

**[DISCUSSION DRAFT]**112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R.** \_\_\_\_\_

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

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mr. MARKEY of Massachusetts introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Do Not Track Kids  
5       Act of 2011”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

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

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

22 (4) Children are increasingly spending time on-  
23 line. A Nielsen Online survey conducted in July  
24 2009 found that “time spent online for children ages  
25 2 to 11 increased from about 7 hours to more than  
26 11 hours per week, a jump of 63% over five years”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           (2) in paragraph (4)—

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

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

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

20          (3) in paragraph (8)—

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

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

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

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

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

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

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

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

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

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

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

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



1 (2) in subsection (a)—

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

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

12 (B) in paragraph (2)—

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

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

18 (3) in subsection (b)—

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

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

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

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

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

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

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

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

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

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

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

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

1 (C) in paragraph (3), by striking “para-  
2 graph (1)(B)(ii)” and inserting “paragraph  
3 (1)(C)(ii)”.

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

7 (1) in subsection (b)—

8 (A) in paragraph (1), by striking “, in the  
9 case of” and all that follows and inserting the  
10 following: “by the appropriate Federal banking  
11 agency with respect to any insured depository  
12 institution (as such terms are defined in section  
13 3 of such Act (12 U.S.C. 1813));”; and

14 (B) by striking paragraph (2) and redesign-  
15 ating paragraphs (3) through (6) as para-  
16 graphs (2) through (5), respectively; and

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

19 “(f) TELECOMMUNICATIONS CARRIERS AND CABLE  
20 OPERATORS.—

21 “(1) ENFORCEMENT BY FTC.—Notwithstanding  
22 section 5(a)(2) of the Federal Trade Commission  
23 Act (15 U.S.C. 45(a)(2)), compliance with the re-  
24 quirements imposed under this title shall be enforced  
25 by the Commission with respect to any telecommuni-

1 cations carrier (as defined in section 3 of the Com-  
2 munications Act of 1934 (47 U.S.C. 153)).

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

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

8 (a) ACTS PROHIBITED.—It is unlawful for an oper-  
9 ator of a website, online service, online application, or mo-  
10 bile application directed to children or minors, or an oper-  
11 ator having actual knowledge that it is collecting personal  
12 information from children or minors, to use, disclose to  
13 third parties, or compile personal information collected  
14 from children or minors, if the use, disclosure, or compila-  
15 tion is for targeted marketing purposes.

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

20 **SEC. 5. DIGITAL MARKETING BILL OF RIGHTS FOR TEENS**  
21 **AND FAIR INFORMATION PRACTICES PRIN-**  
22 **CIPLES.**

23 (a) ACTS PROHIBITED.—It is unlawful for an oper-  
24 ator of a website, online service, online application, or mo-  
25 bile application directed to minors, or an operator having

1 actual knowledge that it is collecting personal information  
2 from minors, to collect personal information from minors  
3 unless such operator has adopted and implemented a Dig-  
4 ital Marketing Bill of Rights for Teens that—

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

7 (2) balances the ability of minors to participate  
8 fully in the digital media culture with the govern-  
9 mental and industry obligation to ensure that opera-  
10 tors of websites, online services, online applications,  
11 and mobile applications do not subject minors to un-  
12 fair and deceptive surveillance, data collection, or be-  
13 havioral profiling.

14 (b) FAIR INFORMATION PRACTICES PRINCIPLES.—  
15 The Fair Information Practices Principles described in  
16 this subsection are the following:

17 (1) COLLECTION LIMITATION PRINCIPLE.—

18 There should be limits on the collection of personal  
19 information. Any such information should be ob-  
20 tained by lawful and fair means and, where appro-  
21 priate, with the knowledge or consent of the subject  
22 of the information.

23 (2) DATA QUALITY PRINCIPLE.—Personal infor-  
24 mation should be relevant to the purposes for which  
25 the information is to be used and, to the extent nec-

1        essary for such purposes, should be accurate, com-  
2        plete, and kept up-to-date.

3           (3) PURPOSE SPECIFICATION PRINCIPLE.—The  
4        purposes for which personal information is collected  
5        should be specified not later than at the time of the  
6        collection of the information. The subsequent use of  
7        the information should be limited to the fulfilment  
8        of—

9                   (A) the purposes originally specified; or

10                   (B) other purposes that are—

11                           (i) compatible with such originally  
12                           specified purposes; and

13                           (ii) specified in a notice to the subject  
14                           of the information before the information  
15                           is used for such other purposes.

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

21                   (A) with the consent of the subject of the  
22                   information; or

23                   (B) under specific legal authority.

24           (5) SECURITY SAFEGUARDS PRINCIPLE.—Per-  
25        sonal information should be protected by reasonable

1 security safeguards against risks such as loss or un-  
2 authorized access, destruction, use, modification, or  
3 disclosure.

4 (6) OPENNESS PRINCIPLE.—The operator  
5 should maintain a general policy of openness about  
6 developments, practices, and policies with respect to  
7 personal information. The operator should provide  
8 each user of the website, online service, online appli-  
9 cation, or mobile application of the operator with a  
10 means of readily ascertaining—

11 (A) whether the operator possesses any  
12 personal information of such user, the nature of  
13 any such information, and the purposes for  
14 which the information was obtained and is  
15 being retained;

16 (B) the identity of the operator; and

17 (C) the address of—

18 (i) in the case of an operator who is  
19 an individual, the principal residence of the  
20 operator; or

21 (ii) in the case of any other operator,  
22 the principal place of business of the oper-  
23 ator.

24 (7) INDIVIDUAL PARTICIPATION PRINCIPLE.—

25 An individual should have the right—



1 (A) to obtain any personal information of  
2 the individual that is in the possession of the  
3 operator from the operator, or from a person  
4 specified by the operator, within a reasonable  
5 time after making a request, at a charge (if  
6 any) that is not excessive, in a reasonable man-  
7 ner, and in a form that is readily intelligible to  
8 the individual;

9 (B) to be given by the operator, or person  
10 specified by the operator—

11 (i) reasons for any denial of a request  
12 under subparagraph (A); and

13 (ii) an opportunity to challenge such  
14 denial;

15 (C) to challenge the accuracy of personal  
16 information of the individual that is in the pos-  
17 session of the operator; and

18 (D) if the individual establishes the inaccu-  
19 racy of personal information in a challenge  
20 under subparagraph (C), to have the informa-  
21 tion erased, corrected, completed, or otherwise  
22 amended.

23 (c) REGULATIONS.—Not later than 1 year after the  
24 date of the enactment of this Act, the Commission shall

1 promulgate, under section 553 of title 5, United States  
2 Code, regulations to implement this section.

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

5 (a) ACTS PROHIBITED.—

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

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

22 (b) REGULATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) WHEN CONSENT OR AUTHORIZATION NOT  
18 REQUIRED.—The regulations promulgated under  
19 paragraph (1) shall provide that verifiable parental  
20 consent under subparagraph (C)(i) of such para-  
21 graph or express authorization under subparagraph  
22 (D)(i) of such paragraph is not required when the  
23 collection of the geolocation information of a child or  
24 minor is necessary, to the extent permitted under  
25 other provisions of law, to provide information to

1 law enforcement agencies or for an investigation on  
2 a matter related to public safety.

3 (3) TERMINATION OF SERVICE.—The regula-  
4 tions promulgated under paragraph (1) shall permit  
5 an operator to terminate service provided to—

6 (A) a child whose parent has refused,  
7 under subparagraph (C)(ii)(II) of such para-  
8 graph, to permit the further use or maintenance  
9 in retrievable form, or future online collection,  
10 of geolocation information from the child by the  
11 operator; or

12 (B) a minor who has refused, under sub-  
13 paragraph (D)(ii)(II) of such paragraph, to per-  
14 mit the further use or maintenance in retriev-  
15 able form, or future online collection, of  
16 geolocation information from the minor by the  
17 operator.

18 (c) INCONSISTENT STATE LAW.—No State or local  
19 government may impose any liability for commercial ac-  
20 tivities or actions by operators in interstate or foreign  
21 commerce in connection with an activity or action de-  
22 scribed in this section that is inconsistent with the treat-  
23 ment of those activities or actions under this section.

1 **SEC. 7. ERASER BUTTONS.**

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

9 (b) REGULATIONS.—

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

15 (A) to the extent technologically feasible,  
16 to implement mechanisms that permit users of  
17 the website, service, or application of the oper-  
18 ator to erase or otherwise eliminate content  
19 that is publicly available through the website,  
20 service, or application and contains or displays  
21 personal information of children or minors; and

22 (B) to take appropriate steps to make  
23 users aware of such mechanisms.

24 (2) EXCEPTION.—The regulations promulgated  
25 under paragraph (1) may not require an operator to  
26 erase or otherwise eliminate information that the op-

1 erator is required to maintain under any other provi-  
2 sion of Federal or State law.

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

4 (a) ENFORCEMENT BY THE COMMISSION.—

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

9 (2) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
10 TICES.—Subject to subsection (b), a violation of a  
11 regulation prescribed under section 4(b), 5(c), 6(b),  
12 or 7(b) shall be treated as a violation of a rule defin-  
13 ing an unfair or deceptive act or practice prescribed  
14 under section 18(a)(1)(B) of the Federal Trade  
15 Commission Act (15 U.S.C. 57a(a)(1)(B)).

16 (3) ACTIONS BY THE COMMISSION.—Subject to  
17 subsection (b), the Commission shall prevent any  
18 person from violating a rule of the Commission  
19 under section 4(b), 5(c), 6(b), or 7(b) in the same  
20 manner, by the same means, and with the same ju-  
21 risdiction, powers, and duties as though all applica-  
22 ble terms and provisions of the Federal Trade Com-  
23 mission Act (15 U.S.C. 41 et seq.) were incor-  
24 porated into and made a part of this Act. Any per-  
25 son who violates such rule shall be subject to the



1 penalties and entitled to the privileges and immuni-  
2 ties provided in the Federal Trade Commission Act.

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

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

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

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

20 (4) Under the Packers and Stockyards Act,  
21 1921 (7 U.S.C. 181 et seq.) (except as provided in  
22 section 406 of such Act (7 U.S.C. 226; 227)) by the  
23 Secretary of Agriculture, with respect to any activi-  
24 ties subject to such Act.

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

6           (c) ENFORCEMENT BY STATE ATTORNEYS GEN-  
7           ERAL.—

8           (1) IN GENERAL.—

9           (A) CIVIL ACTIONS.—In any case in which  
10           the attorney general of a State has reason to  
11           believe that an interest of the residents of that  
12           State has been or is threatened or adversely af-  
13           fected by the engagement of any person in a  
14           practice that violates any regulation of the  
15           Commission prescribed under section 4(b), 5(c),  
16           6(b), or 7(b), the State, as *parens patriae*, may  
17           bring a civil action on behalf of the residents of  
18           the State in a district court of the United  
19           States of appropriate jurisdiction to—

20                       (i) enjoin that practice;

21                       (ii) enforce compliance with the regu-  
22                       lation;

23                       (iii) obtain damage, restitution, or  
24                       other compensation on behalf of residents  
25                       of the State; or

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

3 (B) NOTICE.—

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

8 (I) written notice of that action;  
9 and

10 (II) a copy of the complaint for  
11 that action.

12 (ii) EXEMPTION.—

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

21 (II) NOTIFICATION.—In an ac-  
22 tion described in subclause (I), the at-  
23 torney general of a State shall provide  
24 notice and a copy of the complaint to

1 the Commission at the same time as  
2 the attorney general files the action.

3 (2) INTERVENTION.—

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

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

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

13 (ii) to file a petition for appeal.

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

20 (A) conduct investigations;

21 (B) administer oaths or affirmations; or

22 (C) compel the attendance of witnesses or  
23 the production of documentary and other evi-  
24 dence.

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

9           (5) VENUE; SERVICE OF PROCESS.—

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

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

18                   (i) is an inhabitant; or

19                   (ii) may be found.

20           (d) TELECOMMUNICATIONS CARRIERS AND CABLE  
21 OPERATORS.—

22           (1) ENFORCEMENT BY FTC.—Notwithstanding  
23 section 5(a)(2) of the Federal Trade Commission  
24 Act (15 U.S.C. 45(a)(2)), compliance with the re-  
25 quirements imposed under this Act shall be enforced

1 by the Commission with respect to any telecommuni-  
2 cations carrier (as defined in section 3 of the Com-  
3 munications Act of 1934 (47 U.S.C. 153)).

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

8 **SEC. 9. DEFINITIONS.**

9 (a) IN GENERAL.—In this Act:

10 (1) MINOR.—The term “minor” means an indi-  
11 vidual over the age of 12 and under the age of 18.

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

16 (A) based on the personal information of  
17 the individual or a unique identifier of the de-  
18 vice; and

19 (B) as a result of use by the individual, or  
20 access by the device, of a website, online serv-  
21 ice, online application, or mobile application.

22 (b) TERMS DEFINED BY COMMISSION.—In this Act,  
23 the terms “directed to minors” and “geolocation informa-  
24 tion” shall have the meanings given such terms by the  
25 Commission by regulation. Not later than 1 year after the

1 date of the enactment of this Act, the Commission shall  
2 promulgate, under section 553 of title 5, United States  
3 Code, regulations that define such terms broadly enough  
4 so that they are not limited to current technology, con-  
5 sistent with the principles articulated by the Commission  
6 regarding the definition of the term “Internet” in its  
7 statement of basis and purpose on the final rule under  
8 the Children’s Online Privacy Protection Act of 1998 (15  
9 U.S.C. 6501 et seq.) promulgated on November 3, 1999  
10 (64 Fed. Reg. 59891).

11 (c) OTHER DEFINITIONS.—The definitions set forth  
12 in section 1302 of the Children’s Online Privacy Protec-  
13 tion Act of 1998 (15 U.S.C. 6501), as amended by section  
14 3(a), shall apply in this Act.

15 **SEC. 10. EFFECTIVE DATES.**

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

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

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

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

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