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S. 1876

To support research about the impact of digital communication platforms on society by providing privacy-protected, secure pathways for independent research on data held by large internet companies.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2023

Mr. COONS (for himself, Mr. CASSIDY, Ms. KLOBUCHAR, Mr. CORNYN, Mr. BLUMENTHAL, and Mr. ROMNEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To support research about the impact of digital communication platforms on society by providing privacy-protected, secure pathways for independent research on data held by large internet companies.

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 “Platform Accountability and Transparency Act”.

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. Definitions.
 Sec. 3. Qualified research projects, qualified researchers, and qualified data and information.
 Sec. 4. Obligations and immunity for platforms.
 Sec. 5. Obligations and immunity for qualified researchers.
 Sec. 6. Reporting.
 Sec. 7. Enforcement.
 Sec. 8. Establishing a safe harbor for research on social media platforms.
 Sec. 9. Rulemaking authority.
 Sec. 10. Authorization of appropriations.
 Sec. 11. Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

5 (2) CHAIR.—The term “Chair” means the
 6 Chair of the Federal Trade Commission.

7 (3) NSF.—The term “NSF” means the Na-
 8 tional Science Foundation.

9 (4) PERSONAL INFORMATION.—The term “per-
 10 sonal information” means any information, regard-
 11 less of how the information is collected, inferred, or
 12 obtained that is linked or reasonably linkable to a
 13 specific consumer or consumer device.

14 (5) PLATFORM.—The term “platform” means
 15 any entity subject to the jurisdiction of the Federal
 16 Trade Commission under section 5(a)(2) of the Fed-
 17 eral Trade Commission Act (15 U.S.C. 45(a)(2))
 18 that—

1 (A) operates a website, desktop applica-
2 tion, augmented or virtual reality application,
3 or mobile application that—

4 (i) permits a person to become a reg-
5 istered user, establish an account, or create
6 a profile for the purpose of allowing the
7 user to create, share, and view user-gen-
8 erated content through such an account or
9 profile;

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

13 (iii) primarily serves as a medium for
14 users to interact with content generated by
15 other users of the platform and for the
16 platform to deliver ads to users; and

17 (B) has at least 50,000,000 unique month-
18 ly users in the United States for a majority of
19 the months in the most recent 12-month period.

20 (6) QUALIFIED DATA AND INFORMATION.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), the term “qualified data and infor-
23 mation” means data and information from a
24 platform—

1 (i) that the NSF determines is nec-
 2 essary to allow a qualified researcher to
 3 carry out a qualified research project; and

4 (ii) that—

5 (I) is feasible for the platform to
 6 provide;

7 (II) is proportionate to the needs
 8 of the qualified researchers to com-
 9 plete the qualified research project;

10 (III) will not cause the platform
 11 undue burden in providing the data
 12 and information to the qualified re-
 13 searcher; and

14 (IV) would not be otherwise
 15 available to the qualified researcher.

16 (B) EXCLUSIONS.—Such term does not in-
 17 clude any of the following:

18 (i) Direct and private messages be-
 19 tween users.

20 (ii) Biometric information, such as a
 21 fingerprint, voiceprint, eye retinas, irises,
 22 or other unique biological patterns or char-
 23 acteristics.

24 (iii) Precise geospatial information.

25 (7) QUALIFIED RESEARCHER.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the term “qualified researcher”
3 means a researcher affiliated with a United
4 States university or a United States nonprofit
5 organization (as described in section 501(c) of
6 the Internal Revenue Code of 1986) that is spe-
7 cifically identified in a research proposal that is
8 approved as a qualified research project pursu-
9 ant to section 3.

10 (B) EXCLUSION.—Such term does not in-
11 clude a researcher who is affiliated with a Fed-
12 eral, State, local, or tribal law enforcement or
13 intelligence agency.

14 (8) QUALIFIED RESEARCH PROJECT.—The
15 term “qualified research project” means a research
16 plan that has been approved pursuant to section 3.

17 (9) STATE.—The term “State” means each of
18 the 50 States of the United States, the District of
19 Columbia, Puerto Rico, the Virgin Islands, American
20 Samoa, Guam, and the Northern Mariana Islands.

21 (10) USER.—The term “user” means a person
22 that uses a platform for any purpose, including ad-
23 vertisers and sellers, regardless of whether that per-
24 son has an account or is otherwise registered with
25 the platform.

1 **SEC. 3. QUALIFIED RESEARCH PROJECTS, QUALIFIED RE-**
2 **SEARCHERS, AND QUALIFIED DATA AND IN-**
3 **FORMATION.**

4 (a) **ESTABLISHMENT.**—Not later than 1 year after
5 the date of enactment of this Act, the NSF shall establish,
6 in consultation with the Commission, a research program
7 to review research applications for approval as qualified
8 research projects.

9 (b) **RESEARCH PROGRAM REQUIREMENTS.**—The re-
10 search program established by the NSF and the Commis-
11 sion under this section shall—

12 (1) provide that the NSF shall—

13 (A) establish a process to solicit research
14 applications in order to identify qualified re-
15 search projects;

16 (B) review research applications for sci-
17 entific merit;

18 (C) ensure research applications identify
19 proposed qualified researchers;

20 (D) publish guidelines and criteria to be
21 used by the NSF in determining how it will re-
22 view research applications seeking approval to
23 be a qualified research project;

24 (E) identify, in consultation with the Com-
25 mission, what data and information in a plat-
26 form's possession will be qualified data and in-

1 formation for the purposes of carrying out a
2 qualified research project;

3 (F) ensure that approved research applica-
4 tions do not request data described in section
5 2(6)(B); and

6 (G) prescribe and publish guidelines and
7 criteria, in consultation with the Commission,
8 used to determine how the NSF and Commis-
9 sion will identify qualified data and information
10 necessary to conduct a qualified research
11 project;

12 (2) provide that the Commission shall—

13 (A) review research applications for pri-
14 vacy and cybersecurity risks;

15 (B) for each qualified research project, es-
16 tablish appropriate privacy and cybersecurity
17 safeguards that a platform must implement in
18 the provision of, and with which qualified re-
19 searchers must comply to access, qualified data
20 and information that a platform is required to
21 share with qualified researchers pursuant to a
22 qualified research project, and such safe-
23 guards—

24 (i) must account for the relative sensi-
25 tivity of the qualified data and information

1 involved and be sufficient to protect such
2 data and information; and

3 (ii) may include alternative protec-
4 tions, as appropriate and in consideration
5 of the aims of the qualified research
6 project, including—

7 (I) encryption of the data in
8 transit and when not in use;

9 (II) delivery of the data in a for-
10 mat that employs methods to prevent
11 qualified researchers from identifying
12 individuals in the dataset;

13 (III) data access logs; and

14 (IV) keystroke logs;

15 (C) in the case of each qualified research
16 project, consider whether to require the plat-
17 form to provide a secure physical or virtual en-
18 vironment to facilitate delivery of the qualified
19 data and information;

20 (D) establish appropriate privacy and cy-
21 bersecurity safeguards that a qualified re-
22 searcher must implement when receiving, stor-
23 ing, or analyzing qualified data and information
24 or generating new data using such qualified
25 data and information, including inferential data

1 based on such qualified data and information,
2 and such safeguards may include a requirement
3 that a qualified researcher delete qualified data
4 and information after completion of a qualified
5 research project, however any such safeguard
6 must provide the qualified researcher the ability
7 to retain enough information about the quali-
8 fied data and information to allow the re-
9 searcher or their peers to recreate the qualified
10 research project upon request to, and approval
11 from, the NSF and Commission pursuant to
12 this section;

13 (E) publish a list of criteria for deter-
14 mining the privacy and cybersecurity safe-
15 guards required for qualified data and informa-
16 tion related to a qualified research project;

17 (F) provide a platform that is the subject
18 of a qualified research project with the oppor-
19 tunity to provide comment about the privacy
20 and cybersecurity safeguards required for the
21 qualified research project;

22 (G) provide researchers with the oppor-
23 tunity to provide comment about the privacy
24 and cybersecurity safeguards required for a
25 qualified research project;

1 (H) establish a process to ensure that
2 qualified researchers will be able to comply with
3 any such privacy and cybersecurity safeguards;
4 and

5 (I) publish a list of criteria for determining
6 whether qualified researchers will be able to
7 comply with any such privacy and cybersecurity
8 safeguards;

9 (3) provide that a research application may not
10 be denied on grounds of the race, color, age, sex, na-
11 tional origin, political affiliation, or disability of the
12 researcher;

13 (4) provide that a research application shall not
14 be approved as a qualified research project unless
15 it—

16 (A) has been approved by an institutional
17 review board;

18 (B) has been deemed exempt from institu-
19 tional review board review; or

20 (C) is excluded from the criteria for insti-
21 tutional review board review;

22 (5) provide a platform the opportunity to com-
23 ment on and appeal to the NSF and the Commission
24 the approval of a qualified research project for which
25 the platform is required to provide qualified data

1 and information to qualified researcher the grounds
2 that—

3 (A) the platform cannot provide the quali-
4 fied data and information;

5 (B) providing access to the qualified data
6 and information would lead to significant
7 vulnerabilities in the security of the platform's
8 service or user privacy; or

9 (C) the privacy and cybersecurity safe-
10 guards established by the Commission are not
11 sufficient to protect the qualified data and in-
12 formation; and

13 (6) require that any analysis by a qualified re-
14 searcher derived from a qualified research project
15 that the qualified researcher intends to publish un-
16 dergo prepublication review by the Commission to
17 ensure that the analysis does not expose personal in-
18 formation, or trade secrets.

19 (c) QUALIFIED RESEARCHER CAPACITY.—A qualified
20 research project may not proceed unless the proposed
21 qualified researchers can demonstrate that they have the
22 capacity to comply with the privacy and cybersecurity
23 safeguards established for the qualified research project.

24 (d) AIM OF PROJECT.—A research application shall
25 not be approved as a qualified research project unless it

1 is in the public interest, aims to study activity on a plat-
2 form, and is used for noncommercial purposes.

3 (e) NO JUDICIAL REVIEW.—A determination by the
4 Commission or the NSF under this section regarding
5 whether a research application will be deemed a qualified
6 research project shall not be subject to judicial review.

7 (f) NO GOVERNMENT ACCESS.—If a platform pro-
8 vides qualified data and information to a qualified re-
9 searcher, no government entity may seek access to such
10 qualified data and information from the qualified re-
11 searcher.

12 (g) RESEARCHER CONSORTIA.—The Commission and
13 NSF shall establish procedures and necessary safeguards
14 under this section that allow for consortia of researchers
15 to apply to seek data for the purpose of conducting a se-
16 ries of qualified research projects.

17 **SEC. 4. OBLIGATIONS AND IMMUNITY FOR PLATFORMS.**

18 (a) PROVISION OF QUALIFIED DATA AND INFORMA-
19 TION.—A platform shall provide access to qualified data
20 and information relating to a qualified research project to
21 a qualified researcher under the terms and privacy and
22 cybersecurity safeguards dictated by the Commission pur-
23 suant to section 3 for the purpose of carrying out the
24 qualified research project.

1 (b) CONTINUED ACCESS TO QUALIFIED DATA AND
2 INFORMATION.—

3 (1) IN GENERAL.—A platform may not restrict
4 or terminate a qualified researcher’s access to quali-
5 fied data and information for an ongoing qualified
6 research project unless the platform has a reason-
7 able belief that the qualified researcher is not acting
8 in accordance with the cybersecurity and privacy
9 safeguards required for the qualified research
10 project pursuant to section 3.

11 (2) NOTICE AND REVIEW OF CHANGE TO AC-
12 CESS.—If a platform restricts or terminates a quali-
13 fied researcher’s access to qualified data and infor-
14 mation for an ongoing qualified research project—

15 (A) the platform shall, within a reasonable
16 time (as established by the Commission, inform
17 the Commission in writing that the platform
18 has restricted or terminated the qualified re-
19 searcher’s access to the qualified data and in-
20 formation; and

21 (B) the Commission shall promptly review
22 the platform’s decision and determine whether
23 the qualified researcher has violated the privacy
24 and cybersecurity safeguards established for the
25 qualified research project.

1 (c) NOTICE TO PLATFORM USERS.—The Commission
2 shall issue regulations requiring that platforms, through
3 posting of notices or other appropriate means, keep users
4 informed of their privacy protections and the information
5 that the platform is required to share with qualified re-
6 searchers under this Act.

7 (d) SAFE HARBOR.—No cause of action under State
8 or Federal law arising solely from the release of qualified
9 data and information to qualified researchers in further-
10 ance of a qualified research project may be brought
11 against any platform that complies with the Act.

12 (e) RIGHT OF REVIEW.—If a platform fails to provide
13 all of the qualified data and information required under
14 the terms of a qualified research project to the qualified
15 researcher conducting the project, the qualified researcher
16 or the researcher’s affiliated university or non-profit orga-
17 nization may bring an action in district court for injunc-
18 tive relief or petition the Commission to bring an enforce-
19 ment action against the platform.

20 (f) SECURITY.—Nothing in this Act shall be con-
21 strued to restrict a platform’s ability to:

22 (1) Take immediate steps to protect an interest
23 that is essential for the life or physical safety of a
24 natural person.

1 (2) Respond to security incidents, identity theft,
2 fraud, harassment, malicious or deceptive activities,
3 or illegal activity, preserve the integrity of security
4 of systems, or investigate or report those responsible
5 for such actions.

6 **SEC. 5. OBLIGATIONS AND IMMUNITY FOR QUALIFIED RE-**
7 **SEARCHERS.**

8 (a) SCOPE OF PERMITTED USE OF QUALIFIED DATA
9 AND INFORMATION.—Each qualified researcher who ac-
10 cesses qualified data and information shall use the quali-
11 fied data and information—

12 (1) only for the purposes of conducting research
13 authorized under the terms of the qualified research
14 project involved; and

15 (2) in accordance with the privacy and cyberse-
16 curity safeguards prescribed by the Commission for
17 the qualified research project.

18 (b) PROTECTION OF PERSONAL INFORMATION.—A
19 qualified researcher that is provided access to qualified
20 data and information for purposes of a qualified research
21 project may not—

22 (1) attempt to reidentify, disclose, publish, or
23 use for commercial purpose personal information de-
24 rived from such qualified data and information; or

1 (2) disclose such qualified data and information
2 to a third party for any reason.

3 (c) EFFECT OF VIOLATION OF INFORMATION AND
4 PRIVACY STANDARDS.—Qualified researchers who inten-
5 tionally, recklessly, or negligently violate the privacy and
6 cybersecurity safeguards prescribed by the Commission for
7 a qualified research project may be subject to both civil
8 and criminal enforcement, under applicable Federal,
9 State, and local laws. The Commission may refer any such
10 violation to the Department of Justice or the appropriate
11 State law enforcement agency.

12 **SEC. 6. REPORTING.**

13 Not later than 24 months after the date of enactment
14 of this Act, and annually thereafter, the NSF and the
15 Commission shall submit to the Congress a joint report
16 regarding the operation of this Act, which shall include
17 a detailed statement of all qualified research projects, in-
18 cluding with respect to each such project:

19 (1) The identity of any authorized qualified re-
20 searcher and the institution the researcher is affili-
21 ated with.

22 (2) The platforms required to provide qualified
23 data and information to qualified researchers.

24 (3) The categories of qualified data and infor-
25 mation each platform was required to provide.

1 (4) The terms of the privacy and cybersecurity
2 safeguards prescribed by the Commission to ensure
3 the security of the qualified data and information.

4 (5) Any recommendations for improvements to
5 the operation of this Act in order to facilitate its aim
6 of providing enhanced platform transparency.

7 **SEC. 7. ENFORCEMENT.**

8 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—

9 (1) IN GENERAL.—A platform’s failure to com-
10 ply with subsection (a) or (b) of section 4, or a
11 qualified researcher’s failure to comply with sub-
12 section (a) or (b) of section 5, shall be treated as a
13 violation of a rule defining an unfair or deceptive act
14 or practice prescribed under section 18(a)(1)(B) of
15 the Federal Trade Commission Act (15 U.S.C.
16 57a(a)(1)(B)).

17 (2) POWERS OF THE COMMISSION.—

18 (A) IN GENERAL.—The Commission shall
19 enforce the provisions of this Act specified in
20 paragraph (1) in the same manner, by the same
21 means, and with the same jurisdiction, powers,
22 and duties as though all applicable terms and
23 provisions of the Federal Trade Commission
24 Act (15 U.S.C. 41 et seq.) were incorporated
25 into and made a part of this section.

1 (B) PRIVILEGES AND IMMUNITIES.—Any
2 person that violates the provisions of this Act
3 specified in paragraph (1) shall be subject to
4 the penalties, and entitled to the privileges and
5 immunities, provided in the Federal Trade
6 Commission Act (15 U.S.C. 41 et seq.).

7 (C) RULE OF CONSTRUCTION.—Nothing in
8 this Act shall be construed to limit the author-
9 ity of the Commission under any other provi-
10 sion of law.

11 (b) REGULATIONS.—The Commission shall have the
12 authority to promulgate, in the manner prescribed by 5
13 U.S.C. 553, such rules and regulations as it may deem
14 necessary to carry out its responsibilities under this Act.

15 (c) ATTORNEY’S FEES AND OTHER COSTS.—In the
16 event any enforcement action is appealed, the prevailing
17 party in the action may, in the discretion of the court,
18 recover the costs of the action including reasonable inves-
19 tigative costs and attorneys’ fees.

20 **SEC. 8. ESTABLISHING A SAFE HARBOR FOR RESEARCH ON**
21 **SOCIAL MEDIA PLATFORMS.**

22 (a) IN GENERAL.—No civil claim will lie, nor will any
23 criminal liability accrue, against any person for collecting
24 covered information as part of a news-gathering or re-
25 search project on a platform, so long as—

1 (1) the information is collected through a cov-
2 ered method of digital investigation;

3 (2) the purpose of the project is to inform the
4 general public about matters of public concern;

5 (3) with respect to information that is collected
6 through a covered method of digital investigation—

7 (A) the information is not used except to
8 inform the general public about matters of pub-
9 lic concern; and

10 (B) the person takes reasonable measures
11 to protect the privacy of the platform’s users;

12 (4) with respect to the creation and use of a re-
13 search account, the person takes reasonable meas-
14 ures to avoid misleading the platform’s users; and

15 (5) the project does not materially burden the
16 technical operation of the platform.

17 (b) REGULATIONS.—No later than 1 year after the
18 date of the enactment of this Act, the Commission shall
19 promulgate regulations under section 553 of title 5—

20 (1) defining “covered method of digital inves-
21 tigation,” which phrase, as defined, must encom-
22 pass—

23 (A) the collection of information from a
24 platform’s user-facing interface through auto-
25 mated means;

1 (B) the collection of information donated
2 by a user, including through a browser exten-
3 sion or plug-in, where the donation is in connec-
4 tion with the project and with the user’s explicit
5 consent; and

6 (C) the creation or use of research ac-
7 counts;

8 (2) defining “covered information,” which
9 phrase, as defined, must encompass—

10 (A) publicly available information, except
11 that such term should not exclude information
12 merely because an individual must log into an
13 account in order to see it;

14 (B) information about ads shown on the
15 platform, including the ads themselves, the ad-
16 vertiser’s name and disclosure string, and infor-
17 mation the platform provides to users about
18 how an ad was targeted; and

19 (C) any other category of information the
20 collection of which the Commission determines,
21 consistent with paragraph (3), will not unduly
22 burden user privacy;

23 (3) defining “reasonable measures to protect
24 the privacy of the platform’s users” under sub-

1 section (a)(3), including by specifying the measures
2 that must be taken to—

3 (A) avoid the collection and retention of
4 non-public information that would readily iden-
5 tify a user without that user’s consent;

6 (B) prevent the theft and accidental dislo-
7 sure of any information collected;

8 (C) ensure that the information at issue is
9 not used for any purpose other than to inform
10 the general public about matters of public con-
11 cern; and

12 (D) restrict the publication or other dislo-
13 sure of any information that would readily iden-
14 tify a user without the user’s consent, except
15 when such user is—

16 (i) an advertiser and the data con-
17 cerns an advertisement; or

18 (ii) a public official, candidate for
19 public office, or public figure;

20 (4) defining “reasonable measures to avoid mis-
21 leading the platform’s users” under subsection
22 (a)(4); and

23 (5) defining “materially burden the technical
24 operation of a platform” under subsection (a)(5).

1 (c) AMENDMENT OF REGULATIONS.—The Commis-
2 sion may, as necessary, amend regulations promulgated
3 pursuant to subsection (b) to the extent such amendment
4 will accomplish the purposes of this section.

5 (d) REPORTING.—In December of each calendar year
6 beginning with calendar year 2024, the Commission shall
7 require each operator of any platform to submit an annual
8 report to the Commission that addresses whether the
9 measures prescribed under subsections (b)(3) and (b)(4)
10 of this section are adequately protecting the platform’s
11 users.

12 (e) DEFINITION OF RESEARCH ACCOUNT.—For pur-
13 poses of this section, the term “research account” means
14 an account on a platform that is created and used solely
15 for the purposes of a news-gathering or research project
16 that meets the requirements of subsection (a) and for no
17 longer than is necessary to complete such project.

18 **SEC. 9. RULEMAKING AUTHORITY.**

19 (a) ADDITIONAL REPORTING REQUIREMENTS.—

20 (1) IN GENERAL.—In consultation with the
21 NSF, the Commission may, in accordance with sec-
22 tion 553 of title 5, United States Code, and subject
23 to subsection (g), issue regulations that require plat-
24 forms to make available to qualified researchers
25 data, metrics, or other information that the Commis-

1 sion determines will facilitate independent research
2 in the public interest into activity on platforms.

3 (2) FACTORS.—In exercising its authority
4 under this subsection, the Commission shall consider
5 the extent to which disclosures under this subsection
6 may facilitate collaboration amongst qualified re-
7 searchers and alleviate burdens on platforms and
8 qualified researchers as compared to qualified re-
9 search projects conducted pursuant to section 3.

10 (3) FORM AND FREQUENCY; RETENTION OF IN-
11 FORMATION.—The Commission shall specify in the
12 regulations the required form and frequency of re-
13 porting or disclosures, as well as how long data,
14 metrics, or other information should be retained and
15 made available. It may require the information be
16 provided in a form that is accessible for analysis by
17 qualified researchers, such as through an application
18 programming interface.

19 (4) CONSULTATION.—The Commission shall
20 further consult with the National Institutes of
21 Health and other relevant government agencies, as
22 appropriate, in exercising its authority under this
23 subsection.

24 (5) APPLICABILITY OF PRIOR SECTIONS.—For
25 data made available to qualified researchers under

1 this section, the Commission shall establish privacy
2 and cybersecurity safeguards applicable to platforms
3 and qualified researchers in the manner described in
4 section 3 for data made available under that section.
5 The obligations and immunities for platforms and
6 qualified researchers described in sections 4 and 5
7 shall apply to data disclosed to qualified researchers
8 under this section, and the provisions of section 7
9 may be invoked to enforce this section.

10 (b) TRANSPARENCY OF CERTAIN CONTENT AND
11 USER ACCOUNTS.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this Act, the Commission
14 shall, in accordance with section 553 of title 5,
15 United States Code, and subject to subsection (g),
16 issue regulations to require platforms to make avail-
17 able to the public on an ongoing basis, in a specific
18 section of their online interface, through a search-
19 able and reliable tool that allows multicriteria que-
20 ries and through application programming inter-
21 faces, a repository containing information regarding
22 reasonably public content on the platform that—

23 (A) has been highly disseminated; or

24 (B) was originated or spread by major
25 public accounts.

1 (2) DISCLOSURE OF PUBLIC CONTENT
2 SAMPLINGS.—The regulations issued under para-
3 graph (1) shall further require platforms to disclose
4 on an ongoing basis statistically representative
5 samplings of reasonably public content, including, at
6 a minimum, a sampling that is weighted by the
7 number of impressions the content receives.

8 (3) REQUIRED INFORMATION.—The informa-
9 tion required to be disclosed about content described
10 in paragraphs (1) and (2) shall include, as appro-
11 priate—

12 (A) the user-generated content itself, in-
13 cluding any text, images, videos, links, and key-
14 words;

15 (B) platform-generated content displayed
16 in connection with the user-generated content,
17 including any dates, labels, disclaimers, or
18 metrics;

19 (C) metrics about the extent of dissemina-
20 tion of or engagement with the content, includ-
21 ing the number of impressions, reach, and en-
22 gagements;

23 (D) information about the extent to which
24 the content was recommended, amplified, or re-
25 stricted by platform algorithms or policies;

1 (E) reasonably public information about
2 the user accounts responsible for the content;
3 and

4 (F) public uniform resource locators that
5 uniquely link to the content and identify related
6 materials such as the parent content, replying
7 content, and cross-posted content.

8 (4) HIGHLY DISSEMINATED CONTENT.—As part
9 of the regulations issued under paragraph (1), the
10 Commission shall define “highly disseminated” ac-
11 cording to metrics that the Commission deems ap-
12 propriate (which may include engagement, views,
13 reach, impressions, or other metrics), provided that
14 a piece of content must have been viewed by at least
15 10,000 unique users to qualify.

16 (5) MAJOR PUBLIC ACCOUNTS.—As part of the
17 regulations issued under paragraph (1), the Com-
18 mission shall define “major public accounts” as it
19 deems appropriate, provided that, at a minimum,
20 “major public accounts” are restricted to reasonably
21 public accounts whose content is followed by at least
22 25,000 users or otherwise regularly reaches at least
23 25,000 users per month.

24 (6) TREATMENT OF CONTENT THAT HAS BEEN
25 REMOVED.—The regulations described in paragraph

1 (1) shall provide guidance regarding disclosure of
2 content that is removed by the user or platform sub-
3 sequent to its dissemination.

4 (7) FREQUENCY.—To the extent practicable,
5 the Commission shall require this information to be
6 updated so as to provide a real-time understanding
7 of the content described in paragraphs (1) and (2).

8 (c) TRANSPARENCY OF ADVERTISING.—

9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act, the Commission
11 shall, in accordance with section 553 of title 5,
12 United States Code, and subject to subsection (g),
13 issue regulations to require platforms to disclose on
14 an ongoing basis information regarding advertising
15 on the platform. These regulations shall require
16 platforms to compile and disclose publicly in a spe-
17 cific section of their online interface, through a
18 searchable and reliable tool that allows multicriteria
19 queries and through application programming inter-
20 faces, a repository containing the information re-
21 ferred to in paragraph (2), for the entire period dur-
22 ing which they present an advertisement and until
23 one year after the advertisement was presented for
24 the last time on their online interfaces. Platforms
25 shall ensure that the repository does not contain any

1 personal information of the recipients of the service
2 to whom the advertisement was or could have been
3 presented.

4 (2) INFORMATION REQUIRED.—The information
5 required to be included in the repository required
6 under paragraph (1) shall include at least all of the
7 following information:

8 (A) The content of the advertisement, in-
9 cluding the name of the product, service or
10 brand and the subject matter of the advertise-
11 ment.

12 (B) The natural or legal person on whose
13 behalf the advertisement is presented.

14 (C) The natural or legal person who paid
15 for the advertisement, if that person is different
16 from the person referred to in subparagraph
17 (B).

18 (D) The period during which the advertise-
19 ment was presented.

20 (E) Whether the advertisement was in-
21 tended to be presented specifically to one or
22 more particular groups of recipients of the serv-
23 ice and if so, the main parameters used for that
24 purpose including where applicable the main pa-

1 parameters used to exclude one or more of such
2 particular groups.

3 (F) The total number of recipients of the
4 service reached and, where applicable, aggregate
5 numbers broken down by group or groups of re-
6 cipients that the advertisement specifically tar-
7 geted.

8 (G) Information about the extent to which
9 the advertisement was recommended, amplified,
10 or restricted by platform algorithms or policies.

11 (3) TREATMENT OF REMOVED ADS.—The regu-
12 lations described in paragraph (1) shall provide
13 guidance regarding disclosure of ads that are re-
14 moved by the user or platform subsequent to its dis-
15 semination.

16 (4) FREQUENCY.—To the extent practicable,
17 the Commission shall require this information to be
18 updated so as to provide a real-time understanding
19 of the content described in paragraph (2).

20 (d) TRANSPARENCY OF ALGORITHMS AND COMPANY
21 METRICS AND DATA.—

22 (1) IN GENERAL.—Not later than 1 year after
23 enactment of this Act, the Commission shall, in ac-
24 cordance with section 553 of title 5, United States
25 Code, and subject to subsection (g), issue regula-

1 tions to require platforms to report publicly on their
2 use of recommender or ranking algorithms and
3 metrics.

4 (2) REQUIRED INFORMATION.—The reporting
5 required under paragraph (1) shall be at least semi-
6 annual and include, as appropriate—

7 (A) a description of all consumer-facing
8 product features that made use of recommender
9 or ranking algorithms during the reporting pe-
10 riod;

11 (B) a summary of signals used as inputs
12 to the described recommender or ranking algo-
13 rithms, including an explanation of which rely
14 on user data, an explanation of the types of
15 user data relied upon, and ranked based on the
16 significance of their impact on the algorithms'
17 outputs;

18 (C) a summary of the processes or pre-
19 dictions used by the platform to assess the sig-
20 nals incorporated into the recommender or
21 ranking algorithm and to score or rank content
22 (such as predictions of future user engage-
23 ment), ranked based on the significance of their
24 impact on the algorithms' outputs;

1 (D) a summary of the optimization objec-
2 tives of the described recommender or ranking
3 algorithms;

4 (E) a summary of metrics calculated by
5 the platform to assess product changes or new
6 features, or as a basis to assess performance or
7 calculate employee or executive compensation,
8 with an assessment of their relative importance
9 in company decision making;

10 (F) significant changes during the report-
11 ing period from the last report; and

12 (G) other information about the rec-
13 ommender or ranking algorithms that the Com-
14 mission deems appropriate.

15 (3) IMPLEMENTATION.—In implementing this
16 section, the Commission shall ensure that the report-
17 ing is useful and actionable while ensuring that plat-
18 forms are not required to disclose trade secrets.

19 (e) TRANSPARENCY OF CONTENT MODERATION AND
20 VIOLATING CONTENT.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Commission
23 shall, in accordance with section 553 of title 5,
24 United States Code, and subject to subsection (g),
25 issue regulations to require platforms to issue a pub-

1 lic report on an ongoing basis information regarding
2 content moderation and content violating platform
3 policies.

4 (2) REQUIRED INFORMATION.—The informa-
5 tion required to be disclosed under paragraph (1)
6 shall include, as appropriate—

7 (A) statistics regarding the amount of con-
8 tent that the platform determined violated its
9 policies, broken down by—

10 (i) the violated policy;

11 (ii) the action taken in response to the
12 violation;

13 (iii) the methods the platform used to
14 identify the violating content (such as arti-
15 ficial intelligence, user report, human mod-
16 erator review, or other means);

17 (iv) the extent to which the content
18 was recommended, amplified, or restricted
19 by platform algorithms or policies; and

20 (v) geographic and demographic fac-
21 tors as the Commission deems appropriate;

22 (B) statistics regarding the number of
23 times violating content was viewed by users and
24 the number of users who viewed it;

1 (C) estimates by the platform about the
2 prevalence of violating content (including as
3 measured by the number of impressions of vio-
4 lating content), broken down by—

5 (i) the violated policy;

6 (ii) geographic and demographic fac-
7 tors; and

8 (iii) other factors the Commission
9 deems appropriate; and

10 (D) the number of orders received from
11 governmental authorities, categorized by the
12 type of violating content concerned, and the av-
13 erage time needed for taking the action speci-
14 fied in those orders.

15 (f) DATA DICTIONARIES.—Not later than 1 year
16 after the date of enactment of this Act, the Commission
17 shall, in consultation with the NSF and in accordance with
18 section 553 of title 5, United States Code, and subject
19 to subsection (g), issue regulations to require platforms
20 to disclose, and update periodically, data dictionaries to
21 inform and facilitate researcher data access requests. Such
22 data dictionaries shall include descriptions of significant
23 datasets in the platform’s possession relating to content
24 on, or users of, the platform, enforcement of content pol-

1 icy, or advertising, as necessary or appropriate to inform
2 and facilitate researcher data access requests.

3 (g) PRIVACY, CONFIDENTIALITY, AND PLATFORM IN-
4 TEGRITY.—The Commission shall ensure that any report-
5 ing or disclosures required pursuant to this section do not
6 infringe upon reasonable expectations of personal privacy
7 of users of platforms or of other persons, or require dis-
8 semination of trade secrets. If necessary, the Commission
9 may require withholding of information otherwise required
10 to be disclosed to meet this requirement. The Commission
11 shall further consider the effect of disclosures on risks to
12 platform integrity or the susceptibility of the platform to
13 manipulation or inauthentic behavior, and may limit or re-
14 duce the information required to be disclosed if necessary
15 to address a substantial such risk.

16 (h) VARIATION.—In implementing this section, the
17 Commission may vary the requirements it imposes on plat-
18 forms based on the size of the platform and scope of its
19 services.

20 (i) DEFINITIONS.—In this section:

21 (1) ENGAGEMENT.—The term “engagement”
22 means, with respect to content on a platform, the
23 number of times a user interacts with the content,
24 whether through comments, indications of approval

1 or disapproval (such as likes or dislikes), reshares,
2 or any other form of active interaction.

3 (2) IMPRESSION.—The term “impression”
4 means, with respect to content on a platform, the
5 display or delivery of the content to a user, regard-
6 less of whether the user engages with the content.

7 (3) PREVALENCE OF VIOLATING CONTENT.—
8 The term “prevalence of violating content” means a
9 platform’s estimate of the number of impressions of
10 content that violates its moderation policies among
11 its users, regardless of whether the platform ever
12 identifies that particular content as violating.

13 (4) REACH.—The term “reach” means, with re-
14 spect to content on a platform, the number of users
15 to whom the content is displayed or delivered during
16 a particular period, regardless of how many times it
17 is delivered to them.

18 (5) REAL-TIME UNDERSTANDING.—The term
19 “real-time understanding” means an understanding
20 of content on a platform that is up-to-date within
21 less than 24 hours.

22 (6) REASONABLY PUBLIC.—The term “reason-
23 ably public” means information that the author
24 made available in a manner and under such cir-
25 cumstances such that the author does not retain a

1 reasonable expectation of privacy in the information.
2 The fact that a user may need to register or create
3 an account with a platform to view information does
4 not preclude it from being deemed reasonably public.

5 (7) RECOMMENDER OR RANKING ALGORITHM.—

6 The term “recommender or ranking algorithm”
7 means a fully or partially automated system used by
8 a platform to suggest in its online interface specific
9 information to recipients of the service offered by
10 the platform, or to prioritize that information, in-
11 cluding as a result of a search initiated by the re-
12 cipient of the service or otherwise determining the
13 relative order or prominence of information dis-
14 played. This includes any computational process, in-
15 cluding one derived from machine learning or other
16 artificial intelligence techniques, that processes per-
17 sonal information or other data for the purpose of
18 determining the order or manner that a set of infor-
19 mation is provided, recommended to, or withheld
20 from a user of a platform, including the provision of
21 commercial content, the display of social media
22 posts, recommendations of user or group accounts to
23 follow or associate with, or any other method of con-
24 tent selection, amplification, or restriction.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this Act for fiscal year 2023
4 and each succeeding fiscal year.

5 **SEC. 11. SEVERABILITY.**

6 If any provision of this Act, or the application of such
7 provision to any person or circumstance, is held to be un-
8 constitutional, the remainder of this Act, and the applica-
9 tion of the remaining provisions of this Act, to any person
10 or circumstance, shall not be affected.

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