

112TH CONGRESS
1ST SESSION

H. R. 1895

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 and to establish certain other protections for personal information of children and minors.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2011

Mr. MARKEY (for himself and Mr. BARTON of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

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 and to establish certain other protections for personal information of children and minors.

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 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

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

20 (4) Children are increasingly spending time on-
21 line. A Nielsen Online survey conducted in July
22 2009 found that “time spent online for children ages
23 2 to 11 increased from about 7 hours to more than
24 11 hours per week, a jump of 63% over five years”.

1 (5) Children and teens are visiting numerous
2 companies' websites, and marketers are using multi-
3 media games, online quizzes, and cellular phone ap-
4 plications to create ties to children and teens.

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

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

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

20 (9) Children and teens have become the focus
21 of behavioral profiling and targeting, raising privacy
22 concerns.

23 (10) Eighty-five percent of parents say they are
24 more concerned about online privacy than they were
25 5 years ago.

1 (11) Seventy-two percent of parents say sexual
2 predators are the main reason they are concerned
3 about children revealing personal information online.

4 (12) According to the Pew Research Center's
5 Internet and American Life Project, 31 percent of
6 12-year-olds in the United States were using social
7 networking sites in 2006, with that figure growing
8 to 38 percent by mid-2009.

9 (13) Seventy-five percent of parents do not
10 think social networking sites do a good job of pro-
11 tecting the online privacy of children.

12 (14) Ninety-one percent of parents think search
13 engines and social networking sites should not be
14 permitted to share the physical location of children
15 with other companies until parents give authoriza-
16 tion.

17 (15) Significant majorities, 88 percent of par-
18 ents and 85 percent of teens, want online companies
19 to require them to opt in before the companies use
20 their personal information for marketing purposes.

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

1 (17) A Commonsense Media/Zogby poll found
2 that 94 percent of parents and 94 percent of adults
3 believe individuals should have the ability to request
4 the deletion of all their personal information held by
5 an online search engine, social networking site, or
6 marketing company after a specific period of time.

7 **SEC. 3. ONLINE COLLECTION, USE, AND DISCLOSURE OF**
8 **PERSONAL INFORMATION OF CHILDREN.**

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

12 (1) by amending paragraph (2) to read as fol-
13 lows:

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

15 “(A) means any person who, for commer-
16 cial purposes, in interstate or foreign commerce,
17 operates or provides a website on the Internet,
18 online service, online application, or mobile ap-
19 plication and who collects or maintains personal
20 information from or about users of such
21 website, service, or application, or on whose be-
22 half such information is collected or main-
23 tained, including any person offering products
24 or services for sale through such website, serv-
25 ice, or application; and

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

5 (2) in paragraph (4)—

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

8 “(A) the release of personal information
9 for any purpose, except where such information
10 is provided to a person other than an operator
11 who provides support for the internal operations
12 of the website, online service, online application,
13 or mobile application of the operator and does
14 not disclose or use that information for any
15 other purpose; and”;

16 (B) in subparagraph (B), by striking
17 “website or online service” and inserting
18 “website, online service, online application, or
19 mobile application”;

20 (3) in paragraph (8)—

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

23 “(G) information concerning a child or the
24 parents of that child (including any unique or
25 substantially unique identifier, such as a cus-

1 tomer number) that an operator collects online
2 from the child and combines with an identifier
3 described in subparagraphs (A) through (G).”;

4 (B) by redesignating subparagraphs (F)
5 and (G) as subparagraphs (G) and (H), respec-
6 tively; and

7 (C) by inserting after subparagraph (E)
8 the following new subparagraph:

9 “(F) information (including an Internet
10 protocol address) that permits the identification
11 of the computer of an individual, or any other
12 device used by an individual to access the Inter-
13 net or an online service, online application, or
14 mobile application;”;

15 (4) by striking paragraph (10) and redesign-
16 ating paragraphs (11) and (12) as paragraphs (10)
17 and (11), respectively; and

18 (5) by adding at the end the following new
19 paragraph:

20 “(12) ONLINE, ONLINE SERVICE, ONLINE AP-
21 PLICATION, MOBILE APPLICATION, DIRECTED TO
22 CHILDREN.—The terms ‘online’, ‘online service’, ‘on-
23 line application’, ‘mobile application’, and ‘directed
24 to children’ shall have the meanings given them by
25 the Commission by regulation. Not later than 1 year

1 after the date of the enactment of the Do Not Track
2 Kids Act of 2011, the Commission shall promulgate,
3 under section 553 of title 5, United States Code,
4 regulations that define such terms broadly enough so
5 that they are not limited to current technology, con-
6 sistent with the principles articulated by the Com-
7 mission regarding the definition of the term ‘Inter-
8 net’ in its statement of basis and purpose on the
9 final rule under this title promulgated on November
10 3, 1999 (64 Fed. Reg. 59891). The definition of the
11 term ‘online service’ in such regulations shall include
12 broadband Internet access service (as defined in the
13 Report and Order of the Federal Communications
14 Commission relating to the matter of preserving the
15 open Internet and broadband industry practices
16 (FCC 10–201, adopted by the Commission on De-
17 cember 21, 2010)).”.

18 (b) **ONLINE COLLECTION, USE, AND DISCLOSURE OF**
19 **PERSONAL INFORMATION OF CHILDREN.**—Section 1303
20 of the Children’s Online Privacy Protection Act of 1998
21 (15 U.S.C. 6502) is amended—

22 (1) by striking the heading and inserting the
23 following: “**ONLINE COLLECTION, USE, AND DIS-**
24 **CLOSURE OF PERSONAL INFORMATION OF**
25 **CHILDREN**”;

1 (2) in subsection (a)—

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

4 “(1) IN GENERAL.—It is unlawful for an oper-
5 ator of a website, online service, online application,
6 or mobile application directed to children, or an op-
7 erator having actual knowledge that it is collecting
8 personal information from children, to collect per-
9 sonal information from a child in a manner that vio-
10 lates the regulations prescribed under subsection
11 (b).”; and

12 (B) in paragraph (2)—

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

15 (ii) by striking “subsection
16 (b)(1)(B)(iii)” and inserting “subsection
17 (b)(1)(C)(iii)”; and

18 (3) in subsection (b)—

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

21 “(1) IN GENERAL.—Not later than 1 year after
22 the date of the enactment of the Do Not Track Kids
23 Act of 2011, the Commission shall promulgate,
24 under section 553 of title 5, United States Code,
25 regulations to require an operator of a website, on-

1 line service, online application, or mobile application
2 directed to children, or an operator having actual
3 knowledge that it is collecting personal information
4 from children—

5 “(A) to provide clear and conspicuous no-
6 tice in clear and plain language of the types of
7 personal information the operator collects, how
8 the operator uses such information, whether the
9 operator discloses such information, and the
10 procedures or mechanisms the operator uses to
11 ensure that personal information is not col-
12 lected from children except in accordance with
13 the regulations promulgated under this para-
14 graph;

15 “(B) to obtain verifiable parental consent
16 for the collection, use, or disclosure of personal
17 information of a child;

18 “(C) to provide to a parent whose child
19 has provided personal information to the oper-
20 ator, upon request by and proper identification
21 of the parent—

22 “(i) a description of the specific types
23 of personal information collected from the
24 child by the operator;

1 “(ii) the opportunity at any time to
2 refuse to permit the further use or mainte-
3 nance in retrievable form, or future collec-
4 tion, by the operator of personal informa-
5 tion collected from the child; and

6 “(iii) a means that is reasonable
7 under the circumstances for the parent to
8 obtain any personal information collected
9 from the child, if such information is avail-
10 able to the operator at the time the parent
11 makes the request;

12 “(D) not to condition participation in a
13 game, or use of a website, service, or applica-
14 tion, by a child on the provision by the child of
15 more personal information than is reasonably
16 required to participate in the game or use the
17 website, service, or application; and

18 “(E) to establish and maintain reasonable
19 procedures to protect the confidentiality, secu-
20 rity, and integrity of personal information col-
21 lected from children.”;

22 (B) in the matter preceding subparagraph
23 (A) of paragraph (2), by striking “paragraph
24 (1)(A)(ii)” and inserting “paragraph (1)(B)”;
25 and

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

3 “(3) CONTINUATION OF SERVICE.—The regula-
4 tions shall prohibit an operator from discontinuing
5 service provided to a child on the basis of refusal by
6 the parent of the child, under the regulations pre-
7 scribed under paragraph (1)(C)(ii), to permit the
8 further use or maintenance in retrievable form, or
9 future collection, by the operator of personal infor-
10 mation collected from the child, to the extent that
11 the operator is capable of providing such service
12 without such information.”.

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

16 (1) in subsection (b)—

17 (A) in paragraph (1), by striking “, in the
18 case of” and all that follows and inserting the
19 following: “by the appropriate Federal banking
20 agency with respect to any insured depository
21 institution (as such terms are defined in section
22 3 of such Act (12 U.S.C. 1813));”; and

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

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

3 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE
4 OPERATORS.—

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

12 “(2) RELATIONSHIP TO OTHER LAW.—To the
13 extent that sections 222 and 631 of the Communica-
14 tions Act of 1934 (47 U.S.C. 222; 551) are incon-
15 sistent with this title, this title controls.”.

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

17 (a) ACTS PROHIBITED.—It is unlawful for an oper-
18 ator of a website, online service, online application, or mo-
19 bile application directed to children or minors, or an oper-
20 ator having actual knowledge that it is collecting personal
21 information from children or minors, to use, disclose to
22 third parties, or compile personal information collected
23 from children or minors, if the use, disclosure, or compila-
24 tion is for targeted marketing purposes.

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

5 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS**
6 **AND FAIR INFORMATION PRACTICES PRIN-**
7 **CIPLES.**

8 (a) ACTS PROHIBITED.—It is unlawful for an oper-
9 ator of a website, online service, online application, or mo-
10 bile application directed to minors, or an operator having
11 actual knowledge that it is collecting personal information
12 from minors, to collect personal information from minors
13 unless such operator has adopted and implemented a Dig-
14 ital Marketing Bill of Rights for Teens that—

15 (1) is consistent with the Fair Information
16 Practices Principles described in subsection (b); and

17 (2) balances the ability of minors to participate
18 fully in the digital media culture with the govern-
19 mental and industry obligation to ensure that opera-
20 tors of websites, online services, online applications,
21 and mobile applications do not subject minors to un-
22 fair and deceptive surveillance, data collection, or be-
23 havioral profiling.

1 (b) FAIR INFORMATION PRACTICES PRINCIPLES.—
2 The Fair Information Practices Principles described in
3 this subsection are the following:

4 (1) COLLECTION LIMITATION PRINCIPLE.—
5 There should be limits on the collection of personal
6 information. Any such information should be ob-
7 tained by lawful and fair means and, where appro-
8 priate, with the knowledge or consent of the subject
9 of the information.

10 (2) DATA QUALITY PRINCIPLE.—Personal infor-
11 mation should be relevant to the purposes for which
12 the information is to be used and, to the extent nec-
13 essary for such purposes, should be accurate, com-
14 plete, and kept up-to-date.

15 (3) PURPOSE SPECIFICATION PRINCIPLE.—The
16 purposes for which personal information is collected
17 should be specified not later than at the time of the
18 collection of the information. The subsequent use of
19 the information should be limited to the fulfilment
20 of—

21 (A) the purposes originally specified; or

22 (B) other purposes that are—

23 (i) compatible with such originally
24 specified purposes; and

1 (ii) specified in a notice to the subject
2 of the information before the information
3 is used for such other purposes.

4 (4) USE LIMITATION PRINCIPLE.—Personal in-
5 formation should not be disclosed, made available, or
6 otherwise used for purposes other than those speci-
7 fied in accordance with the purpose limitation prin-
8 ciple described in paragraph (3), except—

9 (A) with the consent of the subject of the
10 information; or

11 (B) under specific legal authority.

12 (5) SECURITY SAFEGUARDS PRINCIPLE.—Per-
13 sonal information should be protected by reasonable
14 security safeguards against risks such as loss or un-
15 authorized access, destruction, use, modification, or
16 disclosure.

17 (6) OPENNESS PRINCIPLE.—The operator
18 should maintain a general policy of openness about
19 developments, practices, and policies with respect to
20 personal information. The operator should provide
21 each user of the website, online service, online appli-
22 cation, or mobile application of the operator with a
23 means of readily ascertaining—

24 (A) whether the operator possesses any
25 personal information of such user, the nature of

1 any such information, and the purposes for
2 which the information was obtained and is
3 being retained;

4 (B) the identity of the operator; and

5 (C) the address of—

6 (i) in the case of an operator who is
7 an individual, the principal residence of the
8 operator; or

9 (ii) in the case of any other operator,
10 the principal place of business of the oper-
11 ator.

12 (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

13 An individual should have the right—

14 (A) to obtain any personal information of
15 the individual that is in the possession of the
16 operator from the operator, or from a person
17 specified by the operator, within a reasonable
18 time after making a request, at a charge (if
19 any) that is not excessive, in a reasonable man-
20 ner, and in a form that is readily intelligible to
21 the individual;

22 (B) to be given by the operator, or person
23 specified by the operator—

24 (i) reasons for any denial of a request
25 under subparagraph (A); and

1 (ii) an opportunity to challenge such
2 denial;

3 (C) to challenge the accuracy of personal
4 information of the individual that is in the pos-
5 session of the operator; and

6 (D) if the individual establishes the inaccu-
7 racy of personal information in a challenge
8 under subparagraph (C), to have the informa-
9 tion erased, corrected, completed, or otherwise
10 amended.

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

15 **SEC. 6. ONLINE COLLECTION OF GEOLOCATION INFORMA-**
16 **TION OF CHILDREN AND MINORS.**

17 (a) ACTS PROHIBITED.—

18 (1) IN GENERAL.—It is unlawful for an oper-
19 ator of a website, online service, online application,
20 or mobile application directed to children or minors,
21 or an operator having actual knowledge that it is
22 collecting geolocation information from children or
23 minors, to collect geolocation information from a
24 child or minor in a manner that violates the regula-
25 tions prescribed under subsection (b).

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

9 (b) REGULATIONS.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of the enactment of this Act, the Commis-
12 sion shall promulgate, under section 553 of title 5,
13 United States Code, regulations that require an op-
14 erator of a website, online service, online application,
15 or mobile application directed to children or minors,
16 or an operator having actual knowledge that it is
17 collecting geolocation information from children or
18 minors—

19 (A) to provide clear and conspicuous notice
20 in clear and plain language of any geolocation
21 information the operator collects, how the oper-
22 ator uses such information, and whether the op-
23 erator discloses such information;

24 (B) to establish procedures or mechanisms
25 to ensure that geolocation information is not

1 collected from children or minors except in ac-
2 cordance with regulations promulgated under
3 this paragraph;

4 (C) in the case of collection of geolocation
5 information from a child—

6 (i) prior to collecting such informa-
7 tion, to obtain verifiable parental consent;
8 and

9 (ii) after collecting such information,
10 to provide to the parent of the child, upon
11 request by and proper identification of the
12 parent—

13 (I) a description of the
14 geolocation information collected from
15 the child by the operator;

16 (II) the opportunity at any time
17 to refuse to permit the further use or
18 maintenance in retrievable form, or
19 future collection, by the operator of
20 geolocation information from the
21 child; and

22 (III) a means that is reasonable
23 under the circumstances for the par-
24 ent to obtain any geolocation informa-
25 tion collected from the child, if such

1 information is available to the oper-
2 ator at the time the parent makes the
3 request; and

4 (D) in the case of collection of geolocation
5 information from a minor—

6 (i) prior to collecting such informa-
7 tion, to obtain express authorization from
8 such minor; and

9 (ii) after collecting such information,
10 to provide to the minor, upon request—

11 (I) a description of the
12 geolocation information collected from
13 the minor by the operator;

14 (II) the opportunity at any time
15 to refuse to permit the further use or
16 maintenance in retrievable form, or
17 future collection, by the operator of
18 geolocation information from the
19 minor; and

20 (III) a means that is reasonable
21 under the circumstances for the minor
22 to obtain any geolocation information
23 collected from the minor, if such in-
24 formation is available to the operator

1 at the time the minor makes the re-
2 quest.

3 (2) WHEN CONSENT OR AUTHORIZATION NOT
4 REQUIRED.—The regulations promulgated under
5 paragraph (1) shall provide that verifiable parental
6 consent under subparagraph (C)(i) of such para-
7 graph or express authorization under subparagraph
8 (D)(i) of such paragraph is not required when the
9 collection of the geolocation information of a child or
10 minor is necessary, to the extent permitted under
11 other provisions of law, to provide information to
12 law enforcement agencies or for an investigation on
13 a matter related to public safety.

14 (3) CONTINUATION OF SERVICE.—The regula-
15 tions promulgated under paragraph (1) shall pro-
16 hibit an operator from discontinuing service provided
17 to—

18 (A) a child on the basis of refusal by the
19 parent of the child, under subparagraph
20 (C)(ii)(II) of such paragraph, to permit the fur-
21 ther use or maintenance in retrievable form, or
22 future online collection, of geolocation informa-
23 tion from the child by the operator, to the ex-
24 tent that the operator is capable of providing
25 such service without such information; or

1 (B) a minor on the basis of refusal by the
2 minor, under subparagraph (D)(ii)(II) of such
3 paragraph, to permit the further use or mainte-
4 nance in retrievable form, or future online col-
5 lection, of geolocation information from the
6 minor by the operator, to the extent that the
7 operator is capable of providing such service
8 without such information.

9 (c) **INCONSISTENT STATE LAW.**—No State or local
10 government may impose any liability for commercial ac-
11 tivities or actions by operators in interstate or foreign
12 commerce in connection with an activity or action de-
13 scribed in this section that is inconsistent with the treat-
14 ment of those activities or actions under this section.

15 **SEC. 7. ERASER BUTTONS.**

16 (a) **ACTS PROHIBITED.**—It is unlawful for an oper-
17 ator of a website, online service, online application, or mo-
18 bile application to make publicly available through the
19 website, service, or application content that contains or
20 displays personal information of children or minors in a
21 manner that violates the regulations prescribed under sub-
22 section (b).

23 (b) **REGULATIONS.**—

24 (1) **IN GENERAL.**—Not later than 1 year after
25 the date of the enactment of this Act, the Commis-

1 sion shall promulgate, under section 553 of title 5,
2 United States Code, regulations that require an op-
3 erator—

4 (A) to the extent technologically feasible,
5 to implement mechanisms that permit users of
6 the website, service, or application of the oper-
7 ator to erase or otherwise eliminate content
8 that is publicly available through the website,
9 service, or application and contains or displays
10 personal information of children or minors; and

11 (B) to take appropriate steps to make
12 users aware of such mechanisms.

13 (2) EXCEPTION.—The regulations promulgated
14 under paragraph (1) may not require an operator to
15 erase or otherwise eliminate information that the op-
16 erator is required to maintain under any other provi-
17 sion of Federal or State law.

18 **SEC. 8. ENFORCEMENT AND APPLICABILITY.**

19 (a) ENFORCEMENT BY THE COMMISSION.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided, this Act shall be enforced by the Commission
22 under the Federal Trade Commission Act (15
23 U.S.C. 41 et seq.).

24 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-
25 TICES.—Subject to subsection (b), a violation of a

1 regulation prescribed under section 4(b), 5(c), 6(b),
2 or 7(b) shall be treated as a violation of a rule defin-
3 ing an unfair or deceptive act or practice prescribed
4 under section 18(a)(1)(B) of the Federal Trade
5 Commission Act (15 U.S.C. 57a(a)(1)(B)).

6 (3) ACTIONS BY THE COMMISSION.—Subject to
7 subsection (b), the Commission shall prevent any
8 person from violating a rule of the Commission
9 under section 4(b), 5(c), 6(b), or 7(b) in the same
10 manner, by the same means, and with the same ju-
11 risdiction, powers, and duties as though all applica-
12 ble terms and provisions of the Federal Trade Com-
13 mission Act (15 U.S.C. 41 et seq.) were incor-
14 porated into and made a part of this Act. Any per-
15 son who violates such rule shall be subject to the
16 penalties and entitled to the privileges and immuni-
17 ties provided in the Federal Trade Commission Act.

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

22 (1) Under section 8 of the Federal Deposit In-
23 surance Act (12 U.S.C. 1818) by the appropriate
24 Federal banking agency, with respect to an insured

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

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

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

11 (4) Under the Packers and Stockyards Act,
12 1921 (7 U.S.C. 181 et seq.) (except as provided in
13 section 406 of such Act (7 U.S.C. 226; 227)) by the
14 Secretary of Agriculture, with respect to any activi-
15 ties subject to such Act.

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

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

23 (1) IN GENERAL.—

24 (A) CIVIL ACTIONS.—In any case in which
25 the attorney general of a State has reason to

1 believe that an interest of the residents of that
2 State has been or is threatened or adversely af-
3 fected by the engagement of any person in a
4 practice that violates any regulation of the
5 Commission prescribed under section 4(b), 5(c),
6 6(b), or 7(b), the State, as *parens patriae*, may
7 bring a civil action on behalf of the residents of
8 the State in a district court of the United
9 States of appropriate jurisdiction to—

10 (i) enjoin that practice;

11 (ii) enforce compliance with the regu-
12 lation;

13 (iii) obtain damage, restitution, or
14 other compensation on behalf of residents
15 of the State; or

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

18 (B) NOTICE.—

19 (i) IN GENERAL.—Before filing an ac-
20 tion under subparagraph (A), the attorney
21 general of the State involved shall provide
22 to the Commission—

23 (I) written notice of that action;

24 and

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

3 (ii) EXEMPTION.—

4 (I) IN GENERAL.—Clause (i)
5 shall not apply with respect to the fil-
6 ing of an action by an attorney gen-
7 eral of a State under this paragraph,
8 if the attorney general determines
9 that it is not feasible to provide the
10 notice described in that clause before
11 the filing of the action.

12 (II) NOTIFICATION.—In an ac-
13 tion described in subclause (I), the at-
14 torney general of a State shall provide
15 notice and a copy of the complaint to
16 the Commission at the same time as
17 the attorney general files the action.

18 (2) INTERVENTION.—

19 (A) IN GENERAL.—On receiving notice
20 under paragraph (1)(B), the Commission shall
21 have the right to intervene in the action that is
22 the subject of the notice.

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

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

3 (ii) to file a petition for appeal.

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

10 (A) conduct investigations;

11 (B) administer oaths or affirmations; or

12 (C) compel the attendance of witnesses or
13 the production of documentary and other evi-
14 dence.

15 (4) ACTIONS BY THE COMMISSION.—In any
16 case in which an action is instituted by or on behalf
17 of the Commission for violation of any regulation
18 prescribed under section 4(b), 5(c), 6(b), or 7(b), no
19 State may, during the pendency of that action, insti-
20 tute an action under paragraph (1) against any de-
21 fendant named in the complaint in that action for
22 violation of that regulation.

23 (5) VENUE; SERVICE OF PROCESS.—

24 (A) VENUE.—Any action brought under
25 paragraph (1) may be brought in the district

1 court of the United States that meets applicable
2 requirements relating to venue under section
3 1391 of title 28, United States Code.

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

7 (i) is an inhabitant; or

8 (ii) may be found.

9 (d) TELECOMMUNICATIONS CARRIERS AND CABLE
10 OPERATORS.—

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

18 (2) RELATIONSHIP TO OTHER LAW.—To the ex-
19 tent that sections 222 and 631 of the Communica-
20 tions Act of 1934 (47 U.S.C. 222; 551) are incon-
21 sistent with this Act, this Act controls.

22 **SEC. 9. 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 18.

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.

5 **SEC. 10. EFFECTIVE DATES.**

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

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

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

15 (2) Sections 4(b), 5(c), 6(b), 7(b), and 9(b).

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

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