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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. ______

To prohibit certain online platforms from materially contributing to fraudulent content, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. FOUSHEE introduced the following bill; which was referred to the Committee on ______________________________

A BILL

To prohibit certain online platforms from materially contributing to fraudulent content, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stopping Abuse and Fraud Enabled by Platforms Act'' or the ''SAFE Platforms Act''.

SEC. 2. PROHIBITIONS AND REQUIREMENTS FOR COVERED PLATFORMS.

(a) PROHIBITIONS.—A covered platform may not materially contribute to the development of fraudulent content directed at consumers.

(b) REQUIREMENTS.—

(1) REPORT MECHANISM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, a covered platform shall provide an easily accessible mechanism for a user to report suspected fraudulent content and a content creator to submit a counter-notice that contests the removal of content that includes the following:

(A) A clearly visible and accessible ''Report Scam'' button or link on all content that could contain an advertisement, commercial, or promotional material.

(B) A simplified reporting process that—

(i) does not require a user to navigate multiple pages or provide extensive information;

(ii) is accessible and compatible with common assistive technologies and available in the selected interface language of the user; and

(iii) allows users to provide—

(I) their identity and contact information;

(II) a sworn statement under penalty of perjury that the report is made in good faith; and

(III) the specific factual basis that demonstrates the reported content is fraudulent.

(C) Acknowledgment of receipt of a report within 30 days after submission of the report.

(D) Notice to the content creator that a report alleging fraud has been filed against them.

(E) A counter-notice mechanism that includes—

(i) the identity and contact information of the content creator;

(ii) a sworn statement under penalty of perjury that the creator has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material as fraudulent; and

(iii) specific facts supporting the statement that the reported content is not fraudulent.

(2) FRAUD-RESISTANT DEFAULT PRIVACY SETTINGS.—

(A) REQUIREMENTS FOR DEFAULT SETTINGS.—A covered platform shall configure any default privacy setting to reduce fraud vulnerability, including through the following settings:

(i) Not displaying the existence of the account of a user to any unconnected user unless the user has expressly and unambiguously chosen to make the existence of their account public generally or for specific users.

(ii) Not displaying media created or posted by a user on a covered platform to any unconnected user unless the user has expressly and unambiguously chosen to make their media publicly available generally or for specific users.

(iii) Not permitting direct messaging on a covered platform between a user and any unconnected user unless the user has expressly and unambiguously decided to allow direct messaging generally or for specific users.

(iv) Not displaying the location of a user to other users, unless the user expressly and unambiguously shares their location generally or with specific users.

(v) Not displaying the users connected to a user on a covered platform unless the user expressly and unambiguously chooses to share the information generally or for specific users.

(vi) Disabling search engine indexing of the account profile of a user unless the user expressly and unambiguously opts into indexing.

(B) PROHIBITIONS FOR DEFAULT SETTINGS.—A covered platform may not—

(i) provide a user with a single setting that makes all of the default privacy settings less protective at once; or

(ii) degrade, limit, or reduce the functionality, performance, or quality of services as a result of a user maintaining higher privacy settings unless the limitation is strictly necessary due to the technical requirements of providing the requested service and the platform cannot reasonably provide the service through alternative means that would preserve the privacy settings of the user.

(3) EVASION PREVENTION REQUIREMENTS.—A covered platform shall implement reasonable measures to detect and prevent the creation of multiple accounts by the same individual for the purpose of evading enforcement actions related to fraudulent content, including the following:

(A) Accounts created shortly after suspension or removal of an account for fraud violations.

(B) Accounts that exhibit substantially similar patterns of fraudulent behavior to previously suspended accounts.

(C) Coordinated networks of accounts promoting fraudulent schemes.

(4) PLATFORM DESIGN FEATURES.—A covered platform—

(A) may not use additional platform design features that facilitate fraud;

(B) shall adopt reasonable measures to prevent the creation of fraudulent profiles and pages; and

(C) shall implement systems to prevent fraudulent reviews, likes, and other engagement metrics.

(5) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Commission shall promulgate regulations to carry out the requirements of this subsection.

(c) SAFE HARBOR.—

(1) REQUIREMENTS FOR SAFE HARBOR.—A covered platform shall be deemed to meet the requirements under subsection (a) if the platform does the following:

(A) Implements reasonable steps to address fraudulent content.

(B) Reviews and updates such policies and procedures not less frequently than annually.

(C) Reviews reported fraudulent content within 48 hours after receiving notice of the content.

(D) Adopts and follows reasonable policies and procedures to detect and initiate appropriate steps with respect to the fraudulent content within 7 days after receiving notice of the content, unless—

(i) the platform reasonably determines after investigation that the content is not fraudulent; or

(ii) additional time is necessary due to the complexity of the investigation, volume of reports, or other reasonable factors if—

(I) the platform provides written notice to the reporting party within 7 days after the notice was received by the platform that explains the need for additional time and the expected timeline for resolution; and

(II) any extension beyond the 7-day period described in subclause (I) may not exceed 30 days unless the platform obtains written approval from the Commission for additional 30-day extensions.

(2) BAD FAITH REPORTS.—A covered platform may refuse to process additional reports from a user that has submitted three or more reports determined to be false or made in bad faith within a 12-month

period, if platform provided that user with notice and opportunity to contest such determination.

(d) ACCESSIBILITY AND DESIGN REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Commission shall promulgate regulations that establish accessibility requirements for advertising content on a covered platform that includes the following:

(1) Minimum font size requirements for material terms, conditions, and pricing information.

(2) Requirements for clear and conspicuous labeling.

(3) Contrast standards between text and background.

(4) Standards for making advertising content accessible to users with disabilities.

(5) Additional design requirements to prevent deceptive or misleading advertising practices.

(e) REQUIREMENTS RELATED TO ADVERTISERS.—

(1) VERIFICATION.—Not later than 180 days after the date of the enactment of this Act, a covered platform shall establish and maintain reasonable procedures to verify the identity of advertisers before allowing them to purchase advertisements that includes, at a minimum, the following:

(A) Collection and verification of the following, with regard to the advertiser:

(i) Legal name and physical address.

(ii) Valid contact information, including email address and phone number.

(iii) Tax identification number or other government-issued identifier.

(iv) For a business, proof of registration or incorporation in the relevant jurisdiction.

(v) A declaration of industry type and whether the advertiser engages in the sale or promotion of high-risk categories, as applied to products, services, or opportunities.

(B) Verification of payment methods and accounts used by the advertiser.

(C) Reasonable steps to confirm the authenticity of the information provided.

(2) ENHANCED VERIFICATION FOR HIGH-RISK ADVERTISERS.—For an advertiser in a high-risk category, or that engage in the sale or promotion of restricted or high-risk products, services, or opportunities, a covered platform shall implement enhanced

verification that includes the following with regard to the advertiser:

(A) Additional documentation to validate the identity and business operations.

(B) Review of the online presence and business history.

(C) Periodic re-verification.

(3) HIGH-RISK CATEGORIES.—High-risk categories include the following:

(A) Financial services and investment opportunities.

(B) Health products and services.

(C) Educational credentials and certification.

(D) Housing and real estate.

(E) Gambling.

(F) Unregulated financial products, including cryptocurrency and non-fungible tokens.

(G) Tobacco, alcohol, cannabis, and other consumables restricted by age.

(H) Categories identified by the Commission through regulations.

(4) RECORD KEEPING.—A covered platform shall maintain records of advertiser verification information for a period of at least three years after

the date of the last advertisement or commercial activity.

(5) DISCLOSURE OF ADVERTISER INFORMATION REQUIRED.—A covered platform shall provide a user with access to basic information about any advertiser whose content they view, which shall be accessible through direct display on the advertisement, a clearly visible link, or button associated with the advertisement or commercial content, or through other reasonably accessible means, that includes the following:

(A) The legal name of the advertiser.

(B) The country or jurisdiction where the advertiser is based.

(C) How long the advertiser has maintained an account on the platform.

(6) REPEAT OFFENDERS.—Not later than 180 days after the date of the enactment of this Act, a covered platform shall establish and maintain a system to do the following:

(A) Track any advertiser found to have violated platform policies related to fraudulent content.

(B) Prevent any such advertiser from creating a new account under a different identity.

(C) Apply enhanced scrutiny to any new account that shares characteristics with a previously suspended account.

SEC. 3. ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of section 2 or a regulation promulgated under such section shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(2) POWERS OF COMMISSION.—The Federal Trade Commission shall enforce section 2 and any regulation promulgated under such section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section. Any person who violates such section or a regulation promulgated under such section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act.

(b) ACTIONS BY STATES.—

(1) IN GENERAL.—In any case in which the attorney general of a State, or an official or agency of a State, has reason to believe that an interest of the residents of such State has been or is threatened or adversely affected by an act or practice in violation of section 2 or a regulation promulgated under such section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate State court or district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with such subsection or such regulation;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—Before filing an action under this subsection, the attorney general, official, or agency of the State involved shall provide to the Federal Trade Commission a written notice of such action and a copy of the complaint for such action. If the

attorney general, official, or agency determines that it is not feasible to provide the notice described in this paragraph before the filing of the action, the attorney general, official, or agency shall provide written notice of the action and a copy of the complaint to the Federal Trade Commission immediately upon the filing of the action.

(3) AUTHORITY OF FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—On receiving notice under paragraph (2) of an action under this subsection, the Federal Trade Commission shall have the right—

(i) to intervene in the action;

(ii) upon so intervening, to be heard on all matters arising therein; and

(iii) to file petitions for appeal.

(B) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission or the Attorney General of the United States has instituted a civil action for violation of section 2 or a regulation promulgated under such section (referred to in this subparagraph as the "Federal action"), no State attorney general, official, or agency may bring an action under this subsection during the pendency of the Federal action against any defendant named in the complaint in the Federal action for any violation of such section or regulation alleged in such complaint.

(4) RULE OF CONSTRUCTION.—For purposes of bringing a civil action under this subsection, nothing in this Act shall be construed to prevent an attorney general, official, or agency of a State from exercising the powers conferred on the attorney general, official, or agency by the laws of such State to conduct investigations, administer oaths and affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

(c) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—A person injured by an act or practice in violation of section 2 or a regulation promulgated under such section may bring in an appropriate State court or district court of the United States—

(A) an action to enjoin the violation;

(B) an action to recover damages for actual monetary loss from the violation, or to receive up to the amount specified under section 5(l) of the Federal Trade Commission Act, as adjusted for inflation in section 1.98 of title 16, Code of Federal Regulations, in damages for each such violation, whichever is greater; or

(C) both such actions.

(2) WILLFUL OR KNOWING VIOLATIONS.—If the court finds that the defendant acted willfully or knowingly in committing a violation described in paragraph (1), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B).

(3) COSTS AND ATTORNEY'S FEES.—The court shall award to a prevailing plaintiff in an action under this subsection the costs of such action and reasonable attorney's fees, as determined by the court.

(4) LIMITATION.—An action may be commenced under this subsection not later than 3 years after the date on which the person first discovered or had a reasonable opportunity to discover the violation.

(5) NONEXCLUSIVE REMEDY.—The remedy provided by this subsection shall be in addition to any other remedies available to the person.

(d) RULEMAKING AUTHORITY.—The Commission may promulgate regulations to implement, interpret, and enforce any provisions of this Act.

SEC. 4. LIMITATIONS AND EXCEPTIONS.

(a) RULE OF CONSTRUCTION ON MONITORING.—Nothing in sections 2 or 3 may be construed to require a covered platform to monitor all content before the content is posted or transmitted.

(b) RULE OF CONSTRUCTION ON SECTION 230 LIABILITY PROTECTION.—Nothing in section 230 of the Communications Act of 1934 (47 U.S.C. 230) may be construed to impair enforcement of this Act.

(c) EXCEPTIONS.—This Act does not apply to the following:

(1) Interactive computer services that function primarily as internet service providers, email providers, or data storage providers.

(2) Content that is transmitted through a covered platform but not stored on the platform.

SEC. 5. DEFINITIONS.

In this Act:

(1) ADVERTISER.—The term ''advertiser'' means any person or entity that pays a covered platform to display, promote, or otherwise disseminate

content that promotes a product or service in interstate commerce to users of the platform.

(2) COMMISSION.—The term ‘‘Commission’’ means the Federal Trade Commission.

(3) COVERED PLATFORM.—The term ‘‘covered platform’’ means a provider of an interactive computer service that—

(A) makes available information provided by an information content provider;

(B) enables users to view or interact with such information; and

(C) has at least 100,000 monthly active users or generates annual gross revenue in excess of $25,000,000, adjusted annually to reflect adjustments in the Consumer Price Index.

(4) FRAUD.—The term ‘‘fraud’’ means any representation, omission, or practice in or affecting commerce that—

(A) is likely to mislead a consumer acting reasonably under the circumstances; and

(B) is material to consumer decision-making.

(5) FRAUDULENT CONTENT.—The term ‘‘fraudulent content’’ means content that constitutes fraud.

(6) HAS REASON TO KNOW.—The term ''has reason to know'' means circumstances that would make the fraudulent nature of content apparent to a reasonable operator of a covered platform.

(7) INTERACTIVE COMPUTER SERVICE.—The term ''interactive computer service'' has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(8) INTERNET SERVICE PROVIDER.—The term ''internet service provider'' means a person—

(A) qualified to do business; and

(B) that provides individuals and entities with the ability to connect to the Internet.

(9) INFORMATION CONTENT PROVIDER.—The term ''information content provider'' has the meaning given that term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(10) MATERIALLY CONTRIBUTE.—The term ''materially contribute'' means conduct that goes beyond providing neutral tools for the development or dissemination of fraudulent content, including the following:

(A) Encouraging or inducing a third party to develop or disseminate fraudulent content.

(B) Targeting, recommending, promoting, curating, or prioritizing fraudulent content directed at consumers that the covered platform knows or has reason to know is fraudulent.

(C) Other conduct that the Commission determines to be a material contribution through regulations promulgated pursuant to the rulemaking authority conferred under section 3 of this Act.

(11) MUTUAL CONNECTION.—The term ''mutual connection''—

(A) means a relationship in which two users on a covered platform are each directly connected to the same third-party user through a formal connection mechanism such as a friend or follow; and

(B) does not include shared participation between two users in the same group, forum, or public page.

(12) OPERATOR OF A COVERED PLATFORM.—The term ''operator of a covered platform'' means a person who operates a covered platform as defined in this Act.

(13) REASONABLE STEPS.—The term ''reasonable steps'' means proactive and reactive measures

that can reasonably be expected from a covered platform considering the size, resources, and user base of the platform, and the nature of the fraudulent content at issue and includes the following:

(A) Implementing and enforcing clear policies against fraudulent content.

(B) Maintaining an accessible and responsive mechanism for users to report suspected fraudulent content.

(C) Reviewing reported content in a timely manner.

(D) Removing or limiting the distribution of content determined to be fraudulent.

(E) Warning potentially affected users when fraudulent content has been identified.

(F) Implementing reasonable measures to prevent repeated or similar fraudulent content.

(14) UNCONNECTED USER.—The term ‘‘unconnected user’’ means a user who—

(A) is not verified by the covered platform; and

(B) does not share a mutual connection with the user whose content or account is at issue.