

118TH CONGRESS
1ST SESSION

S. _____

To amend the Clayton Act to establish a new Federal commission to regulate digital platforms, including with respect to competition, transparency, privacy, and national security.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Clayton Act to establish a new Federal commission to regulate digital platforms, including with respect to competition, transparency, privacy, and national security.

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 “Digital Consumer Pro-
5 tection Commission Act of 2023”.

1 **TITLE I—AMENDMENTS TO**
2 **CLAYTON ACT**

3 **SEC. 101. ESTABLISHMENT OF DIGITAL CONSUMER PRO-**
4 **TECTION COMMISSION.**

5 The Clayton Act (15 U.S.C. 12 et seq.) is amended—

6 (1) by striking “That (a)” and inserting the fol-
7 lowing:

8 **“DIVISION A—ORIGINAL**
9 **ANTITRUST PROVISIONS**

10 “SECTION 1. (a) The term”;

11 (2) in division A, as so designated, by adding
12 at the end the following:

13 “SEC. 29. (a) Any reference to ‘this Act’ in this divi-
14 sion shall be deemed to be a reference to this division.

15 “(b) Any reference to the Clayton Act in any other
16 provision of law shall be deemed to be a reference to this
17 division unless the provision specifically references division
18 B of this Act or a provision in division B of this Act.”;
19 and

20 (3) by adding at the end the following:

21 **“DIVISION B—DIGITAL CON-**
22 **SUMER PROTECTION COM-**
23 **MISSION**

24 “SEC. 2001. TABLE OF CONTENTS.

25 “The table of contents for this division is as follows:

“Sec. 2001. Table of contents.

“Sec. 2002. Definitions.

“TITLE I—ESTABLISHMENT OF DIGITAL CONSUMER PROTECTION
COMMISSION

“Subtitle A—Commission Structure, Jurisdiction, and Powers

“Sec. 2111. Establishment.

“Sec. 2112. Commissioners.

“Sec. 2113. Designation of acting chairperson; sessions; seal.

“Sec. 2114. Commission jurisdiction.

“Sec. 2115. Commission powers.

“Sec. 2116. Rulemaking authority.

“Sec. 2117. Advisory boards.

“Sec. 2118. Complaints.

“Subtitle B—Dominant Platforms

“Sec. 2121. Dominant platforms.

“TITLE II—TRANSPARENCY REFORM

“Sec. 2201. Transparency practices and appeal rights.

“Sec. 2202. Best practices.

“TITLE III—COMPETITION REFORM

“Subtitle A—Antitrust Review

“Sec. 2311. Abuses of dominance.

“Sec. 2312. Platform conflicts of interest.

“Sec. 2313. Future acquisitions.

“Sec. 2314. Retrospective reviews.

“Sec. 2315. Additional remedies.

“Sec. 2316. Contractual transparency.

“Sec. 2317. Prohibition on abusive acts or practices.

“Sec. 2318. Data brokers.

“Subtitle B—Data Portability and Interoperability.

“Sec. 2321. Data portability and interoperability.

“Subtitle C—Miscellaneous

“Sec. 2331. Rule of construction.

“TITLE IV—PRIVACY REFORM

“Subtitle A—Covered Entity Duties and Requirements.

“Sec. 2411. Duty of loyalty.

“Sec. 2412. Duty of care.

“Sec. 2413. Duty of mitigation.

“Sec. 2414. Duty of confidentiality; data collection and processing.

“Sec. 2415. Limitations on targeted advertising.

“Sec. 2416. Rights of data subjects to access, correction, portability, and deletion.

“Sec. 2417. Right to know.

4

“Subtitle B—Data Security Reform

- “Sec. 2421. Data security safeguards.
 “Sec. 2422. Civil penalties and damages for data breaches.

“Subtitle C—Miscellaneous

- “Sec. 2431. Authority to propose and establish heightened requirements for dominant platform operators.

“TITLE V—NATIONAL SECURITY REFORM

- “Sec. 2501. Corporate citizenship and ownership.
 “Sec. 2502. Limitation of data processing in restricted countries.
 “Sec. 2503. Bot and country-of-origin identifications.

“TITLE VI—LICENSES FOR OPERATORS OF DOMINANT PLATFORMS

- “Sec. 2601. Licensing office.
 “Sec. 2602. Requirement for operators of dominant platforms to obtain licenses.
 “Sec. 2603. Revocation of license.
 “Sec. 2604. Compliance certification.

“TITLE VII—ENFORCEMENT BY OTHER ENTITIES

- “Sec. 2701. Enforcement by States, private parties, and Federal agencies.
 “Sec. 2702. Exclusive jurisdiction.

“TITLE VIII—MISCELLANEOUS

- “Sec. 2801. Funding.
 “Sec. 2802. Interagency cooperation.
 “Sec. 2803. Effective date.
 “Sec. 2804. Rules of construction.
 “Sec. 2805. Severability.

1 **“SEC. 2002. DEFINITIONS.**

2 “In this division:

3 “(1) ALGORITHM.—

4 “(A) IN GENERAL.—The term ‘algorithm’
 5 means a computational process derived from
 6 machine learning, statistics, or other data processing
 7 or artificial intelligence techniques, that
 8 processes data for the purpose of—

1 “(i) making a decision or facilitating
2 human decision-making;

3 “(ii) generating content;

4 “(iii) the display of search results or
5 rankings; or

6 “(iv) any other method of automated
7 decision-making, content selection, or con-
8 tent amplification.

9 “(B) TEMPORAL SCOPE.—The term ‘algo-
10 rithm’ encompasses a computational process de-
11 scribed in subparagraph (A) as it evolves over
12 time, not just at its original point of creation.

13 “(2) BUSINESS USER.—The term ‘business
14 user’, with respect to a platform, means a person
15 that uses or plans to use the platform for the sale
16 or provision of products or services.

17 “(3) CHILD.—The term ‘child’ means an indi-
18 vidual younger than 18 years of age.

19 “(4) CLEAR AND CONSPICUOUS.—The term
20 ‘clear and conspicuous’, with respect to a disclosure,
21 means the disclosure is easily noticeable and easily
22 understandable by ordinary consumers, including in
23 each of the following ways:

24 “(A) In any communication that is solely
25 visual or solely audible, the disclosure shall be

1 made through the same means through which
2 the communication is presented.

3 “(B) A visual disclosure, by its size, con-
4 trast, location, the length of time it appears,
5 and other characteristics, shall stand out from
6 any accompanying text or other visual elements
7 so that the disclosure is easily noticed, read,
8 and understood.

9 “(C) An audible disclosure, including by
10 telephone or streaming video, shall be delivered
11 in a volume, speed, and cadence sufficient for
12 an ordinary consumer to easily hear and under-
13 stand the disclosure.

14 “(D) In any communication using an inter-
15 active electronic medium, such as the internet
16 or software, the disclosure shall be unavoidable.

17 “(E) The disclosure shall—

18 “(i) use diction and syntax under-
19 standable to ordinary consumers; and

20 “(ii) appear in each language in which
21 the communication in which the disclosure
22 appears is presented.

23 “(F) The disclosure shall comply with the
24 requirements under this paragraph in each me-
25 dium through which the disclosure appears, in-

1 including all electronic devices and face-to-face
2 communications.

3 “(G) The disclosure may not be contra-
4 dicted or mitigated by, or inconsistent with,
5 anything else in the communication.

6 “(H) If the representation or sales practice
7 targets a specific audience, such as children,
8 the elderly, or the terminally ill, the term ‘ordi-
9 nary consumer’, as used in this paragraph, in-
10 cludes reasonable members of that audience.

11 “(5) COMMISSION.—The term ‘Commission’, ex-
12 cept as otherwise provided, means the Digital Con-
13 sumer Protection Commission established under sec-
14 tion 2111.

15 “(6) CONTROL.—The term ‘control’, with re-
16 spect to a person or platform, means—

17 “(A) holding not less than 25 percent of
18 the stock of the person or platform;

19 “(B) having the right to not less than 25
20 percent of the profits of the person or platform;

21 “(C) having the right to not less than 25
22 percent of the assets of the person or platform,
23 in the event of the dissolution of the person or
24 platform;

1 “(D) if the person or platform is a cor-
2 poration, having the power to designate not less
3 than 25 percent of the directors of the person
4 or platform;

5 “(E) if the person or platform is a trust,
6 having the power to designate not less than 25
7 percent of the trustees; or

8 “(F) otherwise exercising substantial abil-
9 ity to direct the actions of the person or plat-
10 form.

11 “(7) COVERED BREACH.—The term ‘covered
12 breach’ means any instance in which not less than
13 1 piece of personal data held by a covered entity is
14 exposed, or is reasonably likely to have been exposed,
15 to an unauthorized party.

16 “(8) COVERED ENTITY.—

17 “(A) *IN GENERAL.*—*Subject to subpara-*
18 *graph (B), the term ‘covered entity’—*

19 “(i) *means any person that collects,*
20 *processes, or transfers personal data and—*

21 “(I) *is subject to the Federal*
22 *Trade Commission Act (15 U.S.C. 41*
23 *et seq.); or*

24 “(II) *is—*

1 “(aa) a bank, savings and
2 loan institution described in sec-
3 tion 18(f)(3) of the Federal Trade
4 Commission Act (15 U.S.C.
5 57a(f)(3)), or Federal credit union
6 described in section 18(f)(4) of
7 such Act;

8 “(bb) a common carrier sub-
9 ject to the Acts to regulate com-
10 merce (as defined in section 4 of
11 the Federal Trade Commission
12 Act (15 U.S.C. 44));

13 “(cc) an air carrier or for-
14 eign air carrier subject to the Fed-
15 eral Aviation Act of 1958 (49
16 U.S.C. App. 1301 et seq.); or

17 “(dd) a person, partnership,
18 or corporation subject to the Pack-
19 ers and Stockyards Act, 1921, as
20 amended; and

21 “(ii) includes any person that controls,
22 is controlled by, or is under common control
23 with the covered entity.

24 “(B) EXCLUSIONS.—Such term does not in-
25 clude—

1 “(i) a Federal, State, Tribal, terri-
2 torial, or local government entity such as a
3 body, authority, board, bureau, commission,
4 district, agency, or political subdivision of
5 the Federal Government or a State, Tribal,
6 territorial, or local government;

7 “(ii) a person that is collecting, proc-
8 essing, or transferring personal data on be-
9 half of a Federal, State, Tribal, territorial,
10 or local government entity, in so far as such
11 person is acting as a service provider to the
12 government entity; or

13 “(iii) an entity that serves as a con-
14 gressionally designated nonprofit, national
15 resource center, and clearinghouse to pro-
16 vide assistance to victims, families, child-
17 serving professionals, and the general public
18 on missing and exploited children issues.

19 “(9) CRITICAL TRADING PARTNER.—The term
20 ‘critical trading partner’ means an entity that has
21 the ability to restrict or impede the access of a busi-
22 ness user to—

23 “(A) the users or customers of the busi-
24 ness user; or

1 “(B) a tool or service that the business
2 user needs to effectively serve the users or cus-
3 tomers of the business user.

4 “(10) DATA BROKER.—The term ‘data broker’
5 means a person that collects, buys, licenses, or infers
6 data about individuals and then sells, licenses, or
7 trades that data in a commercial transaction.

8 “(11) DATA PROCESSING.—The term ‘data
9 processing’—

10 “(A) means any operation or set of oper-
11 ations that is performed on personal data or on
12 sets of personal data, whether or not by auto-
13 mated means, such as collection, recording, or-
14 ganization, structuring, storage, adaptation or
15 alteration, retrieval, consultation, use, disclo-
16 sure by transmission, dissemination or other-
17 wise making available, alignment or combina-
18 tion, restriction, or erasure or destruction; and

19 “(B) includes the sale, resale, licensing, or
20 trading of personal data.

21 “(12) DE-IDENTIFIED DATA.—The term ‘de-
22 identified data’ means data, derived from sensitive
23 personal data, that cannot reasonably be used to
24 infer information about, or otherwise be linked to,
25 an identified or identifiable individual or household,

1 or a device linked to such an individual or house-
2 hold.

3 “(13) DOMINANT PLATFORM.—The term ‘domi-
4 nant platform’ has the meaning given the term in
5 section 2121.

6 “(14) GOVERNMENTAL ENTITY.—The term
7 ‘governmental entity’ means a department or agency
8 of—

9 “(A) the United States;

10 “(B) a State or political subdivision there-
11 of; or

12 “(C) a foreign country or political subdivi-
13 sion thereof.

14 “(15) OPERATOR.—The term ‘operator’, with
15 respect to a platform, means a person that owns or
16 controls the platform.

17 “(16) PERSONAL DATA.—The term ‘personal
18 data’—

19 “(A) means information collected through
20 activity on a platform that identifies or is
21 linked or reasonably linkable to—

22 “(i) a user of the platform or any in-
23 dividual; or

1 “(ii) a device routinely used by or as-
2 sociated with a user of the platform or any
3 individual; and

4 “(B) does not include—

5 “(i) de-identified data; or

6 “(ii) publicly available information.

7 “(17) PLATFORM.—The term ‘platform’ means
8 a website, online or mobile application, operating
9 system, online advertising exchange, digital assist-
10 ant, or other digital service that—

11 “(A) enables a user to—

12 “(i) generate content that can be
13 viewed by other users on the website, on-
14 line or mobile application, operating sys-
15 tem, online advertising exchange, digital
16 assistant, or other digital service; or

17 “(ii) interact with other content on
18 the website, online or mobile application,
19 operating system, online advertising ex-
20 change, digital assistant, or other digital
21 service;

22 “(B) facilitates the offering, sale, pur-
23 chase, payment, or shipping of products or serv-
24 ices, including software applications and online
25 advertising, among consumers or businesses not

1 controlled by the website, online or mobile ap-
2 plication, operating system, online advertising
3 exchange, digital assistant, or other digital serv-
4 ice; or

5 “(C) enables user searches or queries that
6 access or display a large volume of information.

7 “(18) PLATFORM CONFLICT OF INTEREST.—
8 The term ‘platform conflict of interest’ means the
9 conflict of interest that arises when a person owns
10 or controls a platform while simultaneously—

11 “(A) owning or controlling a line of busi-
12 ness that competes against third parties on that
13 platform, if the person has the ability and in-
14 centive to, or does—

15 “(i) advantage its own business on the
16 platform over third-party competitors on
17 the platform; or

18 “(ii) disadvantage the business of
19 third-party competitors on the platform; or

20 “(B) representing both buyers and sellers
21 for transactions or business on the platform.

22 “(19) RESTRICTED COUNTRY.—The term ‘re-
23 stricted country’ means a country for which a prohi-
24 bition or a policy of denial applies under section

1 126.1 of title 22, Code of Federal Regulations (or a
2 successor regulation).

3 “(20) SENSITIVE PERSONAL DATA.—

4 “(A) IN GENERAL.—The term ‘sensitive
5 personal data’ means any of the following forms
6 of personal data:

7 “(i) A unique, government-issued
8 identifier, such as a Social Security num-
9 ber, passport number, or driver’s license
10 number, that is not required to be dis-
11 played to the public.

12 “(ii) Date of birth.

13 “(iii) Cellphone number.

14 “(iv) Any data that describes or re-
15 veals—

16 “(I) the search for, attempt to
17 obtain, or receipt of any health serv-
18 ices;

19 “(II) any past, present, or future
20 disability, physical health condition,
21 mental health condition, or health
22 condition of an individual; or

23 “(III) any treatment or diagnosis
24 of a disability or condition described
25 in subclause (II).

1 “(v) A financial account number,
2 debit card number, or credit card number,
3 or any required security or access code,
4 password, or credentials allowing access to
5 a financial account.

6 “(vi) Credit scores related to financial
7 capacity.

8 “(vii) Household or personal income.

9 “(viii) Biometric information.

10 “(ix) A persistent identifier.

11 “(x) Precise geolocation information.

12 “(xi) The contents of a private com-
13 munication of an individual, such as an
14 email, a text, a direct message, or mail, or
15 the identity of the parties subject to the
16 communication.

17 “(xii) Account log-in credentials, such
18 as a user name or email address, in com-
19 bination with a password or security ques-
20 tion and answer that would permit access
21 to an online account.

22 “(xiii) Data revealing an individual’s
23 racial or ethnic origin or religious beliefs.

24 “(xiv) Data revealing sexual orienta-
25 tion, gender identity, or sex characteristics.

1 “(xv) Data pertaining to an individ-
2 ual’s sex life.

3 “(xvi) Data about online activity that
4 addresses or reveals a category of covered
5 data described in another clause of this
6 subparagraph.

7 “(xvii) Data that is calendar informa-
8 tion, address book information, phone or
9 text logs, photos, or videos maintained for
10 private use on an individual’s device.

11 “(xviii) Any data collected or proc-
12 essed by a platform operator from which
13 the platform operator infers data described
14 in another clause of this subparagraph.

15 “(xix) Any other category of data des-
16 ignated by the Commission pursuant to a
17 rulemaking under section 553 of title 5,
18 United States Code.

19 “(B) BIOMETRIC INFORMATION.—For pur-
20 poses of subparagraph (A), the term ‘biometric
21 information’—

22 “(i) means the physiological or bio-
23 logical characteristics of an individual, in-
24 cluding deoxyribonucleic acid; and

25 “(ii) includes—

1 “(I) imagery of the iris, retina,
2 fingerprint, face, hand, palm, vein
3 patterns, and voice recordings, from
4 which an identifier template, such as
5 a faceprint, a minutiae template, or a
6 voiceprint, can be extracted; and

7 “(II) keystroke patterns or
8 rhythms, gait patterns or rhythms,
9 and sleep, health, or exercise data
10 that contain identifying information.

11 “(C) PERSISTENT IDENTIFIER.—For pur-
12 poses of subparagraph (A), the term ‘persistent
13 identifier’ means a technologically derived iden-
14 tifier that identifies an individual, or is linked
15 or reasonably linkable to an individual over
16 time and across services and platforms, which
17 may include a customer number held in a cook-
18 ie, a static internet protocol address, a proc-
19 essor or device serial number, or another unique
20 device identifier.

21 “(D) PRECISE GEOLOCATION INFORMA-
22 TION.—For purposes of subparagraph (A), the
23 term ‘precise geolocation information’ means
24 data capable of determining the past or present
25 physical location of an individual or an individ-

1 ual’s device, with sufficient precision to identify
2 street-level location information of an individual
3 or device or the location of an individual or de-
4 vice within a range of 5,280 feet or less.

5 “(21) STATE.—The term ‘State’ includes the
6 District of Columbia and any territory or possession
7 of the United States.

8 “(22) TERMS OF SERVICE.—The term ‘terms of
9 service’ means any agreement between an operator
10 of a platform and a user of the platform, including
11 terms of service, terms of use, a privacy policy, a use
12 of data policy, a cookies policy, an advertisement
13 policy, a community-standards policy, commercial
14 terms, a safety policy, and a content-moderation pol-
15 icy.

16 “(23) USER.—The term ‘user’, with respect to
17 a platform—

18 “(A) means a person that—

19 “(i) engages with the platform; or

20 “(ii) logs into or uses services pro-
21 vided by the platform over the internet or
22 any other digital network; and

23 “(B) includes a business user of the plat-
24 form.

1 **“TITLE I—ESTABLISHMENT OF**
2 **DIGITAL CONSUMER PROTEC-**
3 **TION COMMISSION**

4 **“Subtitle A—Commission Struc-**
5 **ture, Jurisdiction, and Powers**

6 **“SEC. 2111. ESTABLISHMENT.**

7 “There is established an independent regulatory com-
8 mission to be known as the ‘Digital Consumer Protection
9 Commission’, which shall be constituted as provided in this
10 division and execute and enforce the provisions of this divi-
11 sion.

12 **“SEC. 2112. COMMISSIONERS.**

13 “(a) NUMBER OF COMMISSIONERS; APPOINTMENT.—
14 The Commission shall be composed of 5 commissioners ap-
15 pointed by the President, by and with the advice and con-
16 sent of the Senate.

17 “(b) TERMS OF OFFICE.—

18 “(1) IN GENERAL.—A commissioner shall be
19 appointed for a term of 5 years and may be removed
20 by the President only for neglect of duty or malfea-
21 sance in office.

22 “(2) INITIAL COMMISSIONERS.—The commis-
23 sioners first appointed to the Commission shall con-
24 tinue in office for terms of 1, 2, 3, 4, and 5 years,
25 respectively, from the date of enactment of this divi-

1 sion, the term of each to be designated by the Presi-
2 dent at the time of nomination.

3 “(c) QUALIFICATIONS.—

4 “(1) POLITICAL PARTIES.—Not more than 3
5 commissioners may be members of the same political
6 party.

7 “(2) CONFLICTS OF INTEREST.—

8 “(A) IN GENERAL.—No commissioner or
9 person employed by the Commission may—

10 “(i) be financially interested in any
11 platform operator;

12 “(ii) be financially interested in any
13 company or other entity that—

14 “(I) controls any platform oper-
15 ator; or

16 “(II) derives a significant portion
17 of its total income from ownership of
18 stocks, bonds, or other securities of
19 any platform operator; or

20 “(iii) be employed by, hold any official
21 relation to, or own any stocks, bonds, or
22 other securities of, any platform operator.

23 “(B) WAIVER.—

24 “(i) IN GENERAL.—Subject to section
25 208 of title 18, United States Code, the

1 Commission may waive, from time to time,
2 the application of the prohibitions under
3 subparagraph (A) to persons employed by
4 the Commission if the Commission deter-
5 mines that the financial interests of a per-
6 son that are involved in a particular case
7 are minimal.

8 “(ii) NO WAIVER FOR COMMIS-
9 SIONERS.—The waiver authority under
10 clause (i) shall not apply with respect to
11 commissioners.

12 “(iii) PUBLICATION.—If the Commis-
13 sion exercises the waiver authority under
14 clause (i), the Commission shall publish
15 notice of that action in the Federal Reg-
16 ister.

17 “(C) EXCEPTIONS.—

18 “(i) IN GENERAL.—Nothing in this
19 paragraph shall be construed to prevent a
20 commissioner or a person employed by the
21 Commission from owning or trading—

22 “(I) a widely held investment
23 fund, if the widely held investment
24 fund—

1 “(aa) does not present a
2 conflict of interest; and

3 “(bb) is diversified;

4 “(II) shares of Settlement Com-
5 mon Stock issued under section
6 7(g)(1)(A) of the Alaska Native
7 Claims Settlement Act (43 U.S.C.
8 1606(g)(1)(A));

9 “(III) shares of Settlement Com-
10 mon Stock, as defined in section 3 of
11 the Alaska Native Claims Settlement
12 Act (43 U.S.C. 1602);

13 “(IV) a United States Treasury
14 bill, note, or bond;

15 “(V) an investment fund held in
16 a Federal, State, or local government
17 employee retirement plan;

18 “(VI) an interest in a small busi-
19 ness concern, if the small business
20 concern does not present a conflict of
21 interest; or

22 “(VII) any stock, bond, com-
23 modity, future, or other form of secu-
24 rity, including an interest in a hedge
25 fund, a derivative, option, or other

1 complex investment vehicle received as
2 compensation from the primary occu-
3 pation of the spouse of the commis-
4 sioner or person employed by the
5 Commission.

6 “(ii) DEFINITIONS.—In this subpara-
7 graph:

8 “(I) COMMODITY.—The term
9 ‘commodity’ has the meaning given
10 that term in section 1a of the Com-
11 modity Exchange Act (7 U.S.C. 1a)).

12 “(II) DIVERSIFIED.—The term
13 ‘diversified’, with respect to an invest-
14 ment fund, means that the investment
15 fund does not have a stated policy of
16 overly concentrating its investments.

17 “(III) SECURITY.—The term ‘se-
18 curity’ has the meaning given that
19 term in section 3(a) of Securities Ex-
20 change Act of 1934 (15 U.S.C.
21 78c(a)).

22 “(IV) SMALL BUSINESS CON-
23 CERN.—The term ‘small business con-
24 cern’ has the meaning given that term

1 under section 3 of the Small Business
2 Act (15 U.S.C. 632).

3 “(V) WIDELY HELD INVESTMENT
4 FUND.—The term ‘widely held invest-
5 ment fund’ means a widely held in-
6 vestment fund described in section
7 102(f)(8) of the Ethics in Government
8 Act of 1978 (5 U.S.C. App.).

9 “(d) VACANCIES.—

10 “(1) FILLING VACANCIES.—Any commissioner
11 appointed to fill a vacancy occurring prior to the ex-
12 piration of the term for which the predecessor of the
13 commissioner was appointed shall be appointed only
14 for the remainder of that term.

15 “(2) SERVICE AFTER EXPIRATION OF TERM.—
16 A commissioner—

17 “(A) except as provided in subparagraph
18 (B), may continue to serve after the expiration
19 of the term of the commissioner until a suc-
20 cessor is appointed and has been confirmed and
21 taken the oath of office; and

22 “(B) may not continue to serve after the
23 end of the session of the Congress during which
24 the term of the commissioner expires.

25 “(3) ACTING COMMISSIONER.—

1 “(A) IN GENERAL.—If a vacancy exists
2 more than 90 days after the date on which the
3 President first submits to the Senate a nomina-
4 tion of a person to fill a vacancy on the Com-
5 mission, the President may appoint an acting
6 commissioner to serve on the Commission until
7 the vacancy is filled, subject to subparagraph
8 (B).

9 “(B) MAXIMUM TERM.—An acting com-
10 missioner appointed under subparagraph (A)
11 may serve on the Commission for not more
12 than 210 days.

13 “(e) EMPLOYMENT.—A commissioner may not en-
14 gage in any other business, vocation, or employment while
15 serving on the Commission.

16 “(f) CHAIRPERSON.—

17 “(1) DESIGNATION.—The President shall des-
18 ignate 1 commissioner to serve as the chairperson of
19 the Commission.

20 “(2) DUTIES.—The chairperson of the Commis-
21 sion shall oversee the executive and administrative
22 operations of the Commission, including functions of
23 the Commission with respect to—

1 “(A) the appointment and employment of
2 hearing examiners in accordance with the provi-
3 sions of title 5, United States Code;

4 “(B) the selection, appointment, and fixing
5 of the compensation of any personnel that the
6 chairperson determines necessary, including an
7 executive director;

8 “(C) the supervision of personnel employed
9 by or assigned to the Commission, except that
10 each commissioner may select and supervise
11 personnel for the personal staff of that commis-
12 sioner;

13 “(D) the distribution of business among
14 personnel and among administrative units of
15 the Commission; and

16 “(E) the procurement of services of experts
17 and consultants in accordance with section
18 3109 of title 5, United States Code.

19 “(g) SALARY OF COMMISSIONERS.—

20 “(1) IN GENERAL.—Each Commissioner shall
21 receive an annual salary at the annual rate payable
22 from time to time for grade 16 of the pay scale of
23 the Securities and Exchange Commission, payable in
24 monthly installments.

1 “(3) VOTE.—Each commissioner, including the
2 chairperson, shall have 1 vote.

3 “(4) MAJORITY VOTE.—Actions of the Commis-
4 sion shall be determined by a majority vote of the
5 members present.

6 “(c) SEAL.—The Commission shall have an official
7 seal which shall be judicially noticed.

8 **“SEC. 2114. COMMISSION JURISDICTION.**

9 “(a) FUNCTIONS.—The Commission shall—

10 “(1) implement and enforce the provisions of
11 this division; and

12 “(2) promote competition, privacy, national se-
13 curity, and transparency on platforms.

14 “(b) JURISDICTION; OVERSIGHT.—The Commission
15 shall have jurisdiction and oversight over—

16 “(1) all covered entities, including all platform
17 operators; and

18 “(2) any employee of a covered entity, including
19 a platform operator, who the Commission believes—

20 “(A) may have violated this division, a rule
21 promulgated under this division, or an adminis-
22 trative order issued under this division; or

23 “(B) may have knowledge regarding a vio-
24 lation of this division, a rule promulgated under

1 this division, or an administrative order issued
2 under this division.

3 **“SEC. 2115. COMMISSION POWERS.**

4 “(a) INVESTIGATIVE AUTHORITY.—

5 “(1) SCOPE.—

6 “(A) IN GENERAL.—The Commission may
7 investigate any facts, conditions, practices, or
8 matters that the Commission may find nec-
9 essary or proper to—

10 “(i) determine whether any covered
11 entity (including any platform operator) or
12 any employee described in section
13 2114(b)(2) has violated or is about to vio-
14 late any provision of this division, a rule
15 promulgated under this division, or an ad-
16 ministrative order issued under this divi-
17 sion; or

18 “(ii) aid in—

19 “(I) the enforcement of this divi-
20 sion;

21 “(II) prescribing rules or regula-
22 tions under this division; or

23 “(III) obtaining information to
24 serve as a basis for recommending

1 further legislation concerning the mat-
2 ters to which this division relates.

3 “(B) STATEMENTS; PUBLICATION OF IN-
4 FORMATION.—The Commission—

5 “(i) may permit any person, platform,
6 or platform operator to file with the Com-
7 mission a statement in writing under oath
8 or otherwise, as the Commission shall de-
9 termine, as to any or all facts and cir-
10 cumstances concerning a matter which
11 may be the subject of investigation; and

12 “(ii) in the discretion of the Commis-
13 sion, may publish information concerning
14 any subject of investigation described in
15 clause (i).

16 “(2) ATTENDANCE OF WITNESSES AND PRO-
17 Duction OF DOCUMENTS.—

18 “(A) IN GENERAL.—For the purpose of
19 any investigation or any other proceeding under
20 this division, the Commission, or any officer
21 designated by the Commission, may administer
22 oaths and affirmations, subpoena witnesses,
23 compel their attendance, take evidence, and re-
24 quire the production of any books, papers, cor-
25 respondence, memoranda, contracts, agree-

1 ments, or other records that the Commission
2 finds relevant or material to the inquiry.

3 “(B) LOCATION.—The attendance of wit-
4 nesses and the production of any records de-
5 scribed in subparagraph (A) may be required
6 from any place in the United States at any des-
7 ignated place of hearing.

8 “(C) WITNESS FEES AND MILEAGE.—The
9 Commission shall pay witnesses summoned to
10 appear before the Commission the same fees
11 and mileage that are paid witnesses in the
12 courts of the United States.

13 “(3) RESORT TO COURTS OF UNITED STATES
14 FOR FAILURE TO OBEY SUBPOENA; PUNISHMENT.—

15 “(A) IN GENERAL.—In case of contumacy
16 by, or refusal to obey a subpoena issued to, any
17 person, the Commission may invoke the aid of
18 any court of the United States within the juris-
19 diction of which the investigation or proceeding
20 is carried on, or where the person resides or
21 carries on business, in requiring—

22 “(i) the attendance and testimony of
23 witnesses; and

1 “(ii) the production of books, papers,
2 correspondence, memoranda, contracts,
3 agreements, and other records.

4 “(B) COURT ORDER.—

5 “(i) IN GENERAL.—A court of the
6 United States whose aid is invoked under
7 subparagraph (A) may issue an order re-
8 quiring the applicable person to appear be-
9 fore the Commission or a member or offi-
10 cer designated by the Commission, there to
11 produce records, if so ordered, or to give
12 testimony touching the matter under inves-
13 tigation or in question.

14 “(ii) CONTEMPT.—A court may pun-
15 ish any failure to obey an order of the
16 court issued under clause (i) as a contempt
17 thereof.

18 “(C) SERVICE OF PROCESS.—All process
19 in any case under this paragraph may be served
20 in the judicial district whereof the applicable
21 person is an inhabitant or wherever the person
22 may be found or may be doing business.

23 “(D) CRIMINAL PENALTY.—

24 “(i) OFFENSE.—It shall be unlawful
25 for a person to willfully fail or refuse to at-

1 tend and testify or to answer any lawful
2 inquiry or to produce books, papers, cor-
3 respondence, memoranda, contracts, agree-
4 ments, or other records, if in the power of
5 the person so to do, in obedience to a sub-
6 poena of the Commission under this para-
7 graph.

8 “(ii) PENALTY.—Any person who vio-
9 lates clause (i) shall be fined not more
10 than \$100,000, imprisoned for not more
11 than 1 year, or both.

12 “(4) TESTIMONY BY DEPOSITION.—

13 “(A) INSTANCE OF PARTY.—The testimony
14 of any witness may be taken, at the instance of
15 a party, in any proceeding or investigation
16 pending before the Commission, by deposition,
17 at any time after the proceeding is at issue.

18 “(B) COMMISSION ORDER.—The Commis-
19 sion may order testimony to be taken by deposi-
20 tion in any proceeding or investigation pending
21 before the Commission, at any stage of the pro-
22 ceeding or investigation.

23 “(C) PERSON TAKING DEPOSITION.—A
24 deposition under subparagraph (A) or (B) may
25 be taken before any person authorized to ad-

1 minister oaths not being of counsel or attorney
2 to either of the parties, nor interested in the
3 proceeding or investigation.

4 “(D) NOTICE.—The party or the party’s
5 attorney proposing to take a deposition under
6 subparagraph (A) or (B) shall first give notice
7 in writing to the opposite party or the opposite
8 party’s attorney of record, as either may be
9 nearest, which notice shall state the name of
10 the witness and the time and place of the tak-
11 ing of the deposition.

12 “(E) COMPULSION TO APPEAR, DEPOSE,
13 AND PRODUCE DOCUMENTARY EVIDENCE.—Any
14 person may be compelled to appear and depose,
15 and to produce documentary evidence, in the
16 same manner as witnesses may be compelled to
17 appear and testify and produce documentary
18 evidence before the Commission, as provided in
19 paragraphs (2) and (3).

20 “(F) WRITING.—Testimony in a deposition
21 under subparagraph (A) or (B) shall be reduced
22 to writing by the person taking the deposition,
23 or under the direction of that person, and shall,
24 after the testimony has been reduced to writing,
25 be signed by the deponent.

1 “(5) DEPOSITION OF WITNESS IN A FOREIGN
2 COUNTRY.—

3 “(A) IN GENERAL.—If a witness whose
4 testimony may be desired to be taken by deposi-
5 tion is in a foreign country, the deposition may
6 be taken before an officer or person designated
7 by the Commission, or agreed upon by the par-
8 ties by stipulation in writing to be filed with the
9 Commission.

10 “(B) FILING OF DEPOSITIONS.—All depo-
11 sitions taken under subparagraph (A) shall be
12 promptly filed with the Commission.

13 “(6) DEPOSITION FEES.—A witness whose dep-
14 osition is taken as authorized under this subsection,
15 and the person or officer taking the deposition, shall
16 be entitled to the same fees as are paid for like serv-
17 ices in the courts of the United States.

18 “(b) HEARINGS; RULES OF PROCEDURE.—

19 “(1) HEARINGS.—

20 “(A) IN GENERAL.—Hearings under this
21 division may be held before the Commission or
22 any representative of the Commission des-
23 ignated by the Commission.

1 “(B) RECORDS.—The Commission shall
2 keep appropriate records of any hearing de-
3 scribed in subparagraph (A).

4 “(C) ADMISSION OF PARTIES.—In any pro-
5 ceeding before it, the Commission, in accord-
6 ance with any rules that the Commission may
7 prescribe, may admit as a party—

8 “(i) any interested State, State com-
9 mission, or municipality;

10 “(ii) any representative of interested
11 consumers or security holders;

12 “(iii) any competitor of a party to the
13 proceeding; or

14 “(iv) any other person whose partici-
15 pation in the proceeding may be in the
16 public interest, as determined by the Com-
17 mission.

18 “(2) RULES OF PROCEDURE.—

19 “(A) IN GENERAL.—The Commission—

20 “(i) shall adopt rules of practice and
21 procedure that govern each hearing, inves-
22 tigation, or proceeding under this division;
23 and

24 “(ii) need not apply the Federal Rules
25 of Evidence in the conduct of a hearing,

1 investigation, or proceeding under this di-
2 vision.

3 “(B) EFFECT OF INFORMALITIES.—No in-
4 formality in any hearing, investigation, or pro-
5 ceeding or in the manner of taking testimony
6 shall invalidate any order, decision, or rule
7 issued under the authority of this division.

8 “(c) ADMINISTRATIVE ENFORCEMENT.—In addition
9 to other orders authorized under this division, the Com-
10 mission may, after providing notice and an opportunity for
11 a hearing—

12 “(1) issue an order enjoining a person from en-
13 gaging in a practice or behavior that violates this di-
14 vision or a rule promulgated under this division;

15 “(2) issue an order imposing a civil penalty on
16 a person for a violation of this division, a rule pro-
17 mulgated under this division, or an administrative
18 order issued under this division, not later than 6
19 years after the date on which the violation occurs,
20 not to exceed 15 percent of the total annual revenue
21 of the person’s ultimate parent entity during the
22 preceding 12-month period;

23 “(3) for any person against which an adminis-
24 trative or judicial order is entered determining that
25 the person engaged in a violation of this division, a

1 rule promulgated under this division, or an adminis-
2 trative order issued under this division, issue an
3 order debarring the person from participating in
4 Federal contracts for a period of not less than 3 and
5 not more than 7 years;

6 “(4) issue an order barring any individual who
7 has violated this division, a rule promulgated under
8 this division, or an administrative order issued under
9 this division from participating as a stockholder, of-
10 ficer, board member, employee, or consultant of an
11 entity in the same market, as determined by the
12 Commission, in which the individual committed the
13 violation;

14 “(5) issue an order imposing personal liability
15 on an individual who is the chief executive officer,
16 chief financial officer, or chief security officer (or
17 the respective equivalents) of a person that has vio-
18 lated this division, a rule promulgated under this di-
19 vision, or an administrative order issued under this
20 division for payment of damages and penalties relat-
21 ing to the violation by the person;

22 “(6) issue an order requiring disgorgement of
23 all ill-gotten gains made by engaging in a violation
24 of this division, a rule promulgated under this divi-

1 sion, or an administrative order issued under this di-
2 vision; and

3 “(7) issue an order requiring restitution to all
4 parties injured by a violation of this division, a rule
5 promulgated under this division, or an administra-
6 tive order issued under this division.

7 “(d) REVIEW OF ORDERS.—

8 “(1) ADMINISTRATIVE REVIEW.—

9 “(A) APPLICATION FOR REHEARING.—

10 “(i) IN GENERAL.—Not later than 30
11 days after the Commission issues a final
12 order in a proceeding under this division,
13 any person aggrieved by the order may
14 apply for a rehearing.

15 “(ii) CONTENTS.—An application for
16 rehearing under clause (i) shall set forth
17 specifically each ground upon which the
18 application is based.

19 “(B) COMMISSION ACTION.—

20 “(i) IN GENERAL.—Upon application
21 under subparagraph (A), the Commission
22 shall—

23 “(I) grant or deny rehearing; or

1 “(II) abrogate or modify the
2 order of the Commission without fur-
3 ther hearing.

4 “(ii) APPLICATION DEEMED DE-
5 NIED.—If the Commission does not act
6 upon an application for rehearing filed
7 under subparagraph (A) during the 30-day
8 period beginning on the date of filing, the
9 application shall be deemed to have been
10 denied for purposes of paragraph (2)(A).

11 “(C) MODIFICATION OF ORDER.—Until the
12 Commission has filed the record in a proceeding
13 in a court of appeals, as provided in paragraph
14 (2), the Commission may at any time, upon
15 reasonable notice and in such manner as the
16 Commission shall determine proper, modify or
17 set aside, in whole or in part, any finding or
18 order made or issued by the Commission under
19 this division.

20 “(2) JUDICIAL REVIEW.—

21 “(A) PETITION FOR REVIEW.—A party to
22 a proceeding under this division aggrieved by a
23 final order issued by the Commission in the
24 proceeding may only obtain a review of the
25 order in the United States Court of Appeals for

1 the District of Columbia Circuit, by filing in
2 that court, not later than 60 days after the date
3 on which the Commission disposes of the appli-
4 cation for rehearing under paragraph (1), a
5 written petition praying that the order of the
6 Commission be modified or set aside in whole or
7 in part.

8 “(B) TRANSMITTAL TO COMMISSION.—
9 Upon the filing of a petition under subpara-
10 graph (A), the clerk of the United States Court
11 of Appeals for the District of Columbia Circuit
12 shall forthwith transmit a copy of the petition
13 to the Commission.

14 “(C) FILING OF RECORD.—Upon receipt of
15 a copy of a petition under subparagraph (B),
16 the Commission shall file with the court the
17 record upon which the order complained of was
18 entered, as provided in section 2112 of title 28,
19 United States Code.

20 “(D) JURISDICTION OF COURT.—

21 “(i) JURISDICTION UPON FILING OF
22 PETITION.—Upon the filing of a petition
23 under subparagraph (A) with respect to an
24 order, the United States Court of Appeals
25 for the District of Columbia Circuit shall

1 have jurisdiction to affirm, modify, or set
2 aside the order in whole or in part.

3 “(ii) EXCLUSIVE JURISDICTION UPON
4 FILING OF RECORD.—Upon the filing of
5 the record upon which the order com-
6 plained of was entered under subparagraph
7 (C), the United States Court of Appeals
8 for the District of Columbia Circuit shall
9 have exclusive jurisdiction to affirm, mod-
10 ify, or set aside the order in whole or in
11 part.

12 “(E) FAILURE TO OBJECT DURING ADMIN-
13 ISTRATIVE REVIEW.—In a review under this
14 paragraph, the United States Court of Appeals
15 for the District of Columbia Circuit may not
16 consider an objection to an order of the Com-
17 mission unless the objection was urged before
18 the Commission in the application for rehearing
19 under paragraph (1), unless there is reasonable
20 ground for failure to so object.

21 “(F) FINDINGS OF FACT.—In a review
22 under this paragraph, the findings of the Com-
23 mission as to the facts (including definition of
24 relevant markets and market shares), if sup-

1 ported by substantial evidence, shall be conclu-
2 sive.

3 “(G) CONSIDERATION OF ADDITIONAL EVI-
4 DENCE.—

5 “(i) IN GENERAL.—If a party applies
6 to the United States Court of Appeals for
7 the District of Columbia Circuit for leave
8 to adduce additional evidence, and shows
9 to the satisfaction of the court that the ad-
10 ditional evidence is material and that there
11 were reasonable grounds for failure to ad-
12 duce the evidence in the proceedings before
13 the Commission, the court may order the
14 additional evidence to be taken before the
15 Commission and to be adduced upon the
16 hearing in such manner and upon such
17 terms and conditions as to the court may
18 seem proper.

19 “(ii) COMMISSION ACTIONS.—The
20 Commission—

21 “(I) may modify its findings as
22 to the facts by reason of additional
23 evidence taken under clause (i); and

24 “(II) shall file with the court—

1 “(aa) the modified or new
2 findings which, if supported by
3 substantial evidence, shall be con-
4 clusive; and

5 “(bb) its recommendation, if
6 any, for the modification or set-
7 ting aside of the original order.

8 “(H) JUDGMENT AND DECREE OF
9 COURT.—The judgment and decree of the
10 United States Court of Appeals for the District
11 of Columbia Circuit under this paragraph, af-
12 firming, modifying, or setting aside, in whole or
13 in part, any order of the Commission, shall be
14 final, subject to review by the Supreme Court
15 of the United States upon writ of certiorari.

16 “(3) STAY OF COMMISSION’S ORDER.—

17 “(A) ADMINISTRATIVE REVIEW.—The fil-
18 ing of an application for rehearing under para-
19 graph (1) shall not, unless specifically ordered
20 by the Commission, operate as a stay of the
21 Commission’s order.

22 “(B) JUDICIAL REVIEW.—The commence-
23 ment of proceedings under paragraph (2) shall
24 not, unless specifically ordered by the United
25 States Court of Appeals for the District of Co-

1 olumbia Circuit, operate as a stay of the Com-
2 mission's order.

3 “(e) REFERRAL OF EVIDENCE FOR CRIMINAL PRO-
4 CEEDINGS.—

5 “(1) AUTHORITY.—

6 “(A) IN GENERAL.—If the Commission ob-
7 tains evidence that any person, either domestic
8 or foreign, has engaged in conduct that may
9 constitute a violation of Federal criminal law—

10 “(i) the Commission may transmit the
11 evidence to the Attorney General; and

12 “(ii) the Attorney General may insti-
13 tute criminal proceedings under any appli-
14 cable statute.

15 “(B) RELATION TO OTHER AUTHORI-
16 TIES.—Nothing in subparagraph (A) shall af-
17 fect any other authority of the Commission to
18 disclose information.

19 “(2) INTERNATIONAL INFORMATION.—The
20 Commission shall endeavor to ensure, with respect to
21 memoranda of understanding and international
22 agreements it may conclude, that material it has ob-
23 tained from foreign law enforcement agencies acting
24 to investigate or pursue the enforcement of foreign
25 criminal laws may be used for the purpose of inves-

1 tigation, prosecution, or prevention of violations of
2 United States criminal laws.

3 “(f) INDEPENDENT LITIGATION AUTHORITY.—In ad-
4 dition to the administrative enforcement described in sub-
5 section (e), if the Commission has reason to believe that
6 a covered entity, including a platform operator, has en-
7 gaged in a practice that violates this division, a rule pro-
8 mulgated under this division, or an administrative order
9 issued under this division, the Commission may bring a
10 civil action in an applicable district court of the United
11 States (as provided in section 2702) to—

12 “(1) enjoin any further such violation by the
13 covered entity;

14 “(2) enforce compliance with this division, the
15 rule promulgated under this division, or the adminis-
16 trative order issued under this division;

17 “(3) obtain a permanent, temporary, or prelimi-
18 nary injunction;

19 “(4) obtain civil penalties not to exceed 15 per-
20 cent of the total annual revenue of the ultimate par-
21 ent entity of the covered entity during the preceding
22 12-month period;

23 “(5) obtain damages (whether actual, punitive,
24 or otherwise), restitution, disgorgement of unjust en-

1 richment, or other compensation on behalf of ag-
2 grieved persons; or

3 “(6) obtain any other appropriate equitable re-
4 lief.

5 “(g) MONITORING.—

6 “(1) REGULATIONS.—The Commission may—

7 “(A) promulgate regulations to facilitate
8 monitoring by the Commission to identify viola-
9 tions of this division, rules promulgated under
10 this division, and administrative orders issued
11 under this division; and

12 “(B) require operators of dominant plat-
13 forms to prepare plans to prevent or address
14 violations of this division, rules promulgated
15 under this division, and administrative orders
16 issued under this division.

17 “(2) AI TECHNIQUES.—The regulations de-
18 scribed in paragraph (1)(A) may require operators
19 of dominant platforms to file a notice with the Com-
20 mission regarding computational processes derived
21 from artificial intelligence techniques that are made
22 available to the public.

23 “(h) REPORTS TO CONGRESS.—Not later than 1 year
24 after the date of enactment of this division, and semiannu-
25 ally thereafter, the Director, in coordination with the com-

1 missioners, shall submit to the Committee on the Judici-
2 ary of the Senate and the Committee on the Judiciary of
3 the House of Representatives a report that addresses, at
4 a minimum—

5 “(1) the number of administrative or judicial
6 actions brought by the Commission during the re-
7 porting period to enforce this division and the out-
8 come of each such enforcement action;

9 “(2) the number of open investigations or in-
10 quires into potential violations of this division as of
11 the time the report is submitted;

12 “(3) the number and nature of complaints re-
13 ceived by the Commission under section 2118 during
14 the reporting period;

15 “(4) an anonymized summary of the complaints
16 received by the Commission under section 2118 for
17 the reporting period;

18 “(5) policy or legislative recommendations to
19 strengthen the enforcement of this division; and

20 “(6) the number of compliance requests and ap-
21 peals submitted by users to dominant platform oper-
22 ators under subsections (b) and (c), respectively, of
23 section 2201, based on reports received from the
24 dominant platform operators under section
25 2201(e)(2).

1 **“SEC. 2116. RULEMAKING AUTHORITY.**

2 “(a) IN GENERAL.—In accordance with section 553
3 of title 5, United States Code, the Commission may—

4 “(1) promulgate rules to implement any provi-
5 sion of this division; and

6 “(2) issue such procedural and administrative
7 rules as are necessary to the exercise the functions
8 of the Commission.

9 “(b) INITIAL RULES.—Not later than 1 year after
10 the date of enactment of this division, the Commission
11 shall, in accordance with section 553 of title 5, United
12 States Code, promulgate initial rules to implement titles
13 II, III, IV, and V of this division.

14 **“SEC. 2117. ADVISORY BOARDS.**

15 “(a) ESTABLISHMENT.—The Commission may estab-
16 lish an advisory board for a particular subject matter for
17 the purpose of recommending rules to implement this divi-
18 sion.

19 “(b) TERM.—An advisory board established under
20 subsection (a) shall have an initial term of 180 days,
21 which may be extended by the Commission by not more
22 than 90 days, subject to subsection (g).

23 “(c) MEMBERSHIP.—An advisory board established
24 under subsection (a) shall be composed of 15 members ap-
25 proved by the Commission, of whom—

1 “(1) 5 shall be representatives of platforms, not
2 more than 2 of whom shall be representatives of
3 dominant platforms;

4 “(2) 5 shall be academics, experts, or public-in-
5 terest advocates who—

6 “(A) are not affiliated with commercial en-
7 terprises; and

8 “(B) have expertise in the particular sub-
9 ject matter; and

10 “(3) 5 shall be technical experts in engineering,
11 computer science, or another field determined rel-
12 evant by the Commission.

13 “(d) SELECTION.—

14 “(1) CONSENSUS.—Except as provided in para-
15 graph (2), the Commission shall select the members
16 of an advisory board established under subsection
17 (a) by consensus.

18 “(2) PROPORTIONAL.—If the commissioners are
19 unable to reach consensus regarding the members of
20 an advisory board established under subsection (a),
21 the commissioners shall select the members of the
22 advisory board in proportion to the commissioners’
23 membership in political parties, as follows:

24 “(A) For each political party represented
25 on the Commission, the commissioners who are

1 members of that political party shall jointly se-
2 lect a number of advisory board members that
3 bears the same relationship to the total number
4 of advisory board members as the number of
5 those commissioners bears to the total number
6 of commissioners.

7 “(B) Any commissioners who are not mem-
8 bers of a political party shall jointly select a
9 number of advisory board members that bears
10 the same relationship to the total number of ad-
11 visory board members as the number of those
12 commissioners bears to the total number of
13 commissioners.

14 “(e) EMPLOYEE STATUS.—A member of an advisory
15 board established under subsection (a) shall not be consid-
16 ered an employee of the Commission.

17 “(f) NON-BINDING RECOMMENDATIONS.—The rec-
18 ommended rules adopted by an advisory board established
19 under subsection (a) shall not be binding on the Commis-
20 sion.

21 “(g) MEETINGS.—The Commission shall establish a
22 public schedule for an advisory board established under
23 subsection (a), under which the advisory board shall meet
24 not less frequently than monthly.

1 “(h) ADOPTION.—The Commission may, by a major-
2 ity vote of the Commission, adopt any recommended rules
3 adopted by an advisory board established under subsection
4 (a).

5 “(i) REQUIRED INITIAL ADVISORY BOARDS.—Not
6 later than 60 days after the date of enactment of this divi-
7 sion, the Commission shall establish the following initial
8 advisory boards, the initial terms of which may not be ex-
9 tended beyond 180 days:

10 “(1) A competition advisory board for the pur-
11 pose of recommending rules to implement title III.

12 “(2) A privacy advisory board for the purpose
13 of recommending rules to implement title IV.

14 “(3) A national security and public safety advi-
15 sory board for the purpose of recommending rules to
16 implement title V.

17 “(4) An artificial intelligence advisory board for
18 the purpose of recommending rules to implement
19 this division as it relates to artificial intelligence.

20 **“SEC. 2118. COMPLAINTS.**

21 “(a) IN GENERAL.—

22 “(1) ESTABLISHMENT OF PROCESS.—The Com-
23 mission shall establish a process to receive com-
24 plaints from the public alleging violations of this di-

1 vision, a rule promulgated under this division, or an
2 administrative order issued under this division.

3 “(2) MANAGEMENT OF PROCESS.—The Direc-
4 tor of the Office of Licensing for Dominant Plat-
5 forms established under section 2601 (in this section
6 referred to as the ‘Director’) shall manage the com-
7 plaint process established under paragraph (1).

8 “(b) COLLECTING AND TRACKING COMPLAINTS.—
9 The Director shall—

10 “(1) establish a unit whose functions shall in-
11 clude establishing a single, toll-free telephone num-
12 ber, a website, and a database to facilitate the cen-
13 tralized collection of, monitoring of, and response to
14 complaints described in subsection (a)(1); and

15 “(2) coordinate with the Federal Trade Com-
16 mission, the Attorney General, and other Federal
17 agencies to route complaints to those agencies,
18 where appropriate.

19 “(c) CONFIDENTIALITY.—The Director shall—

20 “(1) subject to paragraph (2), make complaints
21 submitted under this section publicly available; and

22 “(2) ensure that the confidentiality of person-
23 ally identifiable information in the complaints de-
24 scribed in paragraph (1) is protected.

1 **“Subtitle B—Dominant Platforms**

2 **“SEC. 2121. DOMINANT PLATFORMS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CONSUMER PRICE INDEX.—The term
5 ‘Consumer Price Index’ means the Consumer Price
6 Index for All Urban Consumers published by the
7 Bureau of Labor Statistics.

8 “(2) DOMINANT PLATFORM.—

9 “(A) IN GENERAL.—The term ‘dominant
10 platform’ means a platform that—

11 “(i) has been designated as a domi-
12 nant platform under subsection (c); and

13 “(ii) meets the requirements under
14 subparagraph (B) or (C) of this para-
15 graph.

16 “(B) PLATFORM OWNED OR CONTROLLED
17 BY PUBLICLY TRADED COMPANY.—The require-
18 ments under this subparagraph are that the
19 platform—

20 “(i) is owned or controlled by a person
21 that—

22 “(I) is a publicly traded com-
23 pany; and

24 “(II) is a critical trading partner
25 for the sale or provision of any prod-

1 uct or service offered on or directly
2 related to the platform; and

3 “(ii)(I) at any point during the 12-
4 month period preceding a designation
5 under subsection (c) or the 12-month pe-
6 riod preceding an alleged violation of this
7 division, a rule promulgated under this di-
8 vision, or an administrative order issued
9 under this division, had not fewer than—

10 “(aa) 50,000,000 United States-
11 based monthly active users; or

12 “(bb) 100,000 United States-
13 based monthly active business users;
14 and

15 “(II) during—

16 “(aa) the 2-year period preceding
17 a designation under subsection (c) or
18 the 2-year period preceding an alleged
19 violation of this division, a rule pro-
20 mulgated under this division, or an
21 administrative order issued under this
22 division—

23 “(AA) at any point, was
24 owned or controlled by a person
25 with United States net annual

1 sales of greater than
2 \$550,000,000,000, adjusted for
3 inflation on the basis of the Con-
4 sumer Price Index; or

5 “(BB) during any 180-day
6 period during the 2-year period,
7 had an average market capital-
8 ization greater than
9 \$550,000,000,000, adjusted for
10 inflation on the basis of the Con-
11 sumer Price Index; or

12 “(bb) at any point during the 12-
13 month period preceding a designation
14 under subsection (c) or at any point
15 during the 12-month period preceding
16 an alleged violation of this division, a
17 rule promulgated under this division,
18 or an administrative order issued
19 under this division, had not fewer
20 than 1,000,000,000 worldwide month-
21 ly active users.

22 “(C) PLATFORM NOT OWNED OR CON-
23 TROLLED BY PUBLICLY TRADED COMPANY.—
24 The requirements under this subparagraph are
25 that the platform—

1 “(i) is owned or controlled by a person
2 that—

3 “(I) is not a publicly traded com-
4 pany; and

5 “(II) is a critical trading partner
6 for the sale or provision of any prod-
7 uct or service offered on or directly
8 related to the platform; and

9 “(ii)(I) at any point during the 12-
10 month period preceding a designation
11 under subsection (c) or the 12-month pe-
12 riod preceding an alleged violation of this
13 division, a rule promulgated under this di-
14 vision, or an administrative order issued
15 under this division, had not fewer than—

16 “(aa) 25,000,000 United States-
17 based monthly active users; or

18 “(bb) 75,000 United States-
19 based monthly active business users;
20 and

21 “(II) at any point—

22 “(aa) during the 2-year period
23 preceding a designation under sub-
24 section (c) or the 2-year period pre-
25 ceding an alleged violation of this divi-

1 “(ii) can be readily purchased or sold
2 by the public; and

3 “(B) includes all subsidiaries of a company
4 described in subparagraph (A).

5 “(b) AFFIRMATIVE DUTY TO REPORT.—

6 “(1) IN GENERAL.—Not later than December
7 31st of each calendar year that begins after the date
8 of enactment of this division, a platform operator
9 described in paragraph (2) shall report to the Com-
10 mission, for each platform that the operator oper-
11 ates—

12 “(A) the number of unique monthly visi-
13 tors based in the United States that visited the
14 platform each month of that calendar year; and

15 “(B) any other information that the Com-
16 mission may require.

17 “(2) PLATFORM OPERATORS REQUIRED TO RE-
18 PORT.—A platform operator described in this para-
19 graph is a platform operator that—

20 “(A) owns or controls a platform that had
21 not fewer than 25,000,000 unique monthly visi-
22 tors based in the United States for a majority
23 of months during the preceding 6 months; or

24 “(B) has United States net annual sales or
25 a market capitalization greater than

1 \$250,000,000,000, adjusted annually for infla-
2 tion based on the change in the Consumer Price
3 Index.

4 “(c) DESIGNATION.—

5 “(1) OFFICIAL DESIGNATION THROUGH PUBLI-
6 CATION.—Subject to paragraph (3), the Commission
7 shall officially designate a platform that meets the
8 requirements under subparagraph (B) or (C) of sub-
9 section (a)(2) as a dominant platform by publishing
10 the designation in the Federal Register.

11 “(2) DURATION OF DESIGNATION.—The des-
12 ignation of a platform as a dominant platform under
13 paragraph (1) shall apply indefinitely, regardless of
14 whether there is a change in control or ownership of
15 the platform, unless the Commission removes the
16 designation under subsection (d).

17 “(3) RULES.—The Commission may, as the
18 Commission determines appropriate, promulgate
19 rules to—

20 “(A) adjust a numeric threshold in sub-
21 section (a) or (b), provided that the Commis-
22 sion may not adjust any numeric threshold
23 below the value in the applicable subsection; or

1 “(B) define additional characteristics that
2 a platform must have in order to be designated
3 as a dominant platform under paragraph (1).

4 “(d) REMOVAL OF DOMINANT PLATFORM DESIGNA-
5 TION.—

6 “(1) REQUEST.—If a platform designated as a
7 dominant platform under subsection (c) ceases to
8 meet the qualifications for such a designation, the
9 operator of the platform may submit to the Commis-
10 sion a request for removal of the designation, along
11 with evidence that the platform no longer so quali-
12 fies.

13 “(2) DETERMINATION.—

14 “(A) IN GENERAL.—Not later than 120
15 days after receiving a request under paragraph
16 (1), the Commission shall determine whether to
17 grant the request.

18 “(B) DENIED REQUESTS.—The denial
19 under subparagraph (A) of a request submitted
20 under paragraph (1) shall be treated as an
21 order subject to review under section 2115(d).

22 “(e) AVOIDANCE.—

23 “(1) IN GENERAL.—It shall be unlawful for an
24 operator of a platform to take any action to inten-

1 tionally avoid having the platform meet the quali-
2 fications for designation as a dominant platform.

3 “(2) RULES.—The Commission may promul-
4 gate rules to clarify actions that constitute a viola-
5 tion of paragraph (1).

6 **“TITLE II—TRANSPARENCY**
7 **REFORM**

8 **“SEC. 2201. TRANSPARENCY PRACTICES AND APPEAL**
9 **RIGHTS.**

10 “(a) TRANSPARENCY.—

11 “(1) IN GENERAL.—With respect to products
12 and services offered through a dominant platform,
13 the operator of the dominant platform—

14 “(A) shall make publicly available, through
15 clear and conspicuous disclosure, the dominant
16 platform’s terms of service, which shall include
17 the criteria the operator employs in content-
18 moderation practices;

19 “(B) shall implement and maintain reason-
20 able and user-friendly appeals processes for de-
21 cisions about content restrictions on the domi-
22 nant platform, in accordance with subsection
23 (c);

24 “(C) if the operator restricts access to con-
25 tent published by a user of the dominant plat-

1 form (including by blocking, deleting, or re-
2 stricting access to a post or link, limiting the
3 reach of a post or the user, deplatforming or
4 suspending the user or the posts of the user, or
5 excluding or deprioritizing posts or other mate-
6 rials of the user from search results), shall, ex-
7 cept as provided in paragraph (2), provide the
8 user with a notice, as soon as is reasonably
9 practical, and not later than 24 hours after re-
10 stricting access, that—

11 “(i) acknowledges that the action was
12 taken and provides the justification for the
13 action, with reference to the terms of serv-
14 ice of the dominant platform; and

15 “(ii) clearly explains the process by
16 which the user may appeal the decision, in-
17 cluding the deadline to submit the appeal;
18 and

19 “(D) not later than 7 days after the date
20 on which the operator receives a request from
21 a user under subsection (b) to remove content,
22 if the operator does not remove the content,
23 shall provide the user with a notice that—

1 “(i) acknowledges the refusal to re-
2 move the content and provides the jus-
3 tification for the refusal; and

4 “(ii) clearly explains the process by
5 which the user may appeal the decision, in-
6 cluding the deadline to submit the appeal.

7 “(2) EXCEPTIONS TO NOTICE REQUIREMENT.—
8 The requirement to issue a notice under paragraph
9 (1)(C) shall not apply if—

10 “(A) that notice would risk imminent harm
11 to others;

12 “(B) the operator reasonably believes that
13 the material relates to terrorism, including do-
14 mestic terrorism, or other criminal activity, pro-
15 vided that such lack of notice does not discrimi-
16 nate on the basis of a protected class; or

17 “(C) a law enforcement agency requests
18 that the notice not be made and provides a sub-
19 stantive justification for that request.

20 “(b) COMPLIANCE REQUESTS.—If a user of a domi-
21 nant platform believes the operator of the dominant plat-
22 form is in violation of its terms of service, the user may
23 request that the operator comply with the terms of service.

24 “(c) APPEALS TO OPERATORS OF DOMINANT PLAT-
25 FORMS.—If an operator of a dominant platform issues a

1 notice required by subparagraph (C) or (D) of subsection
2 (a)(1), the operator shall provide an appeals process that
3 meets the following requirements:

4 “(1) A user may request an appeal through an
5 ‘opt-in’ option that—

6 “(A) does not require the user to provide
7 additional information; and

8 “(B) is available immediately following
9 issuance of the notice.

10 “(2) Not later than 7 days after the date on
11 which the user requests an appeal as described in
12 paragraph (1), the operator shall provide the user
13 with—

14 “(A) a statement describing with particu-
15 larity the reasonable factual basis for the deci-
16 sion that triggered the notice requirement, in-
17 cluding by citing each specific provision of the
18 terms of service or other policy upon which the
19 decision was based; and

20 “(B) an opportunity, for a period of not
21 fewer than 30 days beginning immediately after
22 provision of the statement under subparagraph
23 (A), to present reasons for which the operator
24 should reverse its decision.

1 “(3) The operator shall make a final determina-
2 tion on the appeal not later than 7 days after the
3 date on which the user presents reasons under para-
4 graph (2)(B).

5 “(d) COMPLAINTS TO THE COMMISSION.—

6 “(1) COMPLAINTS.—

7 “(A) IN GENERAL.—A user who is subject
8 to an adverse final decision from an operator of
9 a dominant platform under subsection (c) may
10 submit a complaint to the Commission regard-
11 ing a violation of subsection (a) or (c).

12 “(B) LIMIT.—A user may not submit more
13 than 1 complaint under subparagraph (A) per
14 alleged violation.

15 “(2) COMPLIANCE.—The Commission, after
16 providing notice and an opportunity for a hearing to
17 the relevant parties, may—

18 “(A) issue an order requiring an operator
19 of a dominant platform in violation of sub-
20 section (a) or (c) to comply with the applicable
21 subsection; and

22 “(B) impose a civil penalty on an operator
23 of a dominant platform for a violation described
24 in subparagraph (A), in accordance with section
25 2115(c)(2).

1 “(e) RECORD-KEEPING; REPORTS TO COMMISSION.—

2 “(1) RECORDS.—

3 “(A) IN GENERAL.—An operator of a dom-
4 inant platform shall keep a record of each—

5 “(i) compliance request regarding a
6 violation of terms of service submitted by
7 a user under subsection (b);

8 “(ii) instance in which the operator
9 does not provide a notice under paragraph
10 (1)(C) of subsection (a) in accordance with
11 an exception under paragraph (2) of that
12 subsection, including a specification of the
13 applicable exception; and

14 “(iii) appeal submitted by a user
15 under subsection (c).

16 “(B) CONTENTS.—A record described in
17 subparagraph (A) shall—

18 “(i) describe the disposition of the
19 compliance request or appeal by an oper-
20 ator of a dominant platform; and

21 “(ii) categorize the subject matter of
22 the compliance request or appeal in accord-
23 ance with rules developed by the Commis-
24 sion.

1 “(2) REPORTS TO COMMISSION.—In accordance
2 with rules promulgated by the Commission, on a
3 quarterly and annual basis, an operator of a domi-
4 nant platform shall submit to the Commission a re-
5 port that—

6 “(A) details the number of compliance re-
7 quests and appeals described in paragraph
8 (1)(A) that were submitted to the operator dur-
9 ing the reporting period;

10 “(B) categorizes the nature of each compli-
11 ance request or appeal described in subpara-
12 graph (A);

13 “(C) describes the disposition of each com-
14 pliance request or appeal described in subpara-
15 graph (A); and

16 “(D) provides, for each exception under
17 paragraph (2) of subsection (a), the number of
18 times the operator did not provide a notice
19 under paragraph (1)(C) of that subsection in
20 accordance with that exception.

21 **“SEC. 2202. BEST PRACTICES.**

22 “‘The Commission shall establish a standardized pol-
23 icy that operators of dominant platforms can adopt re-
24 garding content moderation and appeals of content-mod-

1 eration decisions that complies with subsections (a) and
2 (b) of section 2201.

3 **“TITLE III—COMPETITION**
4 **REFORM**
5 **“Subtitle A—Antitrust Review**

6 **“SEC. 2311. ABUSES OF DOMINANCE.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) NO-POACH AGREEMENT.—The term ‘no-
9 poach agreement’ means any agreement between 2
10 or more employers, including contractor-subcon-
11 tractor agreements, whether written, verbal, or in-
12 ferred, that prohibits or restricts one employer from
13 soliciting or hiring the employees or former employ-
14 ees of another employer.

15 “(2) NONCOMPETE AGREEMENT.—The term
16 ‘noncompete agreement’ means an agreement, en-
17 tered into between a person and any individual who
18 performs work for the person that restricts the indi-
19 vidual from performing, after the relationship for
20 providing work terminates, any of the following:

21 “(A) Any work for another employer for a
22 specified period of time.

23 “(B) Any work in a specific geographical
24 area.

1 “(C) Any work for another employer that
2 is similar to the work performed by the indi-
3 vidual for the person.

4 “(3) PREDISPUTE ARBITRATION AGREEMENT.—
5 The term ‘predispute arbitration agreement’ means
6 an agreement to arbitrate a dispute that has not yet
7 arisen at the time of the making of the agreement.

8 “(4) PREDISPUTE CLASS-ACTION WAIVER.—The
9 term ‘predispute class-action waiver’ means an
10 agreement, whether or not part of a predispute arbi-
11 tration agreement, that would prohibit, or waive the
12 right of, one of the participants to the agreement to
13 participate in a joint, class, or collective action in a
14 judicial, arbitral, administrative, or other forum,
15 concerning a dispute that has not yet arisen at the
16 time of the making of the agreement.

17 “(5) SELF-PREFERENCING.—The term ‘self-
18 preferencing’ means, with respect to an operator of
19 a dominant platform—

20 “(A) advantaging the products, services, or
21 lines of business of the operator on the platform
22 over the products, services, or lines of business
23 of another business user;

24 “(B) excluding or disadvantaging the prod-
25 ucts, services, or lines of business of another

1 business user relative to the products, services,
2 or lines of business of the operator;

3 “(C) interfering with or restricting the
4 ability of any business user of the platform to
5 set prices for its products or services, whether
6 or not those products or services are offered on
7 the platform; or

8 “(D) conditioning access to the platform or
9 preferred status or placement on the platform
10 on the purchase or use of other products or
11 services offered by the covered platform oper-
12 ator.

13 “(6) TYING ARRANGEMENTS.—The term ‘tying
14 arrangement’ means any agreement, including an
15 agreement that is written, verbal, or inferred from
16 conduct, through which the seller conditions the sale
17 of 1 product, service, or contract on the agreement
18 of a customer to purchase or obtain another distinct
19 product, service, or contract.

20 “(7) UNDUE DISCRIMINATION.—The term
21 ‘undue discrimination’ means—

22 “(A) making or granting any preference or
23 advantage to any person or subjecting any per-
24 son to any undue prejudice or disadvantage

1 when compared to similarly situated customers,
2 suppliers, users, or trading partners; or

3 “(B) maintaining any difference in prices,
4 rates, charges, services, facilities, access, terms
5 of service, licenses, contractual terms, or any
6 other aspect among similarly situated cus-
7 tomers, suppliers, users, or trading partners.

8 “(b) PROHIBITION.—It shall be unlawful for any op-
9 erator of a dominant platform to abuse, or attempt to
10 abuse, its dominance or otherwise engage in conduct that
11 harms competition or creates or helps maintain an unfair
12 method of competition, a monopoly, or a monopsony, re-
13 gardless of any alleged procompetitive benefits or effi-
14 ciencies.

15 “(c) PRESUMPTIVE VIOLATIONS.—The following
16 practices by an operator of a dominant platform shall con-
17 stitute presumptive violations of subsection (b):

18 “(1) Undue discrimination.

19 “(2) Tying arrangements.

20 “(3) Self-preferencing.

21 “(4) Predispute arbitration agreements or
22 predispute class-action waivers with users, cus-
23 tomers, trading partners, or employees.

1 “(5) Noncompete agreements, except in the
2 case of a legitimate acquisition or sale of a business
3 or assets.

4 “(6) No-poach agreements.

5 “(d) REBUTTAL.—A defendant may rebut a violation
6 of subsection (b), including the presumptive violations de-
7 scribed in subsection (c), with clear and convincing evi-
8 dence that the alleged practice did not result in any harm
9 to the relevant aggrieved party.

10 “(e) RULEMAKING.—The Commission may promul-
11 gate rules to—

12 “(1) further define the presumptive violations
13 listed in subsection (c); or

14 “(2) identify and define additional practices
15 that constitute presumptive violations of subsection
16 (b).

17 **“SEC. 2312. PLATFORM CONFLICTS OF INTEREST.**

18 “(a) PROHIBITION.—It shall be unlawful for any op-
19 erator of a dominant platform to maintain, or engage in
20 any action that creates, a platform conflict of interest.

21 “(b) REMEDY.—The Commission or a court, as appli-
22 cable, may issue an order requiring an operator of a domi-
23 nant platform to eliminate any platform conflict of interest
24 by implementing—

1 “(1) divestitures, which, to the extent prac-
2 ticable, shall be specified, standalone business units
3 or lines; and

4 “(2) other actions necessary to eliminate the
5 platform conflict of interest.

6 “(c) RULEMAKING.—The Commission may promul-
7 gate rules—

8 “(1) to further define critical trading partners,
9 the prohibition in subsection (a) or the remedy in
10 subsection (b); or

11 “(2) as it determines appropriate to carry out
12 this section.

13 **“SEC. 2313. FUTURE ACQUISITIONS.**

14 “(a) NOTIFICATION.—Any operator of a dominant
15 platform required to file a notification under section 7A
16 of division A shall simultaneously file that notification
17 with the Commission.

18 “(b) VIOLATION.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), it shall be unlawful for an operator of a
21 dominant platform to acquire, directly or indirectly,
22 the whole or any part of the stock, other share cap-
23 ital, or assets of (or to be acquired by) another per-
24 son engaged in commerce or in any activity affecting
25 commerce unless the parties to the acquisition dem-

1 onstrate, by clear and convincing evidence, that the
2 acquisition would serve the public interest.

3 “(2) EXCLUSION.—Paragraph (1) shall not
4 apply to any acquisition that is not subject to sec-
5 tion 7A of division A.

6 “(c) ORDER.—Not later than the end of the 120-day
7 period beginning on the date on which the notification de-
8 scribed in subsection (a) is filed with the Commission, the
9 Commission shall, after providing notice and an oppor-
10 tunity for a hearing to the parties of an acquisition de-
11 scribed in subsection (a), issue an order barring the con-
12 summation of the acquisition if the Commission deter-
13 mines that the parties to the acquisition failed to dem-
14 onstrate that the acquisition would serve the public inter-
15 est.

16 “(d) STANDARDS REGARDING THE PUBLIC INTER-
17 EST.—

18 “(1) IN GENERAL.—For the purposes of this
19 section, effects on the public interest include effects
20 on—

21 “(A) competition;

22 “(B) workers;

23 “(C) consumers;

24 “(D) customer choice;

25 “(E) sellers;

1 “(F) local, rural, or low-income commu-
2 nities;

3 “(G) privacy;

4 “(H) national security or public safety;

5 “(I) quality;

6 “(J) entrepreneurship;

7 “(K) innovation;

8 “(L) price; or

9 “(M) accessibility of goods or services.

10 “(2) INHERENT HARMS.—In addition to other
11 effects that may be assessed when evaluating an ac-
12 quisition for which any party (or its ultimate parent
13 entity) is the operator of a dominant platform, the
14 acquisition would not serve the public interest if—

15 “(A) another party to the acquisition offers
16 overlapping, competing, or functionally equiva-
17 lent services or products;

18 “(B) another party to the acquisition is a
19 critical trading partner in the supply chains or
20 business ecosystems of the parties; or

21 “(C) the acquisition would create a plat-
22 form conflict of interest.

23 “(3) POTENTIAL HARMS.—In addition to other
24 effects that may be assessed when evaluating an ac-
25 quisition for which any party (or its ultimate parent

1 entity) is the operator of a dominant platform, it
2 may be determined that the acquisition would not
3 serve the public interest if—

4 “(A) the acquisition would result in a
5 postacquisition market share of greater than 33
6 percent of any relevant market (including labor
7 markets);

8 “(B) the acquisition would—

9 “(i) result in a Herfindahl-Hirschman
10 Index greater than 1,800 in any relevant
11 market; and

12 “(ii) increase the Herfindahl-
13 Hirschman Index by more than 100 in any
14 relevant market; or

15 “(C) the acquisition would result in an ag-
16 gregation of data or access to data in a matter
17 that harms the competitive process or creates or
18 helps maintain a monopoly, a monopsony, mar-
19 ket power, or unfair methods of competition.

20 “(e) NONREPORTABLE ACQUISITIONS.—Nothing in
21 this section shall prevent the Commission from barring the
22 consummation of—

23 “(1) any acquisition for which the operator of
24 a dominant platform is not required to file a notifi-
25 cation under section 7A of division A if the Commis-

1 sion determines that the acquisition would not serve
2 the public interest; or

3 “(2) any acquisition that would result in a dom-
4 inant platform if the Commission determines that
5 the acquisition would not serve the public interest.

6 **“SEC. 2314. RETROSPECTIVE REVIEWS.**

7 “(a) IN GENERAL.—The Commission may retrospec-
8 tively review any acquisition—

9 “(1) consummated by the operator of a domi-
10 nant platform; or

11 “(2) that resulted in a dominant platform.

12 “(b) MATERIAL HARM TO THE PUBLIC INTEREST.—

13 If, after the review under subsection (a), the Commission
14 determines that the acquisition materially harmed the
15 public interest, the Commission, as applicable, may order
16 a remedy to improve the public interest, restore competi-
17 tion, or otherwise address the anticompetitive or harmful
18 impacts of the acquisition, including—

19 “(1) unwinding the acquisition; or

20 “(2) requiring that the acquiring person make
21 divestitures, which, to the extent practicable, shall be
22 specified, standalone business units or lines.

23 “(c) STANDARDS REGARDING MATERIAL HARM TO
24 THE PUBLIC INTEREST.—For the purposes of this sec-
25 tion, in addition to other effects on the public interest that

1 may be assessed (including those described in section
2 313), an acquisition described in subsection (a) materially
3 harms the public interest under subsection (b) if—

4 “(1) the operator of a dominant platform ac-
5 quired a critical trading partner;

6 “(2) the acquisition resulted in a
7 postacquisition market share of greater than 50 per-
8 cent of any relevant market (including labor mar-
9 kets); or

10 “(3) the acquisition—

11 “(A) resulted in a Herfindahl-Hirschman
12 Index greater than 2,500 in any relevant mar-
13 ket; and

14 “(B) increased the Herfindahl-Hirschman
15 Index by more than 200 in any relevant mar-
16 ket.

17 **“SEC. 2315. ADDITIONAL REMEDIES.**

18 “(a) IN GENERAL.—The Commission may investigate
19 any platform operator for violations of this title and order
20 remedies, including structural, behavioral, or other rem-
21 edies, to restore competition.

22 “(b) DIVESTITURES.—The Commission may order
23 divestitures, which, to the extent practicable, shall be spec-
24 ified, standalone business units or lines, with respect to

1 any previously completed acquisition to which a platform
2 operator was a party.

3 “(c) DIVESTITURE BUYERS.—The Commission shall
4 approve any proposed divestiture buyer unless the Com-
5 mission determines that—

6 “(1) selling the divested assets to the proposed
7 buyer would harm the public interest;

8 “(2) the proposed buyer does not have a mate-
9 rial incentive to use the divested assets to compete
10 in the relevant market; or

11 “(3) the proposed buyer lacks the sufficient
12 acumen, experience, or financial capability to com-
13 pete in the relevant market over the long term or is
14 otherwise unlikely to do so based on the historical
15 activity of the buyer.

16 **“SEC. 2316. CONTRACTUAL TRANSPARENCY.**

17 “The Commission may promulgate rules that require
18 operators of dominant platforms to file with the Commis-
19 sion or make publicly available, in such forms as the Com-
20 mission may designate, certain pricing or other contrac-
21 tual terms, including pricing terms for business users of
22 the dominant platform.

1 **“SEC. 2317. PROHIBITION ON ABUSIVE ACTS OR PRAC-**
2 **TICES.**

3 “(a) **DECLARATION OF UNLAWFULNESS.**—An abu-
4 sive act or practice committed by a covered entity is un-
5 lawful.

6 “(b) **ABUSIVE ACT OR PRACTICE DEFINED.**—

7 “(1) **IN GENERAL.**—For purposes of this sec-
8 tion, the term ‘abusive act or practice’ means any
9 conduct that—

10 “(A) materially interferes with the ability
11 of a user of a platform owned or controlled by
12 a covered entity to understand a term, condi-
13 tion, benefit, or consequence of an agreement
14 between the covered entity and the user; or

15 “(B) takes unreasonable advantage of—

16 “(i) a lack of understanding on the
17 part of a user of a platform owned or con-
18 trolled by a covered entity of the material
19 risks, costs, or conditions of a product or
20 service offered by the covered entity;

21 “(ii) the inability of a user of a plat-
22 form owned or controlled by a covered enti-
23 ty to protect the interests of the user in se-
24 lecting or using a product or service of the
25 covered entity; or

1 “(iii) the reasonable reliance by a user
2 of a platform owned or controlled by a cov-
3 ered entity on the representation of the
4 covered entity to act in the best interests
5 of the user.

6 “(2) COMMISSION ENFORCEMENT.—The Com-
7 mission may promulgate rules to further define the
8 term ‘abusive act or practice’ for purposes of this
9 section.

10 **“SEC. 2318. DATA BROKERS.**

11 “An operator of a dominant platform may not, for
12 monetary or other consideration, sell, resell, license, or
13 trade to a data broker personal data, except in accordance
14 with other laws permitting disclosure of personal data and
15 rules promulgated by the Commission to implement this
16 section.

17 **“Subtitle B—Data Portability and**
18 **Interoperability.**

19 **“SEC. 2321. DATA PORTABILITY AND INTEROPERABILITY.**

20 “(a) DATA PORTABILITY.—An operator of a domi-
21 nant platform, with respect to the dominant platform,
22 shall maintain a set of interfaces that are transparent and
23 accessible to third parties (including application program-
24 ming interfaces) to provide a user (or a third party au-
25 thorized by a user), upon the request of the user (or such

1 a third party) and free of charge, with effective portability
2 of data provided by the user or generated through the ac-
3 tivity of the user in the context of the use of the relevant
4 core platform service of the dominant platform, including
5 by providing free of charge tools to facilitate the effective
6 exercise of that data portability.

7 “(b) INTEROPERABILITY.—An operator of a domi-
8 nant platform, with respect to the dominant platform,
9 shall, free of charge—

10 “(1) allow a business user, provider of services,
11 provider of ancillary services, or provider of hard-
12 ware access to and interoperability with the same
13 hardware features and software features accessed or
14 controlled via an operating system that are available
15 to services on the dominant platform or hardware
16 provided by the operator;

17 “(2) provide a business user (or a third party
18 authorized by a business user), upon the request of
19 the business user (or such a third party), with con-
20 tinuous and real-time access and use of aggregated
21 and non-aggregated data, that is provided for or
22 generated in the context of the use of the relevant
23 core platform services of the dominant platform or
24 ancillary services offered by the dominant platform
25 to the business user and each end user engaging

1 with a product or service provided by the business
2 user; and

3 “(3) provide, at the request of a business user,
4 the possibility and necessary tools to access and ana-
5 lyze data on the dominant platform without a trans-
6 fer from the dominant platform.

7 “(c) SECURITY MEASURES.—Nothing in subsection
8 (a) or (b) shall be construed to prohibit an operator of
9 a dominant platform from taking indispensable measures,
10 duly justified by the operator, to ensure that data port-
11 ability and interoperability do not—

12 “(1) compromise the integrity of the operating
13 system, hardware features, or software features pro-
14 vided by the operator; or

15 “(2) undermine end-user data protection or
16 cyber security.

17 **“Subtitle C—Miscellaneous**

18 **“SEC. 2331. RULE OF CONSTRUCTION.**

19 “Nothing in this title shall be construed to limit li-
20 ability under the Federal Trade Commission Act (15
21 U.S.C. 12 et seq.) or the antitrust laws, as defined in sec-
22 tion 1(a) of division A.

1 **“TITLE IV—PRIVACY REFORM**
2 **“Subtitle A—Covered Entity Duties**
3 **and Requirements.**

4 **“SEC. 2411. DUTY OF LOYALTY.**

5 “A covered entity may not process personal data or
6 design information technologies in a way that substantially
7 conflicts with the best interests of a person with respect
8 to—

9 “(1) the experience of the person when using a
10 platform owned or controlled by the covered entity;
11 or

12 “(2) the personal data of the person.

13 **“SEC. 2412. DUTY OF CARE.**

14 “(a) IN GENERAL.—A covered entity may not design
15 or employ services or algorithms, or process, collect, store,
16 or transfer personal data, in a manner that causes or is
17 likely to cause any of the following:

18 “(1) Physical, economic, relational, or
19 reputational injury to a person.

20 “(2) Psychological injuries that would be highly
21 offensive to a reasonable person.

22 “(3) Discrimination on the basis of a person’s
23 or class of persons’ actual or perceived race, color,
24 ethnicity, sex (including sexual orientation, gender
25 identity, and sex characteristics), religion, national

1 origin, familial status, biometric information, or dis-
2 ability status.

3 “(4) Discrimination regarding a decision that
4 produces a legal effect or similarly significant effect
5 concerning a person.

6 “(b) DEFINITION.—For purposes of subsection
7 (a)(4), the term ‘decision that produces a legal effect or
8 similarly significant effect concerning a person’ includes
9 denial or degradation of consequential services or support,
10 such as financial or lending services, housing, insurance,
11 educational enrollment, criminal justice, employment op-
12 portunities, health care services, and access to basic neces-
13 sities, such as food and water.

14 “(c) EXCEPTIONS.—Subsection (a) shall not apply
15 to—

16 “(1) the design or employment of services or al-
17 gorithms, or the processing, collecting, storing, or
18 transferring of personal data, for the purpose of—

19 “(A) a covered entity’s self-testing to pre-
20 vent or mitigate unlawful discrimination;

21 “(B) diversifying an applicant, participant,
22 or customer pool; or

23 “(C) providing resources for the prevention
24 of harm, consistent with evidence-based medical
25 information; or

1 “(2) any private club or group not open to the
2 public, as described in section 201(e) of the Civil
3 Rights Act of 1964 (42 U.S.C. 2000a(e)).

4 **“SEC. 2413. DUTY OF MITIGATION.**

5 “(a) IN GENERAL.—A covered entity shall mitigate
6 the heightened risks of physical, emotional, developmental,
7 or material harms posed by materials on, or engagement
8 with, any platform owned or controlled by the covered en-
9 tity, including—

10 “(1) promotion of self-harm and other matters
11 that pose a risk to physical and mental health con-
12 sistent with evidence-based medical information;

13 “(2) patterns of use that indicate or encourage
14 addiction-like behaviors;

15 “(3) physical harm, online bullying, and harass-
16 ment; and

17 “(4) predatory, unfair, or deceptive marketing
18 practices.

19 “(b) SAFEGUARDS.—A covered entity shall—

20 “(1) provide a user of a platform owned or con-
21 trolled by the covered entity with readily accessible
22 and easy-to-use safeguards to control the experience
23 and personal data of the user, including settings
24 to—

1 “(A) limit the ability of other persons to
2 contact or find the user;

3 “(B) prevent other persons from viewing
4 the personal data of the user that is collected
5 by the covered entity or shared on the platform,
6 and in particular restrict public access to that
7 personal data;

8 “(C) limit features that increase, sustain,
9 or extend use of the platform, such as auto-
10 matic playing of media, rewards for time spent
11 on the platform, and notifications;

12 “(D) opt out of algorithmic recommenda-
13 tion systems that use personal data;

14 “(E) delete the user’s account and request
15 removal of personal data;

16 “(F)(i) restrict the sharing of the
17 geolocation of the user; and

18 “(ii) provide notice regarding the tracking
19 of the geolocation of the user; and

20 “(G) limit time spent by the user on the
21 platform; and

22 “(2) by default, set the safeguards provided
23 under paragraph (1) at the most protective setting.

1 **“SEC. 2414. DUTY OF CONFIDENTIALITY; DATA COLLECTION**
2 **AND PROCESSING.**

3 “(a) REQUIREMENT FOR A LEGITIMATE BASIS FOR
4 PROCESSING DATA.—A covered entity may only process
5 the personal data of a person if 1 or more of the following
6 applies:

7 “(1) Processing is necessary—

8 “(A) for the performance of a contract to
9 which the person is party; or

10 “(B) in order to take steps at the request
11 of the person before entering into a contract.

12 “(2) Processing is necessary for compliance
13 with a legal obligation to which the covered entity is
14 subject.

15 “(3) Processing is necessary in order to protect
16 the vital interests of the person or another indi-
17 vidual.

18 “(4) Processing is necessary for the perform-
19 ance of a task carried out in the public interest or
20 in the exercise of official authority vested in the cov-
21 ered entity.

22 “(5) Processing is necessary for the purposes of
23 the legitimate interests pursued by the covered enti-
24 ty, unless those interests are overridden by the inter-
25 ests (including constitutional rights, civil rights, and
26 civil liberties) of the person that require protection

1 of personal data, in particular if the person is a
2 child.

3 “(b) PURPOSE LIMITATION REQUIREMENT.—A cov-
4 ered entity—

5 “(1) shall articulate to a person through clear
6 and conspicuous disclosure a specific, explicit, and
7 legitimate purpose for any processing of personal
8 data of the person; and

9 “(2) may not process personal data in a man-
10 ner that is incompatible with the purpose articulated
11 under paragraph (1).

12 “(c) DATA MINIMIZATION REQUIREMENT.—A cov-
13 ered entity shall ensure that all personal data that the cov-
14 ered entity collects and processes is adequate, relevant,
15 and limited to what is necessary in relation to the pur-
16 poses for which the covered entity processes the personal
17 data.

18 “(d) ACCURACY REQUIREMENT.—A covered entity
19 shall—

20 “(1) ensure that personal data that the covered
21 entity maintains regarding a person is accurate;

22 “(2) where necessary, keep the personal data
23 described in paragraph (1) up-to-date; and

24 “(3) take every reasonable step to erase or rec-
25 tify without delay any personal data that the covered

1 entity maintains regarding a person that is inac-
2 curate.

3 “(e) STORAGE LIMITATION REQUIREMENT.—A cov-
4 ered entity shall ensure that personal data that the cov-
5 ered entity maintains regarding a person is kept in a form
6 that permits identification of data subjects for no longer
7 than is necessary for the purposes for which the data is
8 processed.

9 “(f) GOVERNMENTAL ENTITIES.—A covered entity
10 may not transfer to, share with, or otherwise provide or
11 make available to any governmental entity personal data
12 absent a search warrant, except in accordance with rules
13 promulgated by the Commission to implement this section.

14 “(g) RULEMAKING.—The Commission shall promul-
15 gate rules to implement this section and to protect the
16 confidentiality of personal data.

17 **“SEC. 2415. LIMITATIONS ON TARGETED ADVERTISING.**

18 “(a) PROHIBITED CROSS-PLATFORM TARGETED AD-
19 VERTISING.—A covered entity that is an operator of a
20 platform may not target advertising to a user of the plat-
21 form based on the user’s personal data obtained from the
22 user’s activity across other, distinctly branded platforms.

23 “(b) PERMISSIBLE TARGETED ADVERTISING.—A
24 covered entity that is an operator of a platform may target
25 advertising to a user of the platform—

1 “(1) based on the user’s first-party personal
2 data obtained from the user’s activity on that plat-
3 form; or

4 “(2) in response to the user’s request for infor-
5 mation or feedback.

6 **“SEC. 2416. RIGHTS OF DATA SUBJECTS TO ACCESS, COR-**
7 **RECTION, PORTABILITY, AND DELETION.**

8 “(a) ACCESS TO AND PORTABILITY OF PERSONAL
9 DATA.—A person shall have the right to—

10 “(1) access all personal data of the person that
11 is processed by a covered entity;

12 “(2) access all information pertaining to the
13 collection and processing of the personal data of the
14 person by a covered entity, including—

15 “(A) where, or from whom, the covered en-
16 tity obtained the personal data, such as whether
17 the personal data was obtained—

18 “(i) from the person or a third party;

19 and

20 “(ii) online or offline;

21 “(B) the types of third parties to which
22 the covered entity has disclosed or will disclose
23 the personal data;

24 “(C) the purposes of the processing;

25 “(D) the categories of the personal data;

1 “(E) the names of third parties to which
2 the covered entity has disclosed the personal
3 data and a log showing when the disclosure oc-
4 curred; and

5 “(F) the period of retention of the per-
6 sonal data;

7 “(3) obtain any personal data of the person
8 that has been processed by a covered entity in a
9 structured, readily usable, portable, and machine-
10 readable format;

11 “(4) with respect to personal data of the person
12 that is stored by a covered entity, transmit or cause
13 the covered entity to transmit the personal data to
14 another covered entity, where technically feasible;
15 and

16 “(5) request that a covered entity stop col-
17 lecting and processing the personal data of the per-
18 son.

19 “(b) CORRECTION AND DELETION OF PERSONAL
20 DATA.—A person shall have the right to—

21 “(1) correct inaccurate personal data of the
22 person that is stored by a covered entity; and

23 “(2) delete all the personal data of the user
24 that is stored by a covered entity.

25 “(c) EXERCISE OF RIGHTS.—

1 “(1) IN GENERAL.—A covered entity shall pro-
2 vide a person with a reasonable means to exercise
3 the rights provided under subsections (a) and (b) in
4 a request form that—

5 “(A) contains a clear and conspicuous dis-
6 closure of the rights;

7 “(B) is made available at no additional
8 cost and with no transactional penalty to the
9 person; and

10 “(C) is in English and any other language
11 in which the covered entity communicates with
12 the person, as applicable.

13 “(2) DEADLINE TO COMPLY WITH REQUEST.—
14 The Commission shall promulgate rules to establish
15 deadlines for a covered entity to comply with a re-
16 quest under paragraph (1).

17 **“SEC. 2417. RIGHT TO KNOW.**

18 “(a) IN GENERAL.—A person shall have the right to
19 know what personal data a covered entity will collect and
20 process about the person (including through a data proc-
21 essor), including the categories and specific pieces of per-
22 sonal data the covered entity processes, before giving con-
23 sent for the collection and processing of the personal data
24 of the user.

25 “(b) MEANINGFUL NOTICE.—

1 “(1) IN GENERAL.—A covered entity shall make
2 publicly available—

3 “(A) a current long-form privacy policy;

4 “(B) a current short-form privacy policy;

5 and

6 “(C) all privacy policies that were pre-
7 viously in effect.

8 “(2) REQUIREMENTS FOR PRIVACY POLICIES.—

9 “(A) IN GENERAL.—A covered entity shall
10 make each current privacy policy of the covered
11 entity persistently and conspicuously available
12 at or prior to—

13 “(i) the point of sale of, subscription
14 to, or sign up for a product or service; or

15 “(ii) at or prior to the point of cre-
16 ation of an account with a platform owned
17 or controlled by the covered entity.

18 “(B) SHORT-FORM PRIVACY POLICY.—The
19 short-form privacy policy required under para-
20 graph (1) shall—

21 “(i) use plain language; and

22 “(ii) include—

23 “(I) the personal data being
24 processed;

1 “(II) whether personal data will
2 be processed for purposes of targeted
3 advertisements or monetization; and

4 “(III) the period of retention of
5 the personal data expressed in exact
6 dates.

7 “(3) RULEMAKING.—The Commission shall
8 promulgate rules specifying requirements for the pri-
9 vacy policies required by this subsection, including
10 rules regarding the online and offline accessibility,
11 time of availability, and contents of the policies.

12 “(4) STANDARDIZED SHORT-FORM PRIVACY
13 POLICY.—The Commission shall establish a stand-
14 ardized short-form privacy policy that complies with
15 paragraph (2)(B) and any associated rules promul-
16 gated by the Commission.

17 **“Subtitle B—Data Security Reform**

18 **“SEC. 2421. DATA SECURITY SAFEGUARDS.**

19 “(a) IN GENERAL.—A covered entity shall ensure ap-
20 propriate security of personal data, including protection
21 against unauthorized or unlawful processing and against
22 accidental loss, destruction, or damage, using reasonable
23 technical, physical, and organizational safeguards and
24 using reasonably designed technological systems to protect

1 persons exposed by their interactions with the covered en-
2 tity.

3 “(b) INFORMATION SECURITY PROGRAM.—

4 “(1) IN GENERAL.—As part of the duty to en-
5 sure appropriate security of personal data under
6 subsection (a), a covered entity shall establish and
7 implement, and thereafter maintain, a comprehen-
8 sive information security program (referred to in
9 this subsection as the ‘Information Security Pro-
10 gram’) that is designed to protect the security, con-
11 fidentiality, and integrity of personal data.

12 “(2) REQUIREMENTS.—To satisfy the require-
13 ment under paragraph (1), a covered entity shall, at
14 a minimum—

15 “(A) document in writing the content, im-
16 plementation, and maintenance of the Informa-
17 tion Security Program;

18 “(B) designate 1 or more qualified employ-
19 ees to coordinate and be responsible for the In-
20 formation Security Program;

21 “(C) not less frequently than once every 12
22 months, and promptly following a covered
23 breach, assess and document internal and exter-
24 nal risks to the security, confidentiality, or in-
25 tegrity of personal data that could result in the

1 unauthorized disclosure, misuse, loss, alteration,
2 destruction, or other compromise of such per-
3 sonal data;

4 “(D) design, implement, and document
5 safeguards that—

6 “(i) address the internal and external
7 risks to the security, confidentiality, or in-
8 tegrity of personal data that the covered
9 entity identifies under subparagraph (C);
10 and

11 “(ii) take into account the sensitivity
12 of the personal data at issue;

13 “(E) not less frequently than once every
14 12 months, and promptly following a covered
15 breach, assess the sufficiency of any safeguards
16 in place to address the risks to the security,
17 confidentiality, or integrity of personal data,
18 which shall include an evaluation of safeguards
19 in each area of relevant operation, including—

20 “(i) employee training and manage-
21 ment;

22 “(ii) information systems, such as net-
23 work and software design, information
24 processing, storage, transmission, and dis-
25 posal; and

1 “(iii) prevention, detection, and re-
2 sponse to attacks, intrusions, or other sys-
3 tem failures; and

4 “(F)(i) not less frequently than once every
5 12 months and promptly following a covered
6 breach, test and monitor the effectiveness of the
7 safeguards described in subparagraph (E); and

8 “(ii) modify the Information Security Pro-
9 gram based on the results of testing and moni-
10 toring under clause (i).

11 **“SEC. 2422. CIVIL PENALTIES AND DAMAGES FOR DATA**
12 **BREACHES.**

13 “(a) STANDARD PENALTY.—

14 “(1) IN GENERAL.—The Commission may issue
15 an order to—

16 “(A) impose on a covered entity a civil
17 penalty of \$150 for each covered breach of the
18 personal data of a person held by the covered
19 entity; and

20 “(B) pay \$50 of the amount collected for
21 a civil penalty under subparagraph (A) to the
22 affected person.

23 “(2) CAP.—The total amount collected from a
24 covered entity under paragraph (1) in a single ad-
25 ministrative action may not exceed 50 percent of the

1 revenue of the ultimate parent entity of the covered
2 entity during the preceding calendar year.

3 “(b) ENHANCED PENALTY.—

4 “(1) IN GENERAL.—The Commission may dou-
5 ble the amount of a civil penalty imposed under sub-
6 section (a)(1)(A) and the corresponding amount paid
7 to an affected person under subsection (a)(1)(B) if
8 the covered entity fails to notify the Commission or
9 the affected person of the covered breach by the date
10 that is 30 days after the date on which the covered
11 entity knew or had reason to know of the covered
12 breach.

13 “(2) CAP.—The total amount collected from a
14 covered entity under paragraph (1) may not exceed
15 75 percent of the revenue of the ultimate parent en-
16 tity of the covered entity during the preceding cal-
17 endar year.

18 “(c) SAFE HARBOR.—Neither the Commission nor
19 any State, person, or other Federal agency may (as appli-
20 cable) issue an order under subsection (a) or bring an ac-
21 tion against a covered entity for a covered breach if the
22 covered entity has complied with section 2421 and any
23 rules promulgated by the Commission to implement that
24 section.

1 “(d) DAMAGES.—In a civil action brought by an af-
 2 fected person under section 2701(b) for a violation of sec-
 3 tion 2421 that resulted in a covered breach, the court may
 4 award damages in an amount that is the greater of—

5 “(1) \$100 per covered breach; or

6 “(2) actual damages.

7 **“Subtitle C—Miscellaneous**

8 **“SEC. 2431. AUTHORITY TO PROPOSE AND ESTABLISH** 9 **HEIGHTENED REQUIREMENTS FOR DOMI-** 10 **NANT PLATFORM OPERATORS.**

11 “For purposes of this title—

12 “(1) an advisory board established under sec-
 13 tion 2117 may propose heightened requirements for
 14 covered entities that are operators of dominant plat-
 15 forms; and

16 “(2) the Commission may promulgate rules
 17 under section 2116 with heightened requirements for
 18 covered entities that are operators of dominant plat-
 19 forms.

20 **“TITLE V—NATIONAL SECURITY** 21 **REFORM**

22 **“SEC. 2501. CORPORATE CITIZENSHIP AND OWNERSHIP.**

23 “(a) DEFINITION.—In this section, the term ‘foreign
 24 adversary’ has the meaning given the term in section 8(c)

1 of the Secure and Trusted Communications Networks Act
2 of 2019 (47 U.S.C. 1607(c)).

3 “(b) CORPORATE CITIZENSHIP.—

4 “(1) IN GENERAL.—An operator of a dominant
5 platform shall—

6 “(A) be a citizen of the United States; or

7 “(B) own a subsidiary corporation—

8 “(i) that is a citizen of the United
9 States; and

10 “(ii) the number of directors of which
11 who are noncitizens is less than half of the
12 number of directors necessary to constitute
13 a quorum.

14 “(2) DIRECTORS.—No director of a subsidiary
15 corporation described in paragraph (1)(B) may be a
16 citizen of a foreign adversary.

17 “(c) OWNERSHIP.—If more than 10 percent of the
18 owners of an operator of a dominant platform are citizens
19 of a foreign adversary, the operator of the dominant plat-
20 form shall sequester any back-end data, algorithm, or in-
21 formation about United States users on the dominant
22 platform so that the back-end data, algorithm, or informa-
23 tion is inaccessible to any subsidiary, affiliate, director,
24 employee, or agent of the operator of the dominant plat-
25 form that is based outside of the United States.

1 “(d) REVIEW BY COMMITTEE ON FOREIGN INVEST-
2 MENT IN THE UNITED STATES.—

3 “(1) IN GENERAL.—The Committee on Foreign
4 Investment in the United States shall—

5 “(A) treat the application of a foreign per-
6 son (as defined in section 800.224 of title 31,
7 Code of Federal Regulations (or a successor
8 regulation)) for a license under title VI as a
9 covered transaction, as defined in subsection (a)
10 of section 721 of the Defense Production Act of
11 1950 (50 U.S.C. 4565); and

12 “(B) review and, as appropriate, inves-
13 tigate the application in accordance with the
14 procedures set forth in such section 721.

15 “(2) DENIAL OF LICENSE.—If the Committee
16 determines pursuant to paragraph (1) that providing
17 a license under title VI to a foreign person threatens
18 to impair the national security of the United States,
19 the Office of Licensing for Dominant Platforms shall
20 deny the application for the license.

21 “(3) CONSULTATION WITH DEPARTMENT OF
22 JUSTICE.—The Committee may, in its discretion,
23 consult with the National Security Division of the
24 Department of Justice in making a determination
25 under paragraph (1).

1 **“SEC. 2502. LIMITATION OF DATA PROCESSING IN RE-**
2 **STRICTED COUNTRIES.**

3 “An operator of a dominant platform may not process
4 the personal data of a United States person in any re-
5 stricted country.

6 **“SEC. 2503. BOT AND COUNTRY-OF-ORIGIN IDENTIFICA-**
7 **TIONS.**

8 “(a) BOTS.—An operator of a dominant platform
9 shall identify any post on the dominant platform that is
10 generated by a software program as a post by a non-
11 human user.

12 “(b) COUNTRY OF ORIGIN.—An operator of a domi-
13 nant platform shall publicly identify the country of origin
14 of any post on the dominant platform.

15 “(c) SCOPE.—An identification described in sub-
16 section (a) or (b) shall publicly accompany the post any-
17 where that the post appears on the dominant platform.

18 **“TITLE VI—LICENSES FOR OPER-**
19 **ATORS OF DOMINANT PLAT-**
20 **FORMS**

21 **“SEC. 2601. LICENSING OFFICE.**

22 “(a) ESTABLISHMENT.—There is established within
23 the Commission the Office of Licensing for Dominant
24 Platforms (referred to in this section as the ‘Office’).

25 “(b) DIRECTOR.—

1 “(1) ESTABLISHMENT OF POSITION.—There is
2 established the position of Director of the Office,
3 who shall be the head of the Office.

4 “(2) APPOINTMENT; TERM.—

5 “(A) APPOINTMENT.—The Director shall
6 be appointed by the President.

7 “(B) TERM.—The Director shall be ap-
8 pointed for a term of 4 years, unless removed
9 before the end of that term by the President for
10 neglect of duty or malfeasance in office.

11 “(C) VACANCY.—A vacancy in the position
12 of Director that occurs before the expiration of
13 the term for which a Director was appointed
14 shall be filled in the manner established under
15 subparagraph (A), and the Director appointed
16 to fill that vacancy shall be appointed only for
17 the remainder of that term.

18 “(D) SERVICE AFTER END OF TERM.—An
19 individual may serve as the Director after the
20 expiration of the term for which the individual
21 was appointed until a successor has been ap-
22 pointed.

23 “(c) DUTIES.—The Office shall—

24 “(1) review and grant license applications for
25 operators of dominant platforms;

1 “(2) monitor whether operators of dominant
2 platforms have obtained a license in accordance with
3 this title;

4 “(3) monitor and manage complaints submitted
5 under section 2118;

6 “(4) except as provided in paragraph (5)(B),
7 refer any violation of this title, a rule promulgated
8 to implement this title, or an administrative order
9 issued to enforce this title to the appropriate Fed-
10 eral agency for enforcement; and

11 “(5) when appropriate—

12 “(A) rescind the license of an operator of
13 a dominant platform under section 2602; or

14 “(B) revoke the license of an operator of
15 a dominant platform under section 2603.

16 **“SEC. 2602. REQUIREMENT FOR OPERATORS OF DOMINANT**
17 **PLATFORMS TO OBTAIN LICENSES.**

18 “(a) IN GENERAL.—The Office shall grant a license
19 to each operator of a platform designated as a dominant
20 platform under section 2121, subject to any subsequent
21 rescission or revocation of the license under this title.

22 “(b) CONSEQUENCES OF FAILURE TO OBTAIN LI-
23 CENSE.—An operator of a dominant platform may not op-
24 erate as a corporation, body corporate, body politic, joint-
25 stock company, or limited liability company, as applicable,

1 for the purposes of Federal law if the operator of the dom-
2 inant platform does not have a license granted by the
3 Commission under subsection (a).

4 “(c) RESCISSIONS.—The Office shall rescind a license
5 granted to an operator of a platform under subsection (a)
6 if the Commission grants a request to remove the designa-
7 tion of that operator’s platform as a dominant platform
8 under section 2121(d).

9 **“SEC. 2603. REVOCATION OF LICENSE.**

10 “(a) FILING OF REVOCATION PETITION.—The Office
11 may file a petition with the Commission to revoke the li-
12 cense of an operator of a dominant platform.

13 “(b) TIMING OF RESPONSE AND DECISION.—If a
14 revocation petition is filed under subsection (a) with re-
15 spect to an operator of a dominant platform—

16 “(1) not later than 180 days after the date on
17 which the petition is filed, the operator may file a
18 response that explains why revoking the license of
19 the operator is not justified in consideration of the
20 factors described in subsection (c)(2); and

21 “(2) the Commission shall issue a ruling with
22 respect to the petition not later than 180 days after
23 the earlier of the date that is—

24 “(A) 180 days after the date on which the
25 petition is filed; or

1 “(B) the date on which the operator files
2 a response under paragraph (1).

3 “(c) GRANTING REVOCATION PETITION.—

4 “(1) IN GENERAL.—The Commission, after con-
5 sideration of the factors described in paragraph (2),
6 may grant a revocation petition that is filed under
7 subsection (a).

8 “(2) FACTORS.—In determining whether to
9 grant a revocation petition under paragraph (1) with
10 respect to an operator of a dominant platform, the
11 Commission shall consider whether the operator—

12 “(A) subject to paragraph (4), has engaged
13 in repeated, egregious, and illegal misconduct
14 (including violations of this division, a rule pro-
15 mulgated under this division, or an administra-
16 tive order issued under this division) that has
17 caused significant harm to—

18 “(i) users of the dominant platform or
19 employees, shareholders, or business part-
20 ners of the operator; or

21 “(ii) communities in which the oper-
22 ator does business; and

23 “(B) has not undertaken measures to ad-
24 dress the causes of the misconduct described in
25 subparagraph (A), such as terminating the em-

1 ployment of any officer or executive of the oper-
2 ator who oversaw that misconduct.

3 “(3) REVIEW OF GRANTING OF PETITION.—A
4 decision by the Commission to grant a revocation pe-
5 tition under this subsection shall be subject to judi-
6 cial review under section 706 of title 5, United
7 States Code, provided that a complaint is filed in the
8 appropriate court not later than 90 days after the
9 date on which the petition is granted.

10 “(d) REVOCATION OF LICENSE.—If the Commission
11 grants a revocation petition under subsection (c) with re-
12 spect to an operator of a dominant platform, the Office
13 shall revoke the license of that operator on the date that
14 is 1 year after the later of—

15 “(1) the date on which the Commission grants
16 the petition; or

17 “(2) the date on which the Commission deter-
18 mines that judicial review under section 706 of title
19 5, United States Code, as described in subsection
20 (c)(3), will not invalidate the decision by the Com-
21 mission to grant the revocation.

22 “(e) EFFECT OF REVOCATION.—An operator of a
23 dominant platform whose license is revoked under this sec-
24 tion—

1 “(1) shall not be treated as a corporation, body
2 corporate, body politic, joint-stock company, or lim-
3 ited liability company, as applicable, for the pur-
4 poses of Federal law; and

5 “(2) may not operate in the United States.

6 “(f) RULEMAKING.—The Commission may issue any
7 rules as necessary to carry out this section.

8 **“SEC. 2604. COMPLIANCE CERTIFICATION.**

9 “(a) CERTIFICATION.—On an annual basis, the chief
10 executive officer, the chief financial officer, and the chief
11 information security officer (or the respective equivalents)
12 of an operator of a dominant platform shall jointly certify
13 to the Office, in a manner prescribed by the Commission,
14 that the operator is in compliance with titles II, III, IV,
15 and V of this division, any rules promulgated to implement
16 those titles, and any administrative orders issued to en-
17 force those titles.

18 “(b) FALSE STATEMENTS.—

19 “(1) OFFENSE.—It shall be unlawful for an in-
20 dividual certifying compliance under subsection (a)
21 to knowingly—

22 “(A) falsify, conceal, or cover up by any
23 trick, scheme, or device a material fact;

24 “(B) make any materially false, fictitious,
25 or fraudulent statement or representation; or

1 III, IV, or V, or a rule promulgated to implement
2 any of those titles, the attorney general of the State
3 may, as *parens patriae*, bring a civil action on behalf
4 of the residents of the State in an applicable district
5 court of the United States (as provided in section
6 2702) to—

7 “(A) enjoin any further such violation by
8 the covered entity;

9 “(B) enforce compliance with the applica-
10 ble title or rule, including through deletion of
11 the relevant data;

12 “(C) obtain a permanent, temporary, or
13 preliminary injunction;

14 “(D) in an action joined by the Commis-
15 sion, obtain civil penalties not to exceed 15 per-
16 cent of the total annual revenue of the ultimate
17 parent entity of the covered entity during the
18 preceding 12-month period;

19 “(E) obtain damages (whether actual, pu-
20 nitive, or otherwise), restitution, disgorgement
21 of unjust enrichment, or other compensation on
22 behalf of aggrieved persons; or

23 “(F) obtain any other appropriate equi-
24 table relief.

1 “(2) RELATIONSHIP WITH STATE-LAW
2 CLAIMS.—If the attorney general of a State has au-
3 thority to bring an action under State law directed
4 at acts or practices that also violate a title or rule
5 described in paragraph (1), the attorney general
6 may assert a claim under State law and a claim
7 under that paragraph in the same civil action.

8 “(3) INVESTIGATORY POWERS.—Nothing in this
9 subsection may be construed to prevent the attorney
10 general of a State from exercising the powers con-
11 ferred on the attorney general by the laws of the
12 State to—

13 “(A) conduct investigations;

14 “(B) administer oaths or affirmations; or

15 “(C) compel the attendance of witnesses or
16 the production of documentary or other evi-
17 dence.

18 “(b) PRIVATE ENFORCEMENT.—Any person whose
19 interest has been or is threatened or adversely affected
20 by the engagement of any covered entity, including any
21 platform operator, in a practice that violates title II, IV,
22 or V, section 2311 or 2321, or a rule promulgated to im-
23 plement any of those titles or sections, may bring a civil
24 action in an applicable district court of the United States
25 (as provided in section 2702) to—

1 “(1) enjoin any further such violation by the
2 covered entity;

3 “(2) enforce compliance with the applicable
4 title, section, or rule, including through deletion of
5 the relevant data;

6 “(3) obtain a permanent, temporary, or prelimi-
7 nary injunction;

8 “(4) obtain damages (whether actual, statutory
9 (as provided under section 2422), punitive, or other-
10 wise), restitution, or other compensation;

11 “(5) obtain reasonable attorney fees, including
12 litigation expenses, and costs; or

13 “(6) obtain any other appropriate equitable re-
14 lief.

15 “(c) FEDERAL AGENCIES.—

16 “(1) FEDERAL TRADE COMMISSION.—

17 “(A) ENFORCEMENT AUTHORITY.—Except
18 as provided in this paragraph and in section
19 2702, the Federal Trade Commission shall en-
20 force titles III and IV in the same manner, by
21 the same means, and with the same jurisdic-
22 tion, powers, and duties as though all applicable
23 terms of the Federal Trade Commission Act
24 (15 U.S.C. 41 et seq.) were incorporated into
25 and made a part of such titles.

1 “(B) SCOPE OF JURISDICTION.—Notwith-
2 standing sections 4, 5(a)(2), or 6 of the Federal
3 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
4 46), or any jurisdictional limitation of the Fed-
5 eral Trade Commission, the Federal Trade
6 Commission shall also enforce titles III and IV,
7 in the same manner provided in subparagraph
8 (A), with respect to any covered entity, includ-
9 ing banks, savings and loan institutions de-
10 scribed in section 18(f)(3) of the Federal Trade
11 Commission Act (15 U.S.C. 57a(f)(3)), Federal
12 credit unions described in section 18(f)(4) of
13 such Act, common carriers subject to the Acts
14 to regulate commerce (as defined in section 4 of
15 the Federal Trade Commission Act (15 U.S.C.
16 44)), air carriers and foreign air carriers sub-
17 ject to the Federal Aviation Act of 1958 (49
18 U.S.C. App. 1301 et seq.), and persons, part-
19 nerships, or corporations insofar as they are
20 subject to the Packers and Stockyards Act,
21 1921, as amended.

22 “(2) DEPARTMENT OF JUSTICE.—The Attorney
23 General shall enforce title III in the same manner,
24 by the same means, and with the same jurisdiction,
25 powers, and duties as though all applicable terms of

1 the Sherman Act (15 U.S.C. 1 et seq.), division A
2 of this Act, and Antitrust Civil Process Act (15
3 U.S.C. 1311 et seq.) were incorporated into and
4 made a part of that title.

5 “(d) CONSIDERATIONS FOR PUNITIVE DAMAGES.—
6 In assessing the amount of punitive damages to award in
7 an action brought under section 2115(f) or this section,
8 the court shall consider each relevant circumstance pre-
9 sented by a party to the action, including—

10 “(1) the nature and seriousness of the mis-
11 conduct;

12 “(2) the number of violations;

13 “(3) the persistence of the misconduct;

14 “(4) the length of time over which the mis-
15 conduct occurred;

16 “(5) the willfulness of the defendant’s mis-
17 conduct; and

18 “(6) the defendant’s assets, liabilities, and net
19 worth.

20 **“SEC. 2702. EXCLUSIVE JURISDICTION.**

21 “(a) DISTRICT COURTS.—

22 “(1) STATE ACTIONS.—The district court of the
23 United States for the judicial district in which the
24 capital of the State is located shall have exclusive ju-

1 jurisdiction of an action brought by a State attorney
2 general under section 2701(a).

3 “(2) PRIVATE AND FEDERAL ACTIONS.—The
4 following district courts shall have exclusive jurisdic-
5 tion of an action brought under section 2115(f) or
6 subsection (b) or (c) of section 2701:

7 “(A) The United States District Court for
8 the District of Columbia.

9 “(B) The district court of the United
10 States for any judicial district in which—

11 “(i) the violation took place; or

12 “(ii) any defendant resides or does
13 business.

14 “(3) OTHER CHALLENGES.—The United States
15 District Court for the District of Columbia shall
16 have exclusive jurisdiction of any action challenging
17 the constitutionality of any provision of this division.

18 “(b) COURT OF APPEALS.—The United States Court
19 of Appeals for the District of Columbia Circuit shall have
20 exclusive jurisdiction of appeals from all decisions in ac-
21 tions described in subsection (a).

22 **“TITLE VIII—MISCELLANEOUS**

23 **“SEC. 2801. FUNDING.**

24 “(a) AUTHORIZATIONS OF APPROPRIATIONS.—There
25 is authorized to be appropriated to the Commission to

1 carry out the functions of the Commission \$500,000,000
2 for—

3 “(1) fiscal year 2023; and

4 “(2) each fiscal year thereafter.

5 “(b) PENALTIES.—The Commission may use any
6 amounts collected from civil penalties, damages, and set-
7 tlements under this division that are not returned to con-
8 sumers to carry out the functions of the Commission,
9 without further appropriation.

10 **“SEC. 2802. INTERAGENCY COOPERATION.**

11 “(a) IN GENERAL.—To facilitate interagency co-
12 operation regarding the execution and enforcement of this
13 division, the Commission may enter into memoranda of
14 understanding with other Federal agencies.

15 “(b) REQUIRED COOPERATION.—Not later than 180
16 days after the date of enactment of this division, the Com-
17 mission shall enter into a memorandum of understanding
18 with—

19 “(1) the Federal Trade Commission, to facili-
20 tate cooperation regarding the execution and en-
21 forcement of titles III and IV, including enforcement
22 under section 2701(c)(1); and

23 “(2) the Attorney General, to facilitate coopera-
24 tion regarding any criminal proceedings and the exe-

1 cution and enforcement of title III, including en-
2 forcement under section 2701(c)(2).

3 **“SEC. 2803. EFFECTIVE DATE.**

4 “(a) IN GENERAL.—Except as provided in subsection
5 (b), this division shall take effect on the date that is 1
6 year after the date of enactment of this division.

7 “(b) EXCEPTION.—Subtitle A of title III shall take
8 effect on the date of enactment of this division.

9 **“SEC. 2804. RULES OF CONSTRUCTION.**

10 “(a) IN GENERAL.—Nothing in this division shall be
11 construed to—

12 “(1) preempt the law of any State that provides
13 greater protections to users of platforms and con-
14 sumers generally than the protections provided
15 under this division; or

16 “(2) limit the Federal Trade Commission, the
17 Attorney General, or any other Federal agency from
18 taking any action.

19 “(b) EFFECT OF FINDINGS, ACTIONS, AND CONCLU-
20 SIONS.—No finding reached, action taken, or conclusion
21 drawn by the Commission under this division shall limit
22 or impact the enforcement of any other law by the Federal
23 Trade Commission, the Attorney General, or any other
24 Federal agency.

1 **“SEC. 2805. SEVERABILITY.**

2 “ If any provision of this division, or the application
 3 of such a provision to any person or circumstance, is held
 4 to be unconstitutional, the remaining provisions of this di-
 5 vision, and the application of the provision to any other
 6 person or circumstance, shall not be affected thereby.”.

7 **TITLE II—AMENDMENTS TO**
 8 **OTHER LAWS**

9 **SEC. 201. EXECUTIVE ACCOUNTABILITY FOR OPERATORS**
 10 **OF DOMINANT PLATFORMS.**

11 (a) **CRIMINAL LIABILITY.**—Part I of title 18, United
 12 States Code, is amended by inserting after chapter 27 the
 13 following:

14 **“CHAPTER 28—DOMINANT PLATFORMS**

“Sec.

“571. Negligence of executive officers.

15 **“§ 571. Negligence of executive officers**

16 “(a) **DEFINITIONS.**—In this section—

17 “(1) the term ‘executive officer’, with respect to
 18 a corporation, means an individual who—

19 “(A) is described in section 240.3b–7 of
 20 title 17, Code of Federal Regulations, or any
 21 successor thereto; and

22 “(B) by reason of the position of the indi-
 23 vidual in the corporation, has the responsibility

1 and authority to take necessary measures to
2 prevent or remedy violations of law; and

3 “(2) the terms ‘dominant platform’ and ‘oper-
4 ator’ have the meanings given those terms in section
5 2002 of the Clayton Act.

6 “(b) CRIMINAL LIABILITY.—

7 “(1) IN GENERAL.—It shall be unlawful for an
8 executive officer of a corporation that is an operator
9 of a dominant platform to negligently permit or fail
10 to prevent a violation of law described in paragraph
11 (2).

12 “(2) VIOLATIONS DESCRIBED.—A violation of
13 law described in this paragraph is—

14 “(A) a criminal violation of Federal or
15 State law for which the operator of a dominant
16 platform is convicted or enters into a deferred
17 prosecution or non-prosecution agreement;

18 “(B) a civil violation of Federal or State
19 law—

20 “(i) for which the operator of a domi-
21 nant platform is found liable or enters into
22 a settlement agreement with any Federal
23 or State agency; and

24 “(ii) that affects the health, safety, fi-
25 nances, or personal data of—

1 “(c) PENALTY.—Any executive officer who violates
2 subsection (b) shall—

3 “(1) for a first offense, be fined under this title,
4 imprisoned for not more than 1 year, or both; and

5 “(2) for a second or subsequent offense, be
6 fined under this title, imprisoned for not more than
7 3 years, or both.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—

9 The tables of chapters in part I of title 18, United States
10 Code, is amended by inserting after the item relating to
11 chapter 27 the following:

“28. **Dominant platforms** **571**”.

12 **SEC. 202. CRIMINAL FINES UNDER THE SHERMAN ACT.**

13 The Sherman Act (15 U.S.C. 1 et seq.) is amended—

14 (1) in section 1 (15 U.S.C. 1), in the second
15 sentence—

16 (A) by striking “\$100,000,000” and in-
17 serting “\$500,000,000”; and

18 (B) by striking “\$1,000,000” and insert-
19 ing “\$2,000,000”;

20 (2) in section 2 (15 U.S.C. 2)—

21 (A) by striking “\$100,000,000” and in-
22 serting “\$500,000,000”; and

23 (B) by striking “\$1,000,000” and insert-
24 ing “\$2,000,000”; and

25 (3) in section 3 (15 U.S.C. 3)—

1 (A) by striking “\$100,000,000” and in-
2 serting “\$500,000,000”; and

3 (B) by striking “\$1,000,000” and insert-
4 ing “\$2,000,000”.

5 **SEC. 203. CRIMINAL FINES UNDER THE ROBINSON-PATMAN**
6 **ACT.**

7 Section 3 of the Act of June 19, 1936 (commonly
8 known as the “Robinson-Patman Act”) (15 U.S.C. 13a),
9 is amended by striking “\$5,000” and inserting “10,000”.

10 **SEC. 204. DIRECTING THE ATTORNEY GENERAL TO DE-**
11 **VELOP VICTIM-CENTERED GUIDANCE.**

12 (a) VICTIM-CENTERED GUIDANCE.—

13 (1) IN GENERAL.—Not later than 18 months
14 after the date of enactment of this Act, the Attorney
15 General, in consultation with Federal, State, and
16 local law enforcement agencies and prosecutors, sex
17 trafficking victim advocates, sex trafficking sur-
18 vivors, and pediatric mental health experts, shall de-
19 velop and publish victim-centered guidance to
20 strengthen protections for child sex trafficking vic-
21 tims testifying against human traffickers, includ-
22 ing—

23 (A) practices to minimize the adverse con-
24 sequences of testifying on child sex trafficking
25 victim witnesses, including the use of closed cir-

1 “(v) protections for child sex traf-
2 ficking victims testifying against human
3 traffickers based on the victim-centered
4 guidance published by the Attorney Gen-
5 eral in accordance with section 204(a)(1)
6 of the Digital Consumer Protection Com-
7 mission Act of 2023.”.

8 (2) FEDERAL PROSECUTORS.—Subsection
9 (c)(1)(B) of the Combat Human Trafficking Act of
10 2015 (34 U.S.C. 20709(c)(1)(B)) is amended to
11 read as follows:

12 “(B) FEDERAL PROSECUTORS.—The At-
13 torney General shall ensure that each anti-
14 human trafficking program operated by the De-
15 partment of Justice for United States attorneys
16 or other Federal prosecutors includes training
17 on—

18 “(i) seeking restitution for offenses
19 under chapter 77 of title 18, United States
20 Code, to ensure that each United States
21 attorney or other Federal prosecutor, upon
22 obtaining a conviction for such an offense,
23 requests a specific amount of restitution
24 for each victim of the offense without re-

1 gard to whether the victim requests res-
2 titution; and

3 “(ii) victim-centered guidance to
4 strengthen protections for child sex traf-
5 ficking victims testifying against human
6 traffickers based on victim-centered guid-
7 ance published by the Attorney General in
8 accordance with section 204(a)(1) of the
9 Digital Consumer Protection Commission
10 Act of 2023.”.

11 (c) ADDITIONAL USES FOR VICTIM-CENTERED
12 CHILD HUMAN TRAFFICKING DETERRENCE BLOCK
13 GRANT.—Section 203(b)(1) of the Trafficking Victims
14 Protection Reauthorization Act of 2005 (34 U.S.C.
15 20703(b)(1)) is amended—

16 (1) in subparagraph (D), by striking “and” at
17 the end;

18 (2) in subparagraph (E), by adding “and” at
19 the end; and

20 (3) by adding at the end the following:

21 “(F) strengthen protections for child sex
22 trafficking victims testifying against human
23 traffickers based on victim-centered guidance
24 published by the Attorney General in accord-

1 ance with section 204(a)(1) of the Digital Con-
2 sumer Protection Commission Act of 2023.”.

3 **SEC. 205. USE OF TERM “CHILD SEXUAL ABUSE MATERIAL”.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the term “child sexual abuse material” has the
6 same legal meaning as the term “child pornography”, as
7 that term was used in Federal statutes and case law before
8 the date of enactment of this Act.

9 (b) AMENDMENTS.—

10 (1) TITLE 5, UNITED STATES CODE.—Chapter
11 65 of title 5, United States Code, is amended—

12 (A) in section 6502(a)(2)(B), by striking
13 “child pornography” and inserting “child sexual
14 abuse material”; and

15 (B) in section 6504(c)(2)(F), by striking
16 “child pornography” and inserting “child sexual
17 abuse material”.

18 (2) HOMELAND SECURITY ACT OF 2002.—The
19 Homeland Security Act of 2002 (6 U.S.C. 101 et
20 seq.) is amended—

21 (A) in section 307(b)(3)(D) (6 U.S.C.
22 187(b)(3)(D)), by striking “child pornography”
23 and inserting “child sexual abuse material”;
24 and

25 (B) in section 890A (6 U.S.C. 473)—

1 (i) in subsection (b)(2)(A)(ii), by
2 striking “child pornography” and inserting
3 “child sexual abuse material”; and

4 (ii) in subsection (e)(3)(B)(ii), by
5 striking “child pornography” and inserting
6 “child sexual abuse material”.

7 (3) IMMIGRATION AND NATIONALITY ACT.—Sec-
8 tion 101(a)(43)(I) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1101(a)(43)(I)) is amended by
10 striking “child pornography” and inserting “child
11 sexual abuse material”.

12 (4) SMALL BUSINESS JOBS ACT OF 2010.—Sec-
13 tion 3011(c) of the Small Business Jobs Act of 2010
14 (12 U.S.C. 5710(c)) is amended by striking “child
15 pornography” and inserting “child sexual abuse ma-
16 terial”.

17 (5) BROADBAND DATA IMPROVEMENT ACT.—
18 Section 214(a)(2) of the Broadband Data Improve-
19 ment Act (15 U.S.C. 6554(a)(2)) is amended by
20 striking “child pornography” and inserting “child
21 sexual abuse material”.

22 (6) CAN-SPAM ACT OF 2003.—Section
23 4(b)(2)(B) of the CAN-SPAM Act of 2003 (15
24 U.S.C. 7703(b)(2)(B)) is amended by striking “child

1 pornography” and inserting “child sexual abuse ma-
2 terial”.

3 (7) TITLE 18, UNITED STATES CODE.—Title 18,
4 United States Code, is amended—

5 (A) in section 1956(c)(7)(D), by striking
6 “child pornography” each place the term ap-
7 pears and inserting “child sexual abuse mate-
8 rial”;

9 (B) in chapter 110—

10 (i) in section 2251(e), by striking
11 “child pornography” and inserting “child
12 sexual abuse material”;

13 (ii) in section 2252(b)—

14 (I) in paragraph (1), by striking
15 “child pornography” and inserting
16 “child sexual abuse material”; and

17 (II) in paragraph (2), by striking
18 “child pornography” and inserting
19 “child sexual abuse material”;

20 (iii) in section 2252A—

21 (I) in the section heading, by
22 striking “**material constituting**
23 **or containing child pornog-**
24 **raphy**” and inserting “**child sex-**
25 **ual abuse material**”;

- 1 (II) in subsection (a)—
- 2 (aa) in paragraph (1), by
- 3 striking “child pornography” and
- 4 inserting “child sexual abuse ma-
- 5 terial”;
- 6 (bb) in paragraph (2)—
- 7 (AA) in subparagraph
- 8 (A), by striking “child por-
- 9 nography” and inserting
- 10 “child sexual abuse mate-
- 11 rial”; and
- 12 (BB) in subparagraph
- 13 (B), by striking “material
- 14 that contains child pornog-
- 15 raphy” and inserting “child
- 16 sexual abuse material”;
- 17 (cc) in paragraph (3)(A), by
- 18 striking “child pornography” and
- 19 inserting “child sexual abuse ma-
- 20 terial”;
- 21 (dd) in paragraph (4)—
- 22 (AA) in subparagraph
- 23 (A), by striking “child por-
- 24 nography” and inserting

1 “child sexual abuse mate-
2 rial”; and

3 (BB) in subparagraph
4 (B), by striking “child por-
5 nography” and inserting
6 “child sexual abuse mate-
7 rial”;

8 (ee) in paragraph (5)—

9 (AA) in subparagraph
10 (A), by striking “material
11 that contains an image of
12 child pornography” and in-
13 sserting “item containing
14 child sexual abuse material”;
15 and

16 (BB) in subparagraph
17 (B), by striking “material
18 that contains an image of
19 child pornography” and in-
20 sserting “item containing
21 child sexual abuse material”;
22 and

23 (ff) in paragraph (7)—

24 (AA) by striking “child
25 pornography” and inserting

1 “child sexual abuse mate-
2 rial”; and

3 (BB) by striking the
4 period at the end and insert-
5 ing a comma;

6 (III) in subsection (b)—

7 (aa) in paragraph (1), by
8 striking “child pornography” and
9 inserting “child sexual abuse ma-
10 terial”; and

11 (bb) in paragraph (2), by
12 striking “child pornography”
13 each place the term appears and
14 inserting “child sexual abuse ma-
15 terial”;

16 (IV) in subsection (c)—

17 (aa) in paragraph (1)(A), by
18 striking “child pornography” and
19 inserting “child sexual abuse ma-
20 terial”;

21 (bb) in paragraph (2), by
22 striking “child pornography” and
23 inserting “child sexual abuse ma-
24 terial”; and

1 (cc) in the undesignated
2 matter following paragraph (2),
3 by striking “child pornography”
4 and inserting “child sexual abuse
5 material”;

6 (V) in subsection (d)(1), by strik-
7 ing “child pornography” and inserting
8 “child sexual abuse material”; and

9 (VI) in subsection (e), by striking
10 “child pornography” each place the
11 term appears and inserting “child sex-
12 ual abuse material”;

13 (iv) in section 2256(8)—

14 (I) by striking “child pornog-
15 raphy” and inserting “child sexual
16 abuse material”; and

17 (II) by striking the period at the
18 end and inserting a semicolon;

19 (v) in section 2257A(h)—

20 (I) in paragraph (1)(A)(iii)—

21 (aa) by inserting a comma
22 after “marketed”;

23 (bb) by striking “such than”
24 and inserting “such that”; and

1 (cc) by striking “a visual de-
2 picture that is child pornog-
3 raphy” and inserting “child sex-
4 ual abuse material”; and

5 (II) in paragraph (2), by striking
6 “any visual depiction that is child por-
7 nography” and inserting “child sexual
8 abuse material”;

9 (vi) in section 2258A—

10 (I) in subsection (a)(2)—

11 (aa) in subparagraph (A),
12 by striking “child pornography”
13 and inserting “child sexual abuse
14 material”; and

15 (bb) in subparagraph (B),
16 by striking “child pornography”
17 and inserting “child sexual abuse
18 material”;

19 (II) in subsection (b)—

20 (aa) in paragraph (4)—

21 (AA) in the paragraph
22 heading, by striking “VIS-
23 UAL DEPICTIONS OF APPAR-
24 ENT CHILD PORNOGRAPHY”
25 and inserting “APPARENT

1 CHILD SEXUAL ABUSE MA-
2 TERIAL”; and

3 (BB) by striking “vis-
4 ual depiction of apparent
5 child pornography” and in-
6 serting “apparent child sex-
7 ual abuse material”; and

8 (bb) in paragraph (5), by
9 striking “visual depiction of ap-
10 parent child pornography” and
11 inserting “apparent child sexual
12 abuse material”; and

13 (III) in subsection (g)(2)(B), by
14 striking “visual depictions of apparent
15 child pornography” and inserting “ap-
16 parent child sexual abuse material”;
17 (vii) in section 2258C—

18 (I) in the section heading, by
19 striking “**Use to combat child**
20 **pornography of technical ele-**
21 **ments relating to reports**
22 **made to the CyberTipline”** and
23 inserting “**Use of technical ele-**
24 **ments from reports made to**

1 **the CyberTipline to combat**
2 **child sexual abuse material”;**

3 (II) in subsection (a)—

4 (aa) in paragraph (2), by
5 striking “child pornography” and
6 inserting “child sexual abuse ma-
7 terial”; and

8 (bb) in paragraph (3), by
9 striking “the actual visual depic-
10 tions of apparent child pornog-
11 raphy” and inserting “any appar-
12 ent child sexual abuse material”;

13 (III) in subsection (d), by strik-
14 ing “child pornography visual depic-
15 tion” and inserting “child sexual
16 abuse material visual depiction”; and

17 (IV) in subsection (e), by striking
18 “child pornography visual depiction”
19 and inserting “child sexual abuse ma-
20 terial visual depiction”;

21 (viii) in section 2259—

22 (I) in paragraph (b)(2)—

23 (aa) in the paragraph head-
24 ing, by striking “CHILD PORNOG-

1 RAPHY” and inserting “CHILD
2 SEXUAL ABUSE MATERIAL”;

3 (bb) in the matter preceding
4 subparagraph (A), by striking
5 “child pornography” and insert-
6 ing “child sexual abuse mate-
7 rial”; and

8 (cc) in subparagraph (A), by
9 striking “child pornography” and
10 inserting “child sexual abuse ma-
11 terial”;

12 (II) in subsection (c)—

13 (aa) in paragraph (1)—

14 (AA) in the paragraph
15 heading, by striking “CHILD
16 PORNOGRAPHY PRODUCTION”
17 and inserting “PRO-
18 Duction OF CHILD SEXUAL
19 ABUSE MATERIAL”;

20 (BB) by striking “child
21 pornography production”
22 and inserting “production of
23 child sexual abuse material”;
24 and

1 (CC) by striking “pro-
2 duction of child pornog-
3 raphy” and inserting “pro-
4 duction of child sexual abuse
5 material”;

6 (bb) in paragraph (2), in the
7 matter preceding subparagraph
8 (A), by striking “trafficking in
9 child pornography offenses” each
10 place the term appears and in-
11 serting “offenses for trafficking
12 in child sexual abuse material”;
13 and

14 (cc) in paragraph (3)—

15 (AA) in the paragraph
16 heading, by striking “CHILD
17 PORNOGRAPHY” and insert-
18 ing “CHILD SEXUAL ABUSE
19 MATERIAL”; and

20 (BB) by striking “child
21 pornography” and inserting
22 “child sexual abuse mate-
23 rial”; and

24 (III) in subsection (d)(1)—

25 (aa) in subparagraph (A)—

1 (AA) by striking “child
2 pornography” each place the
3 term appears and inserting
4 “child sexual abuse mate-
5 rial”; and

6 (BB) by striking “Child
7 Pornography Victims Re-
8 serve” and inserting “Re-
9 serve for Victims of Child
10 Sexual Abuse Material”;

11 (bb) in subparagraph (B),
12 by striking “child pornography”
13 and inserting “child sexual abuse
14 material”; and

15 (cc) in subparagraph (C)—

16 (AA) by striking “child
17 pornography” and inserting
18 “child sexual abuse mate-
19 rial”; and

20 (BB) by striking “Child
21 Pornography Victims Re-
22 serve” and inserting “Re-
23 serve for Victims of Child
24 Sexual Abuse Material”;

25 (ix) in section 2259A—

1 (I) in the section heading, by
2 striking “**child pornography**
3 **cases**” and inserting “**cases in-**
4 **volving child sexual abuse**
5 **material**”;

6 (II) in subsection (a)—

7 (aa) in paragraph (2), by
8 striking “child pornography” and
9 inserting “child sexual abuse ma-
10 terial”; and

11 (bb) in paragraph (3), by
12 striking “a child pornography
13 production offense” and inserting
14 “an offense for production of
15 child sexual abuse material”; and

16 (III) in subsection (d)(2)(B), by
17 striking “child pornography produc-
18 tion or trafficking offense that the de-
19 fendant committed” and inserting “of-
20 fense for production of child sexual
21 abuse material or trafficking in child
22 sexual abuse material committed by
23 the defendant”; and

24 (x) in section 2259B—

1 (I) in the section heading, by
2 striking “**Child pornography**
3 **victims reserve**” and inserting
4 “**Reserve for child sexual**
5 **abuse material**”;

6 (II) in subsection (a), by striking
7 “Child Pornography Victims Reserve”
8 each place the term appears and in-
9 serting “Reserve for Victims of Child
10 Sexual Abuse Material”;

11 (III) in subsection (b), by strik-
12 ing “Child Pornography Victims Re-
13 serve” each place the term appears
14 and inserting “Reserve for Victims of
15 Child Sexual Abuse Material”; and

16 (IV) in subsection (c), by striking
17 “Child Pornography Victims Reserve”
18 and inserting “Reserve for Victims of
19 Child Sexual Abuse Material”;

20 (C) in chapter 117—

21 (i) in section 2423(f)(3), by striking
22 “child pornography” and inserting “child
23 sexual abuse material”; and

24 (ii) in section 2427—

1 (I) in the section heading, by
2 striking “**child pornography**”
3 and inserting “**child sexual abuse**
4 **material**”; and

5 (II) by striking “child pornog-
6 raphy” and inserting “child sexual
7 abuse material”;

8 (D) in section 2516—

9 (i) in paragraph (1)(c), by striking
10 “material constituting or containing child
11 pornography” and inserting “child sexual
12 abuse material”; and

13 (ii) in paragraph (2), by striking
14 “child pornography production” and in-
15 sserting “production of child sexual abuse
16 material”;

17 (E) in section 3014(h)(3), by striking
18 “child pornography victims” and inserting “vic-
19 tims of child sexual abuse material”;

20 (F) in section 3509—

21 (i) in subsection (a)(6), by striking
22 “child pornography” and inserting “child
23 sexual abuse material”; and

24 (ii) in subsection (m)—

1 (I) in the subsection heading, by
2 striking “CHILD PORNOGRAPHY” and
3 inserting “CHILD SEXUAL ABUSE
4 MATERIAL”;

5 (II) in paragraph (1), by striking
6 “property or material that constitutes
7 child pornography (as defined by sec-
8 tion 2256 of this title)” and inserting
9 “child sexual abuse material (as de-
10 fined by section 2256 of this title), or
11 property or items containing such ma-
12 terial,”;

13 (III) in paragraph (2)—

14 (aa) in subparagraph (A)—

15 (AA) by striking “prop-
16 erty or material that con-
17 stitutes child pornography
18 (as defined by section 2256
19 of this title)” and inserting
20 “child sexual abuse material
21 (as defined by section 2256
22 of this title), or property or
23 items containing such mate-
24 rial,”; and

1 (BB) by striking “the
2 property or material” and
3 inserting “the child sexual
4 abuse material, property, or
5 items”; and

6 (bb) in subparagraph (B),
7 by striking “property or mate-
8 rial” each place the term appears
9 and inserting “child sexual abuse
10 material, property, or items”;
11 and

12 (IV) in paragraph (3)—

13 (aa) by striking “property or
14 material that constitutes child
15 pornography, as defined under
16 section 2256(8)” and inserting
17 “child sexual abuse material (as
18 defined by section 2256 of this
19 title)”;

20 (bb) by striking “such child
21 pornography” and inserting
22 “such child sexual abuse mate-
23 rial”; and

24 (cc) by striking “Such prop-
25 erty or material” and inserting

1 (i) in the paragraph heading, by strik-
2 ing “CHILD PORNOGRAPHY” and inserting
3 “CHILD SEXUAL ABUSE MATERIAL”; and

4 (ii) by striking “child pornography”
5 and inserting “child sexual abuse mate-
6 rial”.

7 (10) MUSEUM AND LIBRARY SERVICES ACT.—
8 Section 224(f) of the Museum and Library Services
9 Act (20 U.S.C. 9134(f)) is amended—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)(i)(II), by
12 striking “child pornography” and inserting
13 “child sexual abuse material”; and

14 (ii) in subparagraph (B)(i)(II), by
15 striking “child pornography” and inserting
16 “child sexual abuse material”; and

17 (B) in paragraph (7)(A)—

18 (i) in the subparagraph heading, by
19 striking “CHILD PORNOGRAPHY” and in-
20 sserting “CHILD SEXUAL ABUSE MATE-
21 RIAL”; and

22 (ii) by striking “child pornography”
23 and inserting “child sexual abuse mate-
24 rial”.

1 (11) OMNIBUS CRIME CONTROL AND SAFE
2 STREETS ACT OF 1968.—Section 3031(b)(3) of title
3 I of the Omnibus Crime Control and Safe Streets
4 Act of 1968 (34 U.S.C. 10721(b)(3)) is amended by
5 striking “child pornography” and inserting “child
6 sexual abuse material”.

7 (12) JUVENILE JUSTICE AND DELINQUENCY
8 PREVENTION ACT OF 1974.—Section 404(b)(1)(K) of
9 the Juvenile Justice and Delinquency Prevention Act
10 of 1974 (34 U.S.C. 11293(b)(1)(K)) is amended—

11 (A) in clause (i)(I)(aa), by striking “child
12 pornography” and inserting “child sexual abuse
13 material”; and

14 (B) in clause (ii), by striking “child por-
15 nography” and inserting “child sexual abuse
16 material”.

17 (13) VICTIMS OF CRIME ACT OF 1984.—Section
18 1402(d)(6)(A) of the Victims of Crime Act of 1984
19 (34 U.S.C. 20101(d)(6)(A)) is amended by striking
20 “Child Pornography Victims Reserve” and inserting
21 “Reserve for Victims of Child Sexual Abuse Mate-
22 rial”.

23 (14) VICTIMS OF CHILD ABUSE ACT OF 1990.—
24 The Victims of Child Abuse Act of 1990 (34 U.S.C.
25 20301 et seq.) is amended—

1 (A) in section 212(4) (34 U.S.C.
2 20302(4)), by striking “child pornography” and
3 inserting “child sexual abuse material”;

4 (B) in section 214(b) (34 U.S.C.
5 20304(b))—

6 (i) in the subsection heading, by strik-
7 ing “CHILD PORNOGRAPHY” and inserting
8 “CHILD SEXUAL ABUSE MATERIAL”; and

9 (ii) by striking “child pornography”
10 and inserting “child sexual abuse mate-
11 rial”; and

12 (C) in section 226(c)(6) (34 U.S.C.
13 20341(c)(6)), by striking “child pornography”
14 and inserting “child sexual abuse material”.

15 (15) SEX OFFENDER REGISTRATION AND NOTI-
16 FICATION ACT.—Section 111 of the Sex Offender
17 Registration and Notification Act (34 U.S.C. 20911)
18 is amended—

19 (A) in paragraph (3)(B)(iii), by striking
20 “child pornography” and inserting “child sexual
21 abuse material”; and

22 (B) in paragraph (7)(G), by striking “child
23 pornography” and inserting “child sexual abuse
24 material”.

1 (16) ADAM WALSH CHILD PROTECTION AND
2 SAFETY ACT OF 2006.—Section 143(b)(3) of the
3 Adam Walsh Child Protection and Safety Act of
4 2006 (34 U.S.C. 20942(b)(3)) is amended by strik-
5 ing “child pornography and enticement cases” and
6 inserting “cases involving child sexual abuse mate-
7 rial and enticement of children”.

8 (17) PROTECT OUR CHILDREN ACT OF 2008.—
9 The PROTECT Our Children Act of 2008 (34
10 U.S.C. 21101 et seq.) is amended—

11 (A) in section 101(c) (34 U.S.C.
12 21111(c))—

13 (i) in paragraph (16)—

14 (I) in the matter preceding sub-
15 paragraph (A), by striking “child por-
16 nography trafficking” and inserting
17 “trafficking in child sexual abuse ma-
18 terial”;

19 (II) in subparagraph (A), by
20 striking “child pornography” and in-
21 sserting “child sexual abuse material”;

22 (III) in subparagraph (B), by
23 striking “child pornography” and in-
24 sserting “child sexual abuse material”;

1 (IV) in subparagraph (C), by
2 striking “child pornography” and in-
3 sserting “child sexual abuse material”;
4 and

5 (V) in subparagraph (D), by
6 striking “child pornography” and in-
7 sserting “child sexual abuse material”;
8 and

9 (ii) in paragraph (17)(A), by striking
10 “child pornography” and inserting “child
11 sexual abuse material”; and

12 (B) in section 105(e)(1)(C) (34 U.S.C.
13 21115(e)(1)(C)), by striking “child pornog-
14 raphy trafficking” and inserting “trafficking in
15 child sexual abuse material”.

16 (18) SOCIAL SECURITY ACT.—Section
17 471(a)(20)(A)(i) of the Social Security Act (42
18 U.S.C. 671(a)(20)(A)(i)) is amended by striking
19 “child pornography” and inserting “offenses involv-
20 ing child sexual abuse material”.

21 (19) PRIVACY PROTECTION ACT OF 1980.—Sec-
22 tion 101 of the Privacy Protection Act of 1980 (42
23 U.S.C. 2000aa) is amended—

1 (A) in subsection (a)(1), by striking “child
2 pornography” and inserting “child sexual abuse
3 material”; and

4 (B) in subsection (b)(1), by striking “child
5 pornography” and inserting “child sexual abuse
6 material”.

7 (20) CHILD CARE AND DEVELOPMENT BLOCK
8 GRANT ACT OF 1990.—Section 658H(c)(1) of the
9 Child Care and Development Block Grant Act of
10 1990 (42 U.S.C. 9858f(c)(1)) is amended—

11 (A) in subparagraph (D)(iii), by striking
12 “child pornography” and inserting “offenses re-
13 lating to child sexual abuse material”; and

14 (B) in subparagraph (E), by striking
15 “child pornography” and inserting “child sexual
16 abuse material”.

17 (21) COMMUNICATIONS ACT OF 1934.—Title II
18 of the Communications Act of 1934 (47 U.S.C. 201
19 et seq.) is amended—

20 (A) in section 223 (47 U.S.C. 223)—

21 (i) in subsection (a)(1)—

22 (I) in subparagraph (A), in the
23 undesignated matter following clause

24 (ii), by striking “child pornography”

1 and inserting “which constitutes child
2 sexual abuse material”; and

3 (II) in subparagraph (B), in the
4 undesignated matter following clause
5 (ii), by striking “child pornography”
6 and inserting “which constitutes child
7 sexual abuse material”; and

8 (ii) in subsection (d)(1), in the undes-
9 ignated matter following subparagraph
10 (B), by striking “child pornography” and
11 inserting “that constitutes child sexual
12 abuse material”; and

13 (B) in section 254(h) (47 U.S.C.
14 254(h))—

15 (i) in paragraph (5)—

16 (I) in subparagraph (B)(i)(II), by
17 striking “child pornography” and in-
18 serting “child sexual abuse material”;
19 and

20 (II) in subparagraph (C)(i)(II),
21 by striking “child pornography” and
22 inserting “child sexual abuse mate-
23 rial”;

24 (ii) in paragraph (6)—

1 (I) in subparagraph (B)(i)(II), by
2 striking “child pornography” and in-
3 serting “child sexual abuse material”;
4 and

5 (II) in subparagraph (C)(i)(II),
6 by striking “child pornography” and
7 inserting “child sexual abuse mate-
8 rial”; and

9 (iii) in paragraph (7)(F)—

10 (I) in the subparagraph heading,
11 by striking “CHILD PORNOGRAPHY”
12 and inserting “CHILD SEXUAL ABUSE
13 MATERIAL”; and

14 (II) by striking “child pornog-
15 raphy” and inserting “child sexual
16 abuse material”.

17 (c) TABLE OF SECTIONS AMENDMENTS.—

18 (1) CHAPTER 110 OF TITLE 18.—The table of
19 sections for chapter 110 of title 18, United States
20 Code, is amended—

21 (A) by striking the item relating to section
22 2252A and inserting the following:

“2252A. Certain activities relating to child sexual abuse material.”;

23 (B) by striking the item relating to section
24 2258C and inserting the following:

“2258C. Use of technical elements from reports made to the CyberTipline to combat child sexual abuse material.”;

1 (C) by striking the item relating to section
2 2259A and inserting the following:

“2259A. Assessments in cases involving child sexual abuse material.”;

3 and

4 (D) by striking the item relating to section
5 2259B and inserting the following:

“2259B. Reserve for victims of child sexual abuse material.”.

6 (2) CHAPTER 117 OF TITLE 18.—The table of
7 sections for chapter 117 of title 18, United States
8 Code, is amended by striking the item relating to
9 section 2427 and inserting the following:

“2427. Inclusion of offenses relating to child sexual abuse material in definition of sexual activity for which any person can be charged with a criminal offense.”.

10 (d) AMENDMENT TO THE FEDERAL SENTENCING
11 GUIDELINES.—Pursuant to its authority under section
12 994(p) of title 28, United States Code, and in accordance
13 with this section, the United States Sentencing Commis-
14 sion shall amend the Federal sentencing guidelines, in-
15 cluding application notes, to replace the terms “child por-
16 nography” and “child pornographic material” with “child
17 sexual abuse material”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section to title 18 of the United States Code shall
20 apply to conduct that occurred before, on, or after the date
21 of enactment of this Act.

1 **SEC. 206. INELIGIBILITY DUE TO DISQUALIFYING MENTAL**
2 **STATUS.**

3 (a) UNLAWFUL ACTS RELATED TO FIREARMS.—Sec-
4 tion 922 of title 18, United States Code, is amended by
5 striking “adjudicated as a mental defective” each place
6 such term appears and inserting “adjudicated as ineligible
7 due to disqualifying mental status”.

8 (b) POSSESSION BY RESTRICTED PERSONS.—Section
9 175b(d)(2)(F) of title 18, United States Code, is amended
10 by striking “adjudicated as a mental defective” and insert-
11 ing “adjudicated as ineligible due to disqualifying mental
12 status”.

13 (c) UNLAWFUL ACTS RELATED TO EXPLOSIVES.—
14 Section 842 of title 18, United States Code, is amended—

15 (1) in subsection (d)(6), by striking “adju-
16 dicated a mental defective” and inserting “adju-
17 dicated as ineligible due to disqualifying mental sta-
18 tus”; and

19 (2) in subsection (i)(4), by striking “adju-
20 dicated as a mental defective” and inserting “adju-
21 dicated as ineligible due to disqualifying mental sta-
22 tus”.

23 (d) NICS IMPROVEMENT AMENDMENTS ACT OF
24 2007.—The NICS Improvement Amendments Act of 2007
25 (34 U.S.C. 40902 et seq.) is amended—

1 (1) by striking “adjudicated as a mental defec-
2 tive” each place such term appears and inserting
3 “adjudicated as ineligible due to disqualifying men-
4 tal status”; and

5 (2) in section 101(c)(3) (34 U.S.C.
6 40911(c)(3))—

7 (A) in the matter preceding subparagraph
8 (A), by striking “adjudicate a person as a men-
9 tal defective” and inserting “adjudicate a per-
10 son as ineligible due to disqualifying mental
11 status”; and

12 (B) in subparagraph (A), by striking “ad-
13 judicate the person as a mental defective” and
14 inserting “adjudicate the person as ineligible
15 due to disqualifying mental status”.