

113TH CONGRESS  
1ST SESSION

# S. 1700

To amend the Children’s Online Privacy Protection Act of 1998 to extend, enhance, and revise the provisions relating to collection, use, and disclosure of personal information of children, to establish certain other protections for personal information of children and minors, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2013

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

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## A BILL

To amend the Children’s Online Privacy Protection Act of 1998 to extend, enhance, and revise the provisions relating to collection, use, and disclosure of personal information of children, to establish certain other protections for personal information of children and minors, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Do Not Track Kids  
5 Act of 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Since the enactment of the Children’s On-  
4 line Privacy Protection Act of 1998, the World Wide  
5 Web has changed dramatically, with the creation of  
6 tens of millions of websites, the proliferation of en-  
7 tirely new media platforms, and the emergence of a  
8 diverse ecosystem of services, devices, and applica-  
9 tions that enable users to connect wirelessly within  
10 an online environment without being tethered to a  
11 desktop computer.

12 (2) The explosive growth of the Internet eco-  
13 system has unleashed a wide array of opportunities  
14 to learn, communicate, participate in civic life, ac-  
15 cess entertainment, and engage in commerce.

16 (3) In addition to these significant benefits, the  
17 Internet also presents challenges, particularly with  
18 respect to the efforts of entities to track the online  
19 activities of children and minors and to collect, use,  
20 and disclose personal information about them, in-  
21 cluding their geolocation, for commercial purposes.

22 (4) Children and teens are visiting numerous  
23 companies’ websites, and marketers are using multi-  
24 media games, online quizzes, and mobile phone and  
25 tablet applications to create ties to children and  
26 teens.

1           (5) According to a study by the Wall Street  
2 Journal in 2010, websites directed to children and  
3 teens were more likely to use cookies and other  
4 tracking tools than sites directed to a general audi-  
5 ence.

6           (6) This study examined 50 popular websites  
7 for children and teens in the United States and  
8 found that these 50 sites placed 4,123 cookies, bea-  
9 cons, and other tracking tools on the test computer  
10 used for the study.

11           (7) This is 30 percent greater than the number  
12 of such tracking tools that were placed on the test  
13 computer in a similar study of the 50 overall most  
14 popular websites in the United States, which are  
15 generally directed to adults.

16           (8) Children and teens lack the cognitive ability  
17 to distinguish advertising from program content and  
18 to understand that the purpose of advertising is to  
19 persuade them, making them unable to activate the  
20 defenses on which adults rely.

21           (9) Children and teens are less able than adults  
22 to understand the potential long-term consequences  
23 of having their information available to third parties,  
24 including advertisers, and other individuals.

1           (10) According to Common Sense Media and  
2 the Center for Digital Democracy, 90 percent of  
3 teens have used some form of social media, 75 per-  
4 cent have a social networking site, and 51 percent  
5 check their social networking site at least once a  
6 day.

7           (11) Ninety-one percent of parents and 91 per-  
8 cent of adults believe it is not okay for advertisers  
9 to collect information about a child’s location from  
10 that child’s mobile phone.

11           (12) Ninety-four percent of parents and 91 per-  
12 cent of adults agree that advertisers should receive  
13 the parent’s permission before putting tracking soft-  
14 ware on a child’s computer.

15           (13) Ninety-six percent of parents and 94 per-  
16 cent of adults expressed disapproval when asked if  
17 it is “okay for a website to ask children for personal  
18 information about their friends”.

19           (14) Eighty-eight percent of parents would sup-  
20 port a law that requires search engines and social  
21 networking sites to get users’ permission before  
22 using their personal information.

23           (15) A Commonsense Media/Zogby poll found  
24 that 94 percent of parents and 94 percent of adults  
25 believe individuals should have the ability to request

1 the deletion, after a specific period of time, of all of  
2 their personal information held by an online search  
3 engine, social networking site, or marketing com-  
4 pany.

5 (16) According to a Pew/Berkman Center poll,  
6 69 percent of parents of teens who engage in online  
7 activity are concerned about how that activity might  
8 affect their children’s future academic or employ-  
9 ment opportunities.

10 (17) Eighty-one percent of parents of teens who  
11 engage in online activity say they are concerned  
12 about how much information advertisers can learn  
13 about their children’s online activity.

14 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**  
15 **PERSONAL INFORMATION OF CHILDREN.**

16 (a) DEFINITIONS.—Section 1302 of the Children’s  
17 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)  
18 is amended—

19 (1) by amending paragraph (2) to read as fol-  
20 lows:

21 “(2) OPERATOR.—The term ‘operator’—

22 “(A) means any person who, for commer-  
23 cial purposes, in interstate or foreign commerce,  
24 operates or provides a website on the Internet,

1 online service, online application, or mobile ap-  
2 plication, and who—

3 “(i) collects or maintains, either di-  
4 rectly or through a service provider, per-  
5 sonal information from or about the users  
6 of such website, service, or application;

7 “(ii) allows another person to collect  
8 personal information directly from users of  
9 such website, service, or application (in  
10 which case the operator is deemed to have  
11 collected the information); or

12 “(iii) allows users of such website,  
13 service, or application to publicly disclose  
14 personal information (in which case the op-  
15 erator is deemed to have collected the in-  
16 formation); and

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

21 (2) in paragraph (4)—

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

24 “(A) the release of personal information  
25 for any purpose, except where such information

1 is provided to a person other than an operator  
2 who provides support for the internal operations  
3 of the website, online service, online application,  
4 or mobile application of the operator and does  
5 not disclose or use that information for any  
6 other purpose; and”;

7 (B) in subparagraph (B), by striking  
8 “website or online service” and inserting  
9 “website, online service, online application, or  
10 mobile application”;

11 (3) in paragraph (8)—

12 (A) by amending subparagraph (G) to read  
13 as follows:

14 “(G) information concerning a child or the  
15 parents of that child (including any unique or  
16 substantially unique identifier, such as a cus-  
17 tomer number) that an operator collects online  
18 from the child and combines with an identifier  
19 described in subparagraphs (A) through (G).”;

20 (B) by redesignating subparagraphs (F)  
21 and (G) as subparagraphs (G) and (H), respec-  
22 tively; and

23 (C) by inserting after subparagraph (E)  
24 the following new subparagraph:

1           “(F) information (including an Internet  
2           protocol address) that permits the identification  
3           of an individual, the computer of an individual,  
4           or any other device used by an individual to ac-  
5           cess the Internet or an online service, online ap-  
6           plication, or mobile application;”;

7           (4) by striking paragraph (10) and redesi-  
8           gnating paragraphs (11) and (12) as paragraphs (10)  
9           and (11), respectively; and

10          (5) by adding at the end the following new  
11          paragraph:

12           “(12) ONLINE, ONLINE SERVICE, ONLINE AP-  
13           PLICATION, MOBILE APPLICATION, DIRECTED TO  
14           CHILDREN.—The terms ‘online’, ‘online service’, ‘on-  
15           line application’, ‘mobile application’, and ‘directed  
16           to children’ shall have the meanings given such  
17           terms by the Commission by regulation. Not later  
18           than 1 year after the date of the enactment of the  
19           Do Not Track Kids Act of 2013, the Commission  
20           shall promulgate, under section 553 of title 5,  
21           United States Code, regulations that define such  
22           terms broadly enough so that they are not limited to  
23           current technology, consistent with the principles ar-  
24           ticulated by the Commission regarding the definition  
25           of the term ‘Internet’ in its statement of basis and



1 purpose on the final rule under this title promul-  
2 gated on November 3, 1999 (64 Fed. Reg. 59891).  
3 The definition of the term ‘online service’ in such  
4 regulations shall include broadband Internet access  
5 service (as defined in the Report and Order of the  
6 Federal Communications Commission relating to the  
7 matter of preserving the open Internet and  
8 broadband industry practices (FCC 10–201, adopted  
9 by the Commission on December 21, 2010)).”.

10 (b) ONLINE COLLECTION, USE, AND DISCLOSURE OF  
11 PERSONAL INFORMATION OF CHILDREN.—Section 1303  
12 of the Children’s Online Privacy Protection Act of 1998  
13 (15 U.S.C. 6502) is amended—

14 (1) by striking the heading and inserting the  
15 following: “**ONLINE COLLECTION, USE, AND DIS-**  
16 **CLOSURE OF PERSONAL INFORMATION OF**  
17 **CHILDREN.**”;

18 (2) in subsection (a)—

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

21 “(1) IN GENERAL.—It is unlawful for an oper-  
22 ator of a website, online service, online application,  
23 or mobile application directed to children, or an op-  
24 erator having actual knowledge that personal infor-  
25 mation being collected is from a child, to collect per-

1       sonal information from a child in a manner that vio-  
2       lates the regulations prescribed under subsection  
3       (b).”; and

4               (B) in paragraph (2)—

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

7                   (ii) by striking “subsection  
8                   (b)(1)(B)(iii)” and inserting “subsection  
9                   (b)(1)(C)(iii)”; and

10               (3) in subsection (b)—

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

13               “(1) IN GENERAL.—Not later than 1 year after  
14       the date of the enactment of the Do Not Track Kids  
15       Act of 2013, the Commission shall promulgate,  
16       under section 553 of title 5, United States Code,  
17       regulations to require an operator of a website, on-  
18       line service, online application, or mobile application  
19       directed to children, or an operator having actual  
20       knowledge that personal information being collected  
21       is from a child—

22                   “(A) to provide clear and conspicuous no-  
23                   tice in clear and plain language of the types of  
24                   personal information the operator collects, how  
25                   the operator uses such information, whether the

1 operator discloses such information, and the  
2 procedures or mechanisms the operator uses to  
3 ensure that personal information is not col-  
4 lected from children except in accordance with  
5 the regulations promulgated under this para-  
6 graph;

7 “(B) to obtain verifiable parental consent  
8 for the collection, use, or disclosure of personal  
9 information of a child;

10 “(C) to provide to a parent whose child  
11 has provided personal information to the oper-  
12 ator, upon request by and proper identification  
13 of the parent—

14 “(i) a description of the specific types  
15 of personal information collected from the  
16 child by the operator;

17 “(ii) the opportunity at any time to  
18 refuse to permit the further use or mainte-  
19 nance in retrievable form, or future collec-  
20 tion, by the operator of personal informa-  
21 tion collected from the child; and

22 “(iii) a means that is reasonable  
23 under the circumstances for the parent to  
24 obtain any personal information collected  
25 from the child, if such information is avail-

1           able to the operator at the time the parent  
2           makes the request;

3           “(D) not to condition participation in a  
4           game, or use of a website, service, or applica-  
5           tion, by a child on the provision by the child of  
6           more personal information than is reasonably  
7           required to participate in the game or use the  
8           website, service, or application; and

9           “(E) to establish and maintain reasonable  
10          procedures to protect the confidentiality, secu-  
11          rity, and integrity of personal information col-  
12          lected from children.”;

13          (B) in paragraph (2)—

14           (i) in the matter preceding subpara-  
15           graph (A), by striking “paragraph  
16           (1)(A)(ii)” and inserting “paragraph  
17           (1)(B)”;

18           (ii) in subparagraph (A), by inserting  
19           “or to contact a different child” after “to  
20           recontact the child”;

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

23          “(3) CONTINUATION OF SERVICE.—The regula-  
24          tions shall prohibit an operator from discontinuing  
25          service provided to a child on the basis of refusal by

1 the parent of the child, under the regulations pre-  
 2 scribed under paragraph (1)(C)(ii), to permit the  
 3 further use or maintenance in retrievable form, or  
 4 future collection, by the operator of personal infor-  
 5 mation collected from the child, to the extent that  
 6 the operator is capable of providing such service  
 7 without such information.”; and

8 (D) by adding at the end the following:

9 “(4) RULE FOR TREATMENT OF USERS OF  
 10 WEBSITES, SERVICES, AND APPLICATIONS DIRECTED  
 11 TO CHILDREN.—An operator of a website, online  
 12 service, online application, or mobile application that  
 13 is directed to children shall treat all users of such  
 14 website, service, or application as children for pur-  
 15 poses of this title, except as permitted by the Com-  
 16 mission by a regulation promulgated under this  
 17 title.”.

18 (c) ADMINISTRATION AND APPLICABILITY OF ACT.—  
 19 Section 1306 of the Children’s Online Privacy Protection  
 20 Act of 1998 (15 U.S.C. 6505) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1), by striking “, in the  
 23 case of” and all that follows and inserting the  
 24 following: “by the appropriate Federal banking  
 25 agency with respect to any insured depository

1 institution (as such terms are defined in section  
2 3 of such Act (12 U.S.C. 1813));”; and

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

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

8 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE  
9 OPERATORS.—

10 “(1) ENFORCEMENT BY FTC.—Notwithstanding  
11 section 5(a)(2) of the Federal Trade Commission  
12 Act (15 U.S.C. 45(a)(2)), compliance with the re-  
13 quirements imposed under this title shall be enforced  
14 by the Commission with respect to any telecommuni-  
15 cations carrier (as defined in section 3 of the Com-  
16 munications Act of 1934 (47 U.S.C. 153)).

17 “(2) RELATIONSHIP TO OTHER LAW.—To the  
18 extent that sections 222, 338(i), and 631 of the  
19 Communications Act of 1934 (47 U.S.C. 222;  
20 338(i); 551) are inconsistent with this title, this title  
21 controls.”.

22 **SEC. 4. TARGETED MARKETING TO CHILDREN OR MINORS.**

23 (a) ACTS PROHIBITED.—It is unlawful for—

24 (1) an operator of a website, online service, on-  
25 line application, or mobile application directed to

1 children, or an operator having actual knowledge  
2 that personal information being collected is from a  
3 child, to use, disclose to third parties, or compile  
4 personal information for targeted marketing pur-  
5 poses without verifiable parental consent; or

6 (2) an operator of a website, online service, on-  
7 line application, or mobile application directed to mi-  
8 nors, or an operator having actual knowledge that  
9 personal information being collected is from a minor,  
10 to use, disclose to third parties, or compile personal  
11 information for targeted marketing purposes without  
12 the consent of the minor.

13 (b) REGULATIONS.—Not later than 1 year after the  
14 date of the enactment of this Act, the Commission shall  
15 promulgate, under section 553 of title 5, United States  
16 Code, regulations to implement this section.

17 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS**  
18 **AND FAIR INFORMATION PRACTICES PRIN-**  
19 **CIPLES.**

20 (a) ACTS PROHIBITED.—It is unlawful for an oper-  
21 ator of a website, online service, online application, or mo-  
22 bile application directed to minors, or an operator having  
23 actual knowledge that personal information being collected  
24 is from a minor, to collect personal information from a  
25 minor unless such operator has adopted and complies with

1 a Digital Marketing Bill of Rights for Teens that is con-  
2 sistent with the Fair Information Practices Principles de-  
3 scribed in subsection (b).

4 (b) FAIR INFORMATION PRACTICES PRINCIPLES.—  
5 The Fair Information Practices Principles described in  
6 this subsection are the following:

7 (1) COLLECTION LIMITATION PRINCIPLE.—Ex-  
8 cept as provided in paragraph (3), personal informa-  
9 tion should be collected from a minor only when col-  
10 lection of the personal information is—

11 (A) consistent with the context of a par-  
12 ticular transaction or service or the relationship  
13 of the minor with the operator, including collec-  
14 tion necessary to fulfill a transaction or provide  
15 a service requested by the minor; or

16 (B) required or specifically authorized by  
17 law.

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

23 (3) PURPOSE SPECIFICATION PRINCIPLE.—The  
24 purposes for which personal information is collected  
25 should be specified to the minor not later than at



1 the time of the collection of the information. The  
2 subsequent use or disclosure of the information  
3 should be limited to—

4 (A) fulfillment of the transaction or service  
5 requested by the minor;

6 (B) support for the internal operations of  
7 the website, service, or application, as described  
8 in section 312.2 of title 16, Code of Federal  
9 Regulations;

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

13 (D) other purposes—

14 (i) that are specified in a notice to the  
15 minor; and

16 (ii) to which the minor has consented  
17 under paragraph (7) before the informa-  
18 tion is used or disclosed for such other  
19 purposes.

20 (4) RETENTION LIMITATION PRINCIPLE.—The  
21 personal information of a minor should not be re-  
22 tained for longer than is necessary to fulfill a trans-  
23 action or provide a service requested by the minor  
24 or such other purposes specified in subparagraphs  
25 (A) through (D) of paragraph (3). The operator

1 should implement a reasonable and appropriate data  
2 disposal policy based on the nature and sensitivity of  
3 such personal information.

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

9 (6) OPENNESS PRINCIPLE.—

10 (A) IN GENERAL.—The operator should  
11 maintain a general policy of openness about de-  
12 velopments, practices, and policies with respect  
13 to the personal information of a minor. The op-  
14 erator should provide each minor using the  
15 website, online service, online application, or  
16 mobile application of the operator with a clear  
17 and prominent means—

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

22 (I) in the case of an operator  
23 who is an individual, the address of  
24 the principal residence of the operator

1                   and an email address and telephone  
2                   number for the operator; or

3                   (II) in the case of any other op-  
4                   erator, the address of the principal  
5                   place of business of the operator and  
6                   an email address and telephone num-  
7                   ber for the operator;

8                   (ii) to determine whether the operator  
9                   possesses any personal information of the  
10                  minor, the nature of any such information,  
11                  and the purposes for which the information  
12                  was collected and is being retained;

13                  (iii) to obtain any personal informa-  
14                  tion of the minor that is in the possession  
15                  of the operator from the operator, or from  
16                  a person specified by the operator, within  
17                  a reasonable time after making a request,  
18                  at a charge (if any) that is not excessive,  
19                  in a reasonable manner, and in a form that  
20                  is readily intelligible to the minor;

21                  (iv) to challenge the accuracy of per-  
22                  sonal information of the minor that is in  
23                  the possession of the operator; and

24                  (v) if the minor establishes the inaccu-  
25                  racy of personal information in a challenge

1           under clause (iv), to have such information  
2           erased, corrected, completed, or otherwise  
3           amended.

4           (B) LIMITATION.—Nothing in this para-  
5           graph shall be construed to permit an operator  
6           to erase or otherwise modify personal informa-  
7           tion requested by a law enforcement agency  
8           pursuant to legal authority.

9           (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—  
10          The operator should—

11           (A) obtain consent from a minor before  
12           using or disclosing the personal information of  
13           the minor for any purpose other than the pur-  
14           poses described in subparagraphs (A) through  
15           (C) of paragraph (3); and

16           (B) obtain affirmative express consent  
17           from a minor before using or disclosing pre-  
18           viously collected personal information of the  
19           minor for purposes that constitute a material  
20           change in practice from the original purposes  
21           specified to the minor under paragraph (3).

22          (c) REGULATIONS.—Not later than 1 year after the  
23          date of the enactment of this Act, the Commission shall  
24          promulgate, under section 553 of title 5, United States  
25          Code, regulations to implement this section, including reg-

1 ulations further defining the Fair Information Practices  
2 Principles described in subsection (b).

3 **SEC. 6. ONLINE COLLECTION OF GEOLOCATION INFORMA-**  
4 **TION OF CHILDREN AND MINORS.**

5 (a) ACTS PROHIBITED.—

6 (1) IN GENERAL.—It is unlawful for an oper-  
7 ator of a website, online service, online application,  
8 or mobile application directed to children or minors,  
9 or an operator having actual knowledge that  
10 geolocation information being collected is from a  
11 child or minor, to collect geolocation information  
12 from a child or minor in a manner that violates the  
13 regulations prescribed under subsection (b).

14 (2) DISCLOSURE TO PARENT OR MINOR PRO-  
15 TECTED.—Notwithstanding paragraph (1), neither  
16 an operator nor the operator’s agent shall be held to  
17 be liable under any Federal or State law for any dis-  
18 closure made in good faith and following reasonable  
19 procedures in responding to a request for disclosure  
20 of geolocation information under subparagraph  
21 (C)(ii)(III) or (D)(ii)(III) of subsection (b)(1).

22 (b) REGULATIONS.—

23 (1) IN GENERAL.—Not later than 1 year after  
24 the date of the enactment of this Act, the Commis-  
25 sion shall promulgate, under section 553 of title 5,

1 United States Code, regulations that require an op-  
2 erator of a website, online service, online application,  
3 or mobile application directed to children or minors,  
4 or an operator having actual knowledge that  
5 geolocation information being collected is from a  
6 child or minor—

7 (A) to provide clear and conspicuous notice  
8 in clear and plain language of any geolocation  
9 information the operator collects, how the op-  
10 erator uses such information, and whether the op-  
11 erator discloses such information;

12 (B) to establish procedures or mechanisms  
13 to ensure that geolocation information is not  
14 collected from children or minors except in ac-  
15 cordance with regulations promulgated under  
16 this paragraph;

17 (C) in the case of collection of geolocation  
18 information from a child—

19 (i) prior to collecting such informa-  
20 tion, to obtain verifiable parental consent;  
21 and

22 (ii) after collecting such information,  
23 to provide to the parent of the child, upon  
24 request by and proper identification of the  
25 parent—

1 (I) a description of the  
2 geolocation information collected from  
3 the child by the operator;

4 (II) the opportunity at any time  
5 to refuse to permit the further use or  
6 maintenance in retrievable form, or  
7 future collection, by the operator of  
8 geolocation information from the  
9 child; and

10 (III) a means that is reasonable  
11 under the circumstances for the par-  
12 ent to obtain any geolocation informa-  
13 tion collected from the child, if such  
14 information is available to the oper-  
15 ator at the time the parent makes the  
16 request; and

17 (D) in the case of collection of geolocation  
18 information from a minor—

19 (i) prior to collecting such informa-  
20 tion, to obtain affirmative express consent  
21 from such minor; and

22 (ii) after collecting such information,  
23 to provide to the minor, upon request—

1 (I) a description of the  
2 geolocation information collected from  
3 the minor by the operator;

4 (II) the opportunity at any time  
5 to refuse to permit the further use or  
6 maintenance in retrievable form, or  
7 future collection, by the operator of  
8 geolocation information from the  
9 minor; and

10 (III) a means that is reasonable  
11 under the circumstances for the minor  
12 to obtain any geolocation information  
13 collected from the minor, if such in-  
14 formation is available to the operator  
15 at the time the minor makes the re-  
16 quest.

17 (2) WHEN CONSENT NOT REQUIRED.—The reg-  
18 ulations promulgated under paragraph (1) shall pro-  
19 vide that verifiable parental consent under subpara-  
20 graph (C)(i) of such paragraph or affirmative ex-  
21 press consent under subparagraph (D)(i) of such  
22 paragraph is not required when the collection of the  
23 geolocation information of a child or minor is nec-  
24 essary, to the extent permitted under other provi-  
25 sions of law, to provide information to law enforce-



1       ment agencies or for an investigation on a matter re-  
2       lated to public safety.

3           (3) CONTINUATION OF SERVICE.—The regula-  
4       tions promulgated under paragraph (1) shall pro-  
5       hibit an operator from discontinuing service provided  
6       to—

7           (A) a child on the basis of refusal by the  
8       parent of the child, under subparagraph  
9       (C)(ii)(II) of such paragraph, to permit the fur-  
10      ther use or maintenance in retrievable form, or  
11      future online collection, of geolocation informa-  
12      tion from the child by the operator, to the ex-  
13      tent that the operator is capable of providing  
14      such service without such information; or

15          (B) a minor on the basis of refusal by the  
16      minor, under subparagraph (D)(ii)(II) of such  
17      paragraph, to permit the further use or mainte-  
18      nance in retrievable form, or future online col-  
19      lection, of geolocation information from the  
20      minor by the operator, to the extent that the  
21      operator is capable of providing such service  
22      without such information.

23          (c) INCONSISTENT STATE LAW.—No State or local  
24      government may impose any liability for commercial ac-  
25      tivities or actions by operators in interstate or foreign

1 commerce in connection with an activity or action de-  
2 scribed in this section that is inconsistent with the treat-  
3 ment of those activities or actions under this section.

4 **SEC. 7. REMOVAL OF CONTENT.**

5 (a) ACTS PROHIBITED.—It is unlawful for an oper-  
6 ator of a website, online service, online application, or mo-  
7 bile application to make publicly available through the  
8 website, service, or application content or information that  
9 contains or displays personal information of children or  
10 minors in a manner that violates the regulations pre-  
11 scribed under subsection (b).

12 (b) REGULATIONS.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of the enactment of this Act, the Commis-  
15 sion shall promulgate, under section 553 of title 5,  
16 United States Code, regulations that require an op-  
17 erator—

18 (A) to the extent technologically feasible,  
19 to implement mechanisms that permit a user of  
20 the website, service, or application of the oper-  
21 ator to erase or otherwise eliminate content or  
22 information submitted to the website, service, or  
23 application by such user that is publicly avail-  
24 able through the website, service, or application

1 and contains or displays personal information of  
2 children or minors; and

3 (B) to take appropriate steps to make  
4 users aware of such mechanisms and to provide  
5 notice to users that such mechanisms do not  
6 necessarily provide comprehensive removal of  
7 the content or information submitted by such  
8 users.

9 (2) EXCEPTION.—The regulations promulgated  
10 under paragraph (1) may not require an operator or  
11 third party to erase or otherwise eliminate content  
12 or information that—

13 (A) any other provision of Federal or State  
14 law requires the operator or third party to  
15 maintain; or

16 (B) was submitted to the website, service,  
17 or application of the operator by any person  
18 other than the user who is attempting to erase  
19 or otherwise eliminate such content or informa-  
20 tion, including content or information submitted  
21 by such user that was republished or resub-  
22 mitted by another person.

23 (3) LIMITATION.—Nothing in this section shall  
24 be construed to limit the authority of a law enforce-  
25 ment agency to obtain any content or information

1 from an operator as authorized by law or pursuant  
2 to an order of a court of competent jurisdiction.

3 **SEC. 8. ENFORCEMENT AND APPLICABILITY.**

4 (a) ENFORCEMENT BY THE COMMISSION.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided, this Act and the regulations prescribed under  
7 this Act shall be enforced by the Commission under  
8 the Federal Trade Commission Act (15 U.S.C. 41 et  
9 seq.).

10 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
11 TICES.—Subject to subsection (b), a violation of this  
12 Act or a regulation prescribed under this Act shall  
13 be treated as a violation of a rule defining an unfair  
14 or deceptive act or practice prescribed under section  
15 18(a)(1)(B) of the Federal Trade Commission Act  
16 (15 U.S.C. 57a(a)(1)(B)).

17 (3) ACTIONS BY THE COMMISSION.—Subject to  
18 subsection (b), and except as provided in subsection  
19 (d)(1), the Commission shall prevent any person  
20 from violating this Act or a regulation prescribed  
21 under this Act in the same manner, by the same  
22 means, and with the same jurisdiction, powers, and  
23 duties as though all applicable terms and provisions  
24 of the Federal Trade Commission Act (15 U.S.C. 41  
25 et seq.) were incorporated into and made a part of

1 this Act, and any person who violates this Act or  
2 such regulation shall be subject to the penalties and  
3 entitled to the privileges and immunities provided in  
4 the Federal Trade Commission Act.

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

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

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

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

22 (4) Under the Packers and Stockyards Act,  
23 1921 (7 U.S.C. 181 et seq.) (except as provided in  
24 section 406 of such Act (7 U.S.C. 226; 227)) by the

1 Secretary of Agriculture, with respect to any activi-  
2 ties subject to such Act.

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

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

10 (1) IN GENERAL.—

11 (A) CIVIL ACTIONS.—In any case in which  
12 the attorney general of a State has reason to  
13 believe that an interest of the residents of that  
14 State has been or is threatened or adversely af-  
15 fected by the engagement of any person in a  
16 practice that violates this Act or a regulation  
17 prescribed under this Act, the State, as *parens*  
18 *patriae*, may bring a civil action on behalf of  
19 the residents of the State in a district court of  
20 the United States of appropriate jurisdiction  
21 to—

22 (i) enjoin that practice;

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

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

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

6 (B) NOTICE.—

7 (i) IN GENERAL.—Before filing an ac-  
8 tion under subparagraph (A), the attorney  
9 general of the State involved shall provide  
10 to the Commission—

11 (I) written notice of that action;

12 and

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

15 (ii) EXEMPTION.—

16 (I) IN GENERAL.—Clause (i)  
17 shall not apply with respect to the fil-  
18 ing of an action by an attorney gen-  
19 eral of a State under this paragraph,  
20 if the attorney general determines  
21 that it is not feasible to provide the  
22 notice described in that clause before  
23 the filing of the action.

24 (II) NOTIFICATION.—In an ac-  
25 tion described in subclause (I), the at-

1                   torney general of a State shall provide  
2                   notice and a copy of the complaint to  
3                   the Commission at the same time as  
4                   the attorney general files the action.

5                   (2) INTERVENTION.—

6                   (A) IN GENERAL.—On receiving notice  
7                   under paragraph (1)(B), the Commission shall  
8                   have the right to intervene in the action that is  
9                   the subject of the notice.

10                  (B) EFFECT OF INTERVENTION.—If the  
11                  Commission intervenes in an action under para-  
12                  graph (1), it shall have the right—

13                         (i) to be heard with respect to any  
14                         matter that arises in that action; and

15                         (ii) to file a petition for appeal.

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

22                         (A) conduct investigations;

23                         (B) administer oaths or affirmations; or



1           (C) compel the attendance of witnesses or  
2           the production of documentary and other evi-  
3           dence.

4           (4) ACTIONS BY THE COMMISSION.—In any  
5           case in which an action is instituted by or on behalf  
6           of the Commission for violation of this Act or a reg-  
7           ulation prescribed under this Act, no State may,  
8           during the pendency of that action, institute an ac-  
9           tion under paragraph (1) against any defendant  
10          named in the complaint in the action instituted by  
11          or on behalf of the Commission for that violation.

12          (5) VENUE; SERVICE OF PROCESS.—

13           (A) VENUE.—Any action brought under  
14           paragraph (1) may be brought in the district  
15           court of the United States that meets applicable  
16           requirements relating to venue under section  
17           1391 of title 28, United States Code.

18           (B) SERVICE OF PROCESS.—In an action  
19           brought under paragraph (1), process may be  
20           served in any district in which the defendant—

21                   (i) is an inhabitant; or

22                   (ii) may be found.

23          (d) TELECOMMUNICATIONS CARRIERS AND CABLE  
24          OPERATORS.—

1           (1) ENFORCEMENT BY FTC.—Notwithstanding  
2           section 5(a)(2) of the Federal Trade Commission  
3           Act (15 U.S.C. 45(a)(2)), compliance with the re-  
4           quirements imposed under this Act shall be enforced  
5           by the Commission with respect to any telecommuni-  
6           cations carrier (as defined in section 3 of the Com-  
7           munications Act of 1934 (47 U.S.C. 153)).

8           (2) RELATIONSHIP TO OTHER LAW.—To the ex-  
9           tent that sections 222, 338(i), and 631 of the Com-  
10          munications Act of 1934 (47 U.S.C. 222; 338(i);  
11          551) are inconsistent with this Act, this Act con-  
12          trols.

13 **SEC. 9. RULE FOR TREATMENT OF USERS OF WEBSITES,**  
14                   **SERVICES, AND APPLICATIONS DIRECTED TO**  
15                   **CHILDREN OR MINORS.**

16          An operator of a website, online service, online appli-  
17          cation, or mobile application that is directed to children  
18          or minors shall treat all users of such website, service, or  
19          application as children or minors (as the case may be) for  
20          purposes of this Act, except as permitted by the Commis-  
21          sion by a regulation promulgated under this Act.

22 **SEC. 10. DEFINITIONS.**

23          (a) IN GENERAL.—In this Act:

24                  (1) MINOR.—The term “minor” means an indi-  
25          vidual over the age of 12 and under the age of 16.

1           (2) TARGETED MARKETING.—The term “tar-  
2           geted marketing” means advertising or other efforts  
3           to market a product or service that are directed to  
4           a specific individual or device—

5                   (A) based on the personal information of  
6           the individual or a unique identifier of the de-  
7           vice; and

8                   (B) as a result of use by the individual, or  
9           access by the device, of a website, online serv-  
10          ice, online application, or mobile application.

11          (b) TERMS DEFINED BY COMMISSION.—In this Act,  
12          the terms “directed to minors” and “geolocation informa-  
13          tion” shall have the meanings given such terms by the  
14          Commission by regulation. Not later than 1 year after the  
15          date of the enactment of this Act, the Commission shall  
16          promulgate, under section 553 of title 5, United States  
17          Code, regulations that define such terms broadly enough  
18          so that they are not limited to current technology, con-  
19          sistent with the principles articulated by the Commission  
20          regarding the definition of the term “Internet” in its  
21          statement of basis and purpose on the final rule under  
22          the Children’s Online Privacy Protection Act of 1998 (15  
23          U.S.C. 6501 et seq.) promulgated on November 3, 1999  
24          (64 Fed. Reg. 59891).

1 (c) OTHER DEFINITIONS.—The definitions set forth  
2 in section 1302 of the Children’s Online Privacy Protec-  
3 tion Act of 1998 (15 U.S.C. 6501), as amended by section  
4 3(a), shall apply in this Act, except to the extent the Com-  
5 mission provides otherwise by regulations issued under  
6 section 553 of title 5, United States Code.

7 **SEC. 11. EFFECTIVE DATES.**

8 (a) IN GENERAL.—Except as provided in subsections  
9 (b) and (c), this Act and the amendments made by this  
10 Act shall take effect on the date that is 1 year after the  
11 date of the enactment of this Act.

12 (b) AUTHORITY TO PROMULGATE REGULATIONS.—  
13 The following shall take effect on the date of the enact-  
14 ment of this Act:

15 (1) The amendments made by subsections  
16 (a)(5) and (b)(3)(A) of section 3.

17 (2) Sections 4(b), 5(c), 6(b), and 7(b).

18 (3) Subsections (b) and (c) of section 10.

19 (c) DIGITAL MARKETING BILL OF RIGHTS FOR  
20 TEENS.—Section 5, except for subsection (c) of such sec-  
21 tion, shall take effect on the date that is 180 days after  
22 the promulgation of regulations under such subsection.

○