

117TH CONGRESS
1ST SESSION

S. 427

To require covered entities to implement and disclose information moderation policies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Mr. LEE (for himself, Mr. MORAN, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require covered entities to implement and disclose information moderation policies, and for other purposes.

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 “Promoting Responsi-
5 bility Over Moderation In the Social-media Environment
6 Act” or the “PROMISE Act”.

7 **SEC. 2. PURPOSE.**

8 The purpose of this Act is to ensure that users of
9 a covered entity have the necessary information regarding
10 such entity’s policy on moderating information provided

1 by a user or other information content provider. Access
 2 to such a policy enables users to make informed choices
 3 regarding the use or purchase of services provided by the
 4 covered entity and promotes a competitive marketplace for
 5 such services.

6 **SEC. 3. INFORMATION MODERATION POLICIES.**

7 (a) REQUIREMENT.—

8 (1) IN GENERAL.—A covered entity—

9 (A) shall implement and operate in accord-
 10 ance with an information moderation policy (as
 11 described in paragraph (2));

12 (B) shall disclose such information mod-
 13 eration policy in a publicly available and easily
 14 accessible manner; and

15 (C) shall not make a deceptive policy state-
 16 ment with respect to such information modera-
 17 tion policy.

18 (2) INFORMATION MODERATION POLICY.—The
 19 information moderation policy described in this
 20 paragraph is a policy that accurately describes, in
 21 plain, easy to understand language, information re-
 22 garding the business practices of a covered entity
 23 with respect to the standards, processes, and policies
 24 of the covered entity on moderating information pro-

1 vided by a user or other information content pro-
 2 vider, including—

3 (A) any category of information that—

4 (i) the covered entity does not permit
 5 on its service; or

6 (ii) is subject to moderation by users
 7 or providers of such covered entity;

8 (B) the process which a user or provider of
 9 the covered entity utilizes to moderate informa-
 10 tion posted, published, or otherwise displayed
 11 on the service; and

12 (C) the notification process, if any, which
 13 the covered entity uses to inform a user—

14 (i) that such user's information has
 15 been moderated;

16 (ii) of the rationale justifying the
 17 moderation decision; and

18 (iii) of the user's options for redress,
 19 if any.

20 (b) ENFORCEMENT BY THE FEDERAL TRADE COM-
 21 MISSION.—

22 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
 23 TICES.—A violation of subsection (a) shall constitute
 24 an unfair or deceptive act or practice in commerce

1 in violation of section 5(a) of the Federal Trade
2 Commission Act (15 U.S.C. 45(a)).

3 (2) POWERS OF COMMISSION.—Subject to para-
4 graphs (4) and (5), the Commission shall enforce
5 subsection (a) in the same manner, by the same
6 means, and with the same jurisdiction, powers, and
7 duties as though all applicable terms and provisions
8 of the Federal Trade Commission Act (15 U.S.C. 41
9 et seq.) were incorporated into and made a part of
10 this section. Any person who violates subsection (a)
11 shall be subject to the penalties and entitled to the
12 privileges and immunities provided in such Act.

13 (3) REGULATIONS.—The Commission shall pre-
14 scribe, in accordance with section 553 of title 5,
15 United States Code, such regulations as are nec-
16 essary to carry out the purposes of this section, in-
17 cluding regulations as may be necessary or appro-
18 priate to administer and carry out the purposes and
19 objectives of this section.

20 (4) PRESUMPTION OF MATERIALITY.—With re-
21 spect to a violation of subsection (a), there shall be
22 a rebuttable presumption that a deceptive policy
23 statement is material and likely to cause injury.

24 (5) APPLICATION TO COMMON CARRIERS.—Not-
25 withstanding the definition of the term “Acts to reg-

1 ulate commerce” in section 4 of the Federal Trade
2 Commission Act (15 U.S.C. 44) and the exception
3 provided by section 5(a)(2) of such Act (15 U.S.C.
4 45(a)(2)) for common carriers, the Commission shall
5 enforce subsection (a), in the same manner provided
6 in paragraphs (1) through (4), with respect to cov-
7 ered entities that are common carriers for purposes
8 of such section 5(a)(2).

9 (c) DEFINITIONS.—In this section:

10 (1) COMMISSION.—The term “Commission”
11 means the Federal Trade Commission.

12 (2) COVERED ENTITY.—The term “covered en-
13 tity” means an entity that—

14 (A) is an interactive computer service;

15 (B) is engaged in interstate or foreign
16 commerce; and

17 (C) moderates information provided by a
18 user or other information content provider.

19 (3) DECEPTIVE POLICY STATEMENT.—The
20 term “deceptive policy statement” means an oral or
21 written representation, omission, or practice made
22 by an officer, director, or other authorized agent of
23 a covered entity regarding such covered entity’s in-
24 formation moderation policy that—

1 (A) misleads or is likely to mislead a rea-
 2 sonable individual regarding the covered entity’s
 3 service; and

4 (B) affects or is likely to affect a reason-
 5 able individual’s choice to use or use of the cov-
 6 ered entity’s service.

7 (4) INFORMATION CONTENT PROVIDER.—The
 8 term “information content provider” has the mean-
 9 ing given such term in section 230(f) of the Commu-
 10 nications Act of 1934 (47 U.S.C. 230(f)).

11 (5) INTERACTIVE COMPUTER SERVICE.—The
 12 term “interactive computer service” has the meaning
 13 given such term in section 230(f) of the Communica-
 14 tions Act of 1934 (47 U.S.C. 230(f)).

15 (6) MODERATE.—With respect to information
 16 provided by a user or other information content pro-
 17 vider, the term “moderate” means—

18 (A) to remove or otherwise restrict access
 19 to or the availability of such information;

20 (B) to edit or otherwise alter such infor-
 21 mation; or

22 (C) to post, publish, or otherwise display a
 23 warning, fact-check notice, or other label in
 24 conjunction with such information.

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