GENERAL.—Subject to section
13 208 of title 18, United States Code, the
14 Commission may waive, from time to time,
15 the application of the prohibitions under
16 subparagraph (A) to a member of the
17 Council if the Commission determines that
18 the financial interests of the member that
19 are involved in a particular case are mini-
20 mal.

21 (ii) PUBLICATION.—If the Commis-
22 sion exercises the waiver authority under
23 clause (i), the Commission shall publish
24 notice of that action in the Federal Reg-
25 ister.

1 (3) DETERMINATION OF SIGNIFICANT INTER-
2 EST.—The Commission, in determining for purposes
3 of paragraph (2) whether a company or other entity
4 has a significant interest in activities that are sub-
5 ject to regulation by the Commission, shall consider,
6 without excluding other relevant factors—

7 (A) the revenues, investments, profits, and
8 managerial efforts directed to the related activi-
9 ties of the company or other entity, as com-
10 pared to the other aspects of the business of the
11 company or other entity;

12 (B) the extent to which the Commission
13 regulates and oversees the activities of the com-
14 pany or other entity;

15 (C) the degree to which the economic inter-
16 ests of the company or other entity may be af-
17 fected by any action of the Commission; and

18 (D) the perceptions held by the public re-
19 garding the business activities of the company
20 or other entity.

21 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed to authorize the Council to promul-
23 gate rules.

1 **SEC. 9. RULEMAKING AUTHORITY, REQUIREMENTS, AND**
2 **CONSIDERATIONS.**

3 The Commission—

4 (1) may promulgate rules to carry out this Act
5 in accordance with section 553 of title 5, United
6 States Code; and

7 (2) shall tailor the rules promulgated under
8 paragraph (1), as appropriate, based on the size,
9 dominance, and other attributes of particular digital
10 platforms.

11 **SEC. 10. SYSTEMICALLY IMPORTANT DIGITAL PLATFORMS.**

12 (a) DESIGNATION OF SIDPS; RULEMAKING AUTHOR-
13 ITY.—The Commission may—

14 (1) designate systemically important digital
15 platforms in accordance with this section; and

16 (2) promulgate rules specific to systemically im-
17 portant digital platforms, consistent with the pur-
18 poses of the Commission under section 4(b).

19 (b) MANDATORY CRITERIA.—The Commission shall
20 designate a digital platform a systemically important dig-
21 ital platform if the platform—

22 (1) is open to the public on one side;

23 (2) has significant engagement among users,
24 which may take the form of private groups, public
25 groups, and the sharing of posts visible to some or
26 all users;

1 (3) conducts business primarily at the inter-
2 state or international level, as opposed to the intra-
3 state level; and

4 (4) has operations with significant nationwide
5 economic, social, or political impacts, as defined by
6 the Commission for purposes of this paragraph
7 through notice-and-comment rulemaking under sec-
8 tion 553 of title 5, United States Code, which may
9 include—

10 (A) the ability of the platform to signifi-
11 cantly shape the national dissemination of
12 news;

13 (B) the ability of the platform to cause a
14 person significant, immediate, and demon-
15 strable economic, social, or political harm by ex-
16 clusion from the platform;

17 (C) the market power of the platform;

18 (D) the number of unique daily users of
19 the platform; and

20 (E) the dependence of business users, espe-
21 cially small business users (including entre-
22 preneurs from communities of color and under-
23 served populations), on the platform to reach
24 customers.

25 (c) ANNUAL AND OTHER REPORTS.—

1 (1) AUTHORITY TO REQUIRE REPORTS.—The
2 Commission may—

3 (A) require annual reports from system-
4 ically important digital platforms subject to this
5 Act, and from persons directly or indirectly con-
6 trolling or controlled by, or under direct or indi-
7 rect control with, any such platform;

8 (B) prescribe the content expected in such
9 reports;

10 (C) prescribe the manner in which such re-
11 ports shall be made; and

12 (D) require from such persons specific an-
13 swers to all questions upon which the Commis-
14 sion may need information.

15 (2) ADMINISTRATION.—

16 (A) TIME PERIOD COVERED; FILING.—A
17 report under paragraph (1)—

18 (i) shall be for such 12 months' period
19 as the Commission shall designate; and

20 (ii) shall be filed with the Commission
21 at its office in Washington not later than
22 3 months after the close of the year for
23 which the report is made, unless additional
24 time is granted in any case by the Com-
25 mission.

1 (B) FAILURE TO MEET DEADLINE.—If a
2 person subject to this subsection fails to make
3 and file an annual report within the time speci-
4 fied under subparagraph (A), or within the time
5 extended by the Commission, for making and
6 filing the report, or fails to make specific an-
7 swer to any question authorized by this sub-
8 section within 30 days after the time the person
9 is lawfully required so to do, the person shall
10 forfeit to the United States—

11 (i) \$10,000 for each day the person
12 continues to be in default with respect
13 thereto, for the first 30 days of such de-
14 fault; and

15 (ii) an amount determined appropriate
16 by the Commission for each subsequent
17 day that the person continues to be in de-
18 fault with respect thereto, which may not
19 exceed 1 percent of the total global revenue
20 of the person during the preceding year.

21 **SEC. 11. INTER-AGENCY SUPPORT.**

22 (a) EXPERT SUPPORT.—Upon request from any
23 other Federal agency for expertise, technical assistance,
24 or other support from the Commission, the Commission
25 shall provide that support.

1 (b) **REQUIRED CONSULTATION BY OTHER FEDERAL**
2 **AGENCIES.**—Any Federal agency, including the Federal
3 Trade Commission and the Antitrust Division of the De-
4 partment of Justice, engaged in investigation, regulation,
5 or oversight with respect to the impact of digital platforms
6 on consumer protection, competition, civic engagement, or
7 democratic values and institutions shall consult with the
8 Commission in carrying out that investigation, regulation,
9 or oversight.

10 (c) **REQUIRED CONSULTATION WITH OTHER FED-**
11 **ERAL AGENCIES.**—The Commission, in carrying out inves-
12 tigation, regulation, or oversight with respect to the im-
13 pact of digital platforms on consumer protection, competi-
14 tion, civic engagement, or democratic values and institu-
15 tions, shall consult with each other Federal agency, includ-
16 ing the Federal Trade Commission and the Antitrust Divi-
17 sion of the Department of Justice, that is engaged in in-
18 vestigation, regulation, or oversight with respect to the im-
19 pact of digital platforms on consumer protection, competi-
20 tion, civic engagement, or democratic values and institu-
21 tions.

22 **SEC. 12. PETITIONS.**

23 (a) **PETITION FOR FORBEARANCE.**—

24 (1) **SUBMISSION.**—

1 (A) IN GENERAL.—Any digital platform or
2 association of digital platforms may submit a
3 petition to the Commission requesting that the
4 Commission forbear the application and en-
5 forcement of a rule promulgated under this Act,
6 including a behavioral code of conduct, tech-
7 nical standard, or other policy established by
8 rule under section 8.

9 (B) PUBLICATION.—

10 (i) IN GENERAL.—Subject to clause
11 (ii), the Commission shall make a petition
12 submitted under subparagraph (A) avail-
13 able to the public.

14 (ii) WAIVER.—The Commission may
15 waive the requirement under clause (i) if
16 the Commission makes the rationale for
17 the waiver available to the public.

18 (2) DISMISSAL WITHOUT PREJUDICE.—

19 (A) IN GENERAL.—Any petition submitted
20 under paragraph (1) shall be deemed dismissed
21 without prejudice if the Commission does not
22 grant the petition within 18 months after the
23 date on which the Commission receives the peti-
24 tion, unless the Commission extends the 18-

1 month period under subparagraph (B) of this
2 paragraph.

3 (B) EXTENSION.—The Commission may
4 extend the initial 18-month period under sub-
5 paragraph (A) by an additional 3 months.

6 (3) SCOPE OF GRANT AUTHORITY; WRITTEN
7 EXPLANATION.—The Commission may grant or deny
8 a petition submitted under paragraph (1) in whole
9 or in part and shall explain its decision in writing.

10 (4) NOTICE AND COMMENT REQUIREMENTS.—
11 Section 553 of title 5, United States Code, shall
12 apply to any determination of the Commission to
13 forbear the application and enforcement of a rule
14 under paragraph (1) of this subsection.

15 (b) STATE ENFORCEMENT AFTER COMMISSION FOR-
16 BEARANCE.—A State commission may not continue to
17 apply or enforce any rule, including any behavioral code,
18 technical standard, or other policy established by rule, that
19 the Commission has determined to forbear from applying
20 under subsection (a).

21 **SEC. 13. RESEARCH.**

22 (a) RESEARCH OFFICE.—In order to carry out the
23 purposes of this Act, the Commission shall establish an
24 office with not fewer than 20 dedicated employees to con-
25 duct internal research, and collaborate with outside aca-

1 demics and experts, as appropriate, to further the pur-
2 poses of the Commission under section 4(b).

3 (b) RESEARCH GRANTS.—

4 (1) IN GENERAL.—The office established under
5 subsection (a) may competitively award grants to
6 academic institutions and experts to conduct re-
7 search consistent with the purposes of the Commis-
8 sion under section 4(b).

9 (2) PUBLIC AVAILABILITY.—A recipient of a
10 grant awarded under paragraph (1) shall make the
11 findings of the research conducted using the grant
12 publicly available.

13 (c) PILOT RESEARCH PROGRAM FOR SENSITIVE
14 DATA.—The Commission shall by rule establish a pilot
15 program that allows vetted, nonprofit, financially disin-
16 terested academic institutions and experts to access data
17 and other information collected from a digital platform by
18 the Commission for the purposes of research and analysis
19 consistent with the public interest, while—

20 (1) ensuring that no personally identifiable in-
21 formation of any user of the digital platform is pub-
22 licly available; and

23 (2) making every effort to—

24 (A) avoid harm to the business interests of
25 the digital platform; and

1 (B) ensure the safety and security of the
2 private data and other information of the dig-
3 ital platform.

4 **SEC. 14. INVESTIGATIVE AUTHORITY.**

5 (a) IN GENERAL.—The Commission may inquire into
6 the management of the business of digital platforms sub-
7 ject to this Act, and shall keep itself informed as to the
8 manner and method in which that management is con-
9 ducted and as to technical and business developments in
10 the provision of online services.

11 (b) INFORMATION.—The Commission may obtain
12 from digital platforms subject to this Act and from per-
13 sons directly or indirectly controlling or controlled by, or
14 under direct or indirect control with, those platforms full
15 and complete information necessary, including data flows,
16 to enable the Commission to perform the duties and carry
17 out the objects for which it was created.

18 **SEC. 15. HSR FILINGS.**

19 Section 7A of the Clayton Act (15 U.S.C. 18a) is
20 amended by adding at the end the following:

21 “(l)(1) In this subsection—

22 “(A) the terms ‘Commission’ and ‘systemically
23 important digital platform’ have the meanings given
24 the terms in section 3 of the Digital Platform Com-
25 mission Act of 2023; and

1 “(B) the term ‘covered acquisition’ means an
2 acquisition—

3 “(i) subject to this section; and

4 “(ii) in which the acquiring person or the
5 person whose voting securities or assets are
6 being acquired is a systemically important dig-
7 ital platform.

8 “(2) Any notification required under subsection (a)
9 for a covered acquisition shall be submitted to the Com-
10 mission.

11 “(3) The Commission may request the submission of
12 additional information or documentary material relevant
13 to a covered acquisition.

14 “(4) The Commission may submit a recommendation
15 to the Federal Trade Commission and the Assistant Attor-
16 ney General on whether the covered acquisition violates
17 any of the purposes of the Commission under section 4(b)
18 of the Digital Platform Commission Act of 2023.

19 “(5) The Federal Trade Commission and the Assist-
20 ant Attorney General—

21 “(A) shall cooperate with the Commission in de-
22 termining whether a covered acquisition, if con-
23 summated, would violate the antitrust laws or the
24 purposes of the Commission under section 4(b) of
25 the Digital Platform Commission Act of 2023;

1 “(B) may use the recommendation of the Com-
2 mission as a basis for rejecting the covered acquisi-
3 tion, or for imposing additional requirements to con-
4 summate the acquisition, even if the covered acquisi-
5 tion does not violate the antitrust laws but violates
6 other purposes of the Commission under section 4(b)
7 of the Digital Platform Commission Act of 2023;
8 and

9 “(C) in making a determination described in
10 subparagraphs (A), shall give substantial weight to
11 the recommendation of the Commission.”.

12 **SEC. 16. ENFORCEMENT BY PRIVATE PERSONS AND GOV-**
13 **ERNMENTAL ENTITIES.**

14 (a) **RECOVERY OF DAMAGES.**—Any person claiming
15 to be damaged by any digital platform subject to this Act
16 may—

17 (1) make complaint to the Commission under
18 subsection (b); or

19 (2) bring a civil action for enforcement of this
20 Act, including the rules promulgated under this Act,
21 in any district court of the United States of com-
22 petent jurisdiction.

23 (b) **COMPLAINTS TO THE COMMISSION.**—

24 (1) **IN GENERAL.**—

1 (A) APPLICATION.—Any person, any body
2 politic or municipal organization, or any State
3 attorney general or State commission, com-
4 plaining of anything done or omitted to be done
5 by any digital platform subject to this Act, in
6 contravention of the provisions thereof, may
7 apply to the Commission by petition which shall
8 briefly state the facts, whereupon a statement
9 of the complaint thus made shall be forwarded
10 by the Commission to the digital platform,
11 which shall be called upon to satisfy the com-
12 plaint or to answer the complaint in writing
13 within a reasonable time to be specified by the
14 Commission.

15 (B) RELIEF OF LIABILITY.—If a digital
16 platform described in subparagraph (A) within
17 the time specified makes reparation for the in-
18 jury alleged to have been caused, the platform
19 shall be relieved of liability to the complainant
20 only for the particular violation of law thus
21 complained of.

22 (C) INVESTIGATION.—If a digital platform
23 described in subparagraph (A) does not satisfy
24 the complaint within the time specified or there
25 shall appear to be any reasonable ground for in-

1 vestigating the complaint, the Commission shall
2 investigate the matters complained of in such
3 manner and by such means as the Commission
4 determines proper.

5 (D) DIRECT DAMAGE NOT REQUIRED.—No
6 complaint shall at any time be dismissed be-
7 cause of the absence of direct damage to the
8 complainant.

9 (2) ORDER.—

10 (A) IN GENERAL.—The Commission shall,
11 with respect to any investigation under this
12 subsection of the lawfulness of a charge, classi-
13 fication, regulation, or practice, issue an order
14 concluding the investigation not later than 180
15 days after the date on which the complaint was
16 filed.

17 (B) FINAL ORDER.—Any order concluding
18 an investigation under subparagraph (A) shall
19 be a final order and may be appealed under sec-
20 tion 18.

21 (3) ORDERS FOR PAYMENT OF MONEY.—If,
22 after hearing on a complaint under this paragraph,
23 the Commission determines that any party complain-
24 ant is entitled to an award of damages under this
25 Act, the Commission shall make an order directing

1 the digital platform to pay to the complainant the
2 sum to which the complainant is entitled on or be-
3 fore a day named.

4 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
5 ERAL.—If the attorney general of a State has reason to
6 believe that an interest of the residents of the State has
7 been or is threatened or adversely affected by any person
8 who violates this Act or a rule promulgated under this Act,
9 the attorney general of the State, as *parens patrie*, may
10 bring a civil action on behalf of the residents of the State
11 in any district court of the United States of competent
12 jurisdiction for enforcement of this Act, including the rules
13 promulgated under this Act.

14 (d) LIABILITY OF DIGITAL PLATFORM FOR ACTS
15 AND OMISSIONS OF AGENTS.—In construing and enforce-
16 ing the provisions of this Act, the act, omission, or failure
17 of any officer, agent, or other person acting for or em-
18 ployed by any digital platform or user, acting within the
19 scope of his employment, shall in every case be also
20 deemed to be the act, omission, or failure of the platform
21 or user as well as that of the person.

22 **SEC. 17. ENFORCEMENT BY COMMISSION AND DEPART-**
23 **MENT OF JUSTICE.**

24 (a) ORDERS.—

1 (1) ADMINISTRATIVE ORDER.—If the Commis-
2 sion believes that a person has violated or will vio-
3 late this Act, the Commission may issue and cause
4 to be served on the person an order requiring the
5 person, as applicable—

6 (A) to cease and desist, or refrain, from
7 the violation; or

8 (B) to pay restitution to any victim of the
9 violation.

10 (2) CIVIL ACTION TO ENFORCE ORDER.—The
11 Commission or the Attorney General may bring a
12 civil action in an appropriate district court of the
13 United States to enforce an order issued under para-
14 graph (1).

15 (b) CIVIL PENALTY.—

16 (1) IN GENERAL.—Any digital platform that
17 knowingly violates this Act shall be liable to the
18 United States for a civil penalty.

19 (2) SEPARATE OFFENSES.—Each distinct viola-
20 tion described in paragraph (1) shall be a separate
21 offense, and in case of continuing violation each day
22 shall be deemed a separate offense.

23 (3) DETERRENCE.—The Commission shall es-
24 tablish a civil penalty for a violation of this Act in

1 an amount that the Commission determines appro-
2 priate to deter future violations of this Act.

3 (4) ANNUAL CAP.—The total amount of civil
4 penalties imposed on a digital platform during a
5 year under paragraph (1) may not exceed 15 percent
6 of the total global revenue of the digital platform
7 during the preceding year.

8 **SEC. 18. PROCEEDINGS TO ENJOIN, SET ASIDE, ANNUL, OR**
9 **SUSPEND ORDERS OF THE COMMISSION.**

10 (a) RIGHT TO APPEAL.—An appeal may be taken
11 from any decision or order of the Commission, by any per-
12 son who is aggrieved or whose interests are adversely af-
13 fected by the decision or order, to the United States Court
14 of Appeals for the District of Columbia or the United
15 States court of appeals for the circuit in which the person
16 resides.

17 (b) FILING NOTICE OF APPEAL; CONTENTS; JURIS-
18 DICTION; TEMPORARY ORDERS.—

19 (1) FILING NOTICE OF APPEAL.—An appeal de-
20 scribed in subsection (a) shall be taken by filing a
21 notice of appeal with the appropriate United States
22 court of appeals not later than 30 days after the
23 date on which public notice is given of the decision
24 or order complained of.

1 (2) CONTENTS.—A notice of appeal filed under
2 paragraph (1) shall contain—

3 (A) a concise statement of the nature of
4 the proceedings as to which the appeal is taken;

5 (B) a concise statement of the reasons on
6 which the appellant intends to rely, separately
7 stated and numbered; and

8 (C) proof of service of a true copy of the
9 notice and statements upon the Commission.

10 (3) JURISDICTION.—Upon the filing of a notice
11 of appeal with a United States court of appeals
12 under paragraph (1), the court—

13 (A) shall have jurisdiction of the pro-
14 ceedings and of the questions determined there-
15 in; and

16 (B) shall have power, by order, directed to
17 the Commission or any other party to the ap-
18 peal, to grant such temporary relief as the
19 court may deem just and proper.

20 (4) TEMPORARY ORDERS.—An order granting
21 temporary relief issued by the court under para-
22 graph (3)—

23 (A) may be affirmative or negative in scope
24 and application so as to permit—

1 (i) the maintenance of the status quo
2 in the matter in which the appeal is taken;

3 or

4 (ii) the restoration of a position or
5 status terminated or adversely affected by
6 the order appealed from; and

7 (B) shall, unless otherwise ordered by the
8 court, be effective pending hearing and deter-
9 mination of the appeal and compliance by the
10 Commission with the final judgment of the
11 court rendered in the appeal.

12 (c) NOTICE TO INTERESTED PARTIES; FILING OF
13 RECORD.—

14 (1) NOTICE TO INTERESTED PARTIES.—Not
15 later than 5 days after filing a notice of appeal
16 under subsection (b), the appellant shall provide, to
17 each person shown by the records of the Commission
18 to be interested in the appeal, notice of—

19 (A) the filing; and

20 (B) the pendency of the appeal.

21 (2) FILING OF RECORD.—The Commission shall
22 file with the court the record upon which the order
23 complained of was entered, as provided in section
24 2112 of title 28, United States Code.

25 (d) INTERVENTION.—

1 (1) RIGHT TO INTERVENE.—Not later than 30
2 days after the filing of an appeal described in sub-
3 section (a), any interested party may intervene and
4 participate in the proceedings had upon the appeal
5 by filing with the court—

6 (A) a notice of intention to intervene and
7 a verified statement showing the nature of the
8 interest of the person; and

9 (B) proof of service of true copies of the
10 notice and statement described in subparagraph

11 (A) upon—

12 (i) the appellant; and

13 (ii) the Commission.

14 (2) INTERESTED PARTY.—For purposes of
15 paragraph (1), any person who would be aggrieved
16 or whose interest would be adversely affected by a
17 reversal or modification of the order of the Commis-
18 sion complained of shall be considered an interested
19 party.

20 (e) RECORD AND BRIEFS.—The record and briefs
21 upon which an appeal described in subsection (a) shall be
22 heard and determined by the court shall contain such in-
23 formation and material, and shall be prepared within such
24 time and in such manner, as the court may by rule pre-
25 scribe.

1 (f) TIME OF HEARING; PROCEDURE.—The court
2 shall hear and determine an appeal described in subsection
3 (a) upon the record before it in the manner prescribed by
4 section 706 of title 5, United States Code.

5 (g) REMAND.—If the court renders a decision and en-
6 ters an order reversing the order of the Commission—

7 (1) the court shall remand the case to the Com-
8 mission to carry out the judgment of the court; and

9 (2) the Commission, in the absence of pro-
10 ceedings to review the judgment under paragraph
11 (1) or (2) of subsection (i), shall forthwith give ef-
12 fect to the judgment, and unless otherwise ordered
13 by the court, shall do so upon the basis of—

14 (A) the proceedings already had; and

15 (B) the record upon which the appeal was
16 heard and determined.

17 (h) JUDGMENT FOR COSTS.—The court may, in its
18 discretion, enter judgment for costs in favor of or against
19 an appellant, or other interested parties intervening in the
20 appeal, but not against the Commission, depending upon
21 the nature of the issues involved in the appeal and the
22 outcome of the appeal.

23 (i) FINALITY OF DECISION; REVIEW BY SUPREME
24 COURT.—The judgment of a court of appeals under this

1 section shall be final, subject to review by the Supreme
2 Court of the United States—

3 (1) upon writ of certiorari on petition therefor
4 under section 1254 of title 28, United States Code,
5 by—

6 (A) the appellant;

7 (B) the Commission; or

8 (C) any interested party intervening in the
9 appeal; or

10 (2) by certification by the court of appeals
11 under such section 1254.

12 **SEC. 19. REPORT TO CONGRESS.**

13 (a) IN GENERAL.—Not earlier than 5 years after the
14 date of enactment of this Act, the President shall establish
15 an independent panel to—

16 (1) comprehensively study the policies, oper-
17 ations, and regulations of the Commission; and

18 (2) submit an in-depth report to the congres-
19 sional committees of jurisdiction, including the Com-
20 mittee on Commerce, Science, and Transportation of
21 the Senate and the Committee on Energy and Com-
22 merce of the House of Representatives, that in-
23 cludes—

1 (A) an evaluation of the effectiveness of
2 the Commission in achieving the purposes
3 under section 4(b);

4 (B) recommended reforms to strengthen
5 the Commission; and

6 (C) a recommendation regarding whether
7 the Commission should continue in effect.

8 (b) MEMBERSHIP.—The independent panel estab-
9 lished under subsection (a) shall consist of 10 members,
10 of whom—

11 (1) 2 shall be appointed by the President;

12 (2) 2 shall be appointed by the majority leader
13 of the Senate;

14 (3) 2 shall be appointed by the minority leader
15 of the Senate;

16 (4) 2 shall be appointed by the Speaker of the
17 House of Representatives; and

18 (5) 2 shall be appointed by the minority leader
19 of the House of Representatives.

20 **SEC. 20. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to the Com-
22 mission to carry out the functions of the Commission—

23 (1) \$100,000,000 for fiscal year 2023;

24 (2) \$200,000,000 for fiscal year 2024;

25 (3) \$300,000,000 for fiscal year 2025;

- 1 (4) \$450,000,000 for fiscal year 2026; and
- 2 (5) \$500,000,000 for each of fiscal years 2027
- 3 through 2032.

○