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2 95th General Assembly
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4

A Bill

HOUSE BILL 1083

5 By: Representatives A. Collins, Springer
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS KIDS ONLINE SAFETY ACT;
10 AND FOR OTHER PURPOSES.
11
12

Subtitle

13 TO CREATE THE ARKANSAS KIDS ONLINE
14 SAFETY ACT.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 4, Chapter 88, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 15 – Arkansas Kids Online Safety Act
22

23 4-88-1501. Title.

24 This subchapter shall be known and may be cited as the "Arkansas Kids
25 Online Safety Act".
26

27 4-88-1502. Definitions.

28 As used in this subchapter:

29 (1) "Child" means an individual who is twelve (12) years of age
30 or less;

31 (2) "Compulsive usage" means any response stimulated by external
32 factors that causes an individual to engage in repetitive behavior that is
33 reasonably likely to cause psychological distress, loss of control, anxiety,
34 or depression;

35 (3) "Connected device" means an electronic device that:

36 (A) Is capable of connecting to the internet, either



1 directly or indirectly through a network, to communicate information at the
2 direction of an individual;

3 (B) Has computer processing capabilities for collecting,
4 sending, receiving, or analyzing data; and

5 (C) Is primarily designed for or marketed to consumers;

6 (4)(A) "Covered platform" means an entity that operates an
7 online platform, online video game, messaging application, or video streaming
8 service that:

9 (i) Connects to the internet; and

10 (ii) Is used, or is reasonably likely to be used, by
11 a minor.

12 (B) "Covered platform" does not include:

13 (i) An entity acting in the entity's own capacity as
14 a provider of:

15 (a) A common carrier service subject to the
16 Telecommunications Act of 1996, Pub. L. No. 73-416;

17 (b) A broadband internet access service as
18 defined in 47 C.F.R. § 8.1(b), as it existed on January 1, 2025;

19 (c) An email service;

20 (d) A teleconferencing or videoconferencing
21 service that allows reception and transmission of audio and video signals for
22 real-time communication, provided that:

23 (1) It is not an online platform such as
24 a social media service or social network; and

25 (2) The real-time communication is
26 initiated by using a unique link or identifier to facilitate access; or

27 (e) A wireless messaging service, including a
28 service that is provided through short messaging service or multimedia
29 messaging service protocols:

30 (1) That is not a component of or linked
31 to an online platform; and

32 (2) Where the predominant or exclusive
33 function is direct messaging consisting of the transmission of text, photos,
34 or videos that are sent by electronic means, where messages are transmitted
35 from the sender to the recipient, and are not posted within an online
36 platform or publicly;

1 (ii) An organization that is not organized to carry
2 on business for its own profit or the profit of its members;

3 (iii) A public or private preschool, elementary
4 school, secondary school, or any institution of vocational, professional, or
5 higher education;

6 (iv) A library, as defined in the Library Services
7 and Technology Act, 20 U.S.C. § 9122, as it existed on January 1, 2025;

8 (v) A news website or news application where:

9 (a) The inclusion of video content on the
10 website or application is related to the website or application's own
11 gathering, reporting, or publishing of news content; and

12 (b) The website or application is not
13 otherwise an online platform;

14 (vi) A product or service that primarily functions
15 as business-to-business software; or

16 (vii) A virtual private network or similar service
17 that exists solely to route internet traffic between locations;

18 (5) "Deidentified" means data that does not identify and is not
19 linked or reasonably linkable to a device that is linked or reasonably
20 linkable to an individual, regardless of whether the information is
21 aggregated;

22 (6) "Geolocation" means information sufficient to identify a
23 street name and a name of a city or town;

24 (7)(A) "Individual-specific advertising to minors" means
25 advertising or any other effort to market a product or service that is
26 directed to a specific minor or a device that is linked or reasonably
27 linkable to a minor based on:

28 (i) The personal data of the minor or a group of
29 minors who are similar in sex, age, income level, race, or ethnicity to the
30 specific minor to whom the product or service is marketed;

31 (ii) Psychological profiling of a minor or group of
32 minors; or

33 (iii) A unique identifier of the device.

34 (B) "Individual-specific advertising to minors" includes
35 advertising or any other effort to market a product or service that is
36 directed to a specific minor or a device that is linked or reasonably

1 linkable to a minor as a result of use by the minor, access by device of the
 2 minor, or use by a group of minors who are similar to the specific minor, of
 3 more than a single:

- 4 (i) Website;
- 5 (ii) Online service;
- 6 (iii) Online application;
- 7 (iv) Mobile application; or
- 8 (v) Connected device.

9 (C) "Individual-specific advertising to minors" does not
 10 include:

11 (i) Advertising or marketing to a minor or the
 12 device of the minor's specific request for information or feedback, including
 13 without limitation a minor's current search query;

14 (ii) Contextual advertising, including without
 15 limitation when an advertisement is displayed based on the content of the
 16 covered platform on which the advertisement appears and does not vary based
 17 on personal information related to the minor; or

18 (iii) Processing personal information solely for
 19 measuring or reporting advertising or content performance, reach, or
 20 frequency, including without limitation independent measurement;

21 (8) "Knows" means to have actual knowledge or knowledge fairly
 22 implied on the basis of objective circumstances;

23 (9) "Mental health disorder" means the same as "mental disorder"
 24 under the most current edition of the Diagnostic and Statistical Manual of
 25 Mental Disorders;

26 (10) "Minor" means an individual who is sixteen (16) years of
 27 age or younger;

28 (11) "Narcotic drugs" means the same as defined in the
 29 Controlled Substances Act, 21 U.S.C. § 802, as it existed on January 1, 2025;

30 (12) "Online platform" means any public-facing website, online
 31 service, online application, or mobile application that predominantly
 32 provides a community forum for user generated content, including without
 33 limitation sharing videos, images, games, audio files, or other content;

34 (13) "Online video game" means a video game, including an
 35 educational video game, that connects to the internet and:

36 (A) Allows a user to:

- (i) Create and upload content;
- (ii) Engage in microtransactions within the game; or
- (iii) Communicate with other users; or

(B) Incorporates minor-specific advertising;

(14) "Parent" means a:

- (A) Natural parent of a minor;
- (B) Legal guardian of a minor; or
- (C) Individual with legal custody of a minor;

(15) "Personal data" means information that identifies or is linked or reasonably linkable to a particular minor, including without limitation a consumer device identifier that is linked or reasonably linkable to a minor;

(16) "Personalized recommendation system" means a fully or partially automated system used to suggest, promote, or rank content, including other users or posts, based on the personal data of a user or users; and

(17) "Verifiable parental consent" means the same as defined in the Children's Online Privacy Protection Act, 15 United States Code § 6501, as it existed on January 1, 2025.

4-88-1503. Duty of care – Prevention of harm to minors – Limitations.

(a) A covered platform shall take reasonable measures in the design and operation of any product, service, or feature that the covered platform knows is used by minors to prevent and mitigate harm to minors, including without limitation:

(1) The following mental health disorders, consistent with evidence-informed medical information:

- (A) Anxiety;
- (B) Depression;
- (C) Eating disorders;
- (D) Substance use disorders; and
- (E) Suicidal behaviors;

(2) Patterns of use that indicate or encourage addiction-like behaviors;

(3) Physical violence, online bullying, and harassment of the minor;

1 (4) Sexual exploitation and abuse;

2 (5) Promotion and marketing of narcotic drugs, tobacco products,
 3 gambling, or alcohol; and

4 (6) Predatory, unfair, or deceptive marketing practices and
 5 other financial harms.

6 (b) This section shall not be construed to require a covered platform
 7 to prevent or preclude:

8 (1) A minor from deliberately and independently searching for or
 9 specifically requesting content;

10 (2) The covered platform or individuals on the platform from
 11 providing resources for the prevention or mitigation of the harms described
 12 in subsection (a) of this section; or

13 (3) A covered platform that knows that an individual is a minor
 14 from delivering an advertisement that is age-appropriate for the minor
 15 involved and intended for a minor, so long as the covered platform does not
 16 use any personal data other than the age of the minor in deciding to deliver
 17 the advertisement.

18
 19 4-88-1504. Safeguards for minors – Parental tools – Reporting –
 20 Application.

21 (a) A covered platform shall provide an individual that the covered
 22 platform knows is a minor with readily accessible and easy-to-use safeguards
 23 to:

24 (1) Limit the ability of other individuals to communicate with
 25 the minor;

26 (2) Prevent other users, whether registered or not, from viewing
 27 the minor’s personal data collected by or shared on the covered platform,
 28 including without limitation restricting public access to personal data;

29 (3) Limit features that increase, sustain, or extend use of the
 30 covered platform by the minor, including without limitation:

31 (A) Automatic playing of media;

32 (B) Rewards for time spent on the platform;

33 (C) Notifications; and

34 (D) Other features that result in compulsive usage of the
 35 covered platform by the minor;

36 (4) Control personalized recommendation systems by providing the

1 minor with the ability to:

2 (A) Opt out of personalized recommendation systems while
3 still allowing the display of content based on a chronological format; or

4 (B) Limit access to certain types or categories of
5 recommendations from the personalized recommendation systems;

6 (5) Restrict the sharing of the geolocation of the minor to
7 other users on the platform; and

8 (6) Provide notice regarding the tracking of the minor's
9 geolocation.

10 (b) A covered platform shall provide an individual that the covered
11 platform knows is a minor with readily accessible and easy-to-use options to:

12 (1) Delete the minor's account and any personal data collected
13 from or shared by the minor on the covered platform; or

14 (2) Limit the amount of time spent by the minor on the covered
15 platform.

16 (c) A covered platform shall provide that, in the case of a user that
17 the platform knows is a minor, the default setting for any safeguard
18 described under subsection (a) of this section shall be the option available
19 on the platform that provides the most protective level of control that is
20 offered by the platform over privacy and safety for that user.

21 (d)(1) A covered platform shall provide readily accessible and easy-
22 to-use settings for a parent to support an individual that the covered
23 platform knows is a minor with respect to the individual's use of the covered
24 platform.

25 (2) The parental tools provided by a covered platform shall
26 include:

27 (A) The ability to manage a minor's privacy and account
28 settings, including without limitation the safeguards and options established
29 under subsections (a) and (b) of this section, in a manner that allows a
30 parent to:

31 (i) View the privacy and account settings; and

32 (ii) In the case of a user that the covered platform
33 knows is a child, change and control the privacy and account settings; and

34 (B) The ability to:

35 (i) Restrict purchases and financial transactions by
36 the minor; and

1 (ii) View metrics of total time spent on the
2 platform and restrict time spent on the covered platform by the minor.

3 (3) A covered platform shall provide clear and conspicuous
4 notice to an individual that the platform knows is a minor when the tools
5 under subdivisions (1)–(3) of this subsection (d) are in use and what
6 settings or controls have been applied.

7 (4) If a covered platform knows a user is a child, the covered
8 platform shall ensure that the tools described under subdivisions (1)–(3) of
9 this subsection (d) are enabled by default.

10 (e)(1) A covered platform shall provide:

11 (A) A readily accessible and easy-to-use means to submit
12 reports to the covered platform of harms to a minor;

13 (B) An electronic point of contact specific to matters
14 involving harms to a minor; and

15 (C) Confirmation of the covered platform’s receipt of such
16 a report and a means to track a submitted report through the covered
17 platform.

18 (2)(A) A covered platform shall establish an internal process to
19 receive and substantively respond to such reports in a reasonable and timely
20 manner, but in no case later than:

21 (i) Ten (10) days after receipt of a report, if for
22 the most recent calendar year, the covered platform averaged more than ten
23 million (10,000,000) active users on a monthly basis in the United States; or

24 (ii) Twenty-one (21) days after receipt of a report,
25 if for the most recent calendar year, the covered platform averaged fewer
26 than ten million (10,000,000) active users on a monthly basis in the United
27 States.

28 (B) However, if the report under this subsection (e)
29 involves an imminent threat to the safety of a minor, a covered platform
30 shall address as promptly as possible the reported threat to safety.

31 (f) If a covered platform knows an individual is a minor, the covered
32 platform shall not facilitate advertising to the minor of:

33 (1) Narcotic drugs;

34 (2) Tobacco products;

35 (3) Gambling; or

36 (4) Alcohol.

1 (g) A covered platform shall implement the safeguards and parental
2 controls described under subsections (a)–(d) of this section by providing:

3 (1) Information and control options in a clear and conspicuous
4 manner that:

5 (A) Considers the differing ages, capacities, and
6 developmental needs of the minors most likely to access the covered platform;
7 and

8 (B) Does not encourage a minor or a parent of a minor
9 to weaken or disable safeguards or parental controls;

10 (2) Readily accessible and easy-to-use controls to enable or
11 disable safeguards or parental controls; and

12 (3) Information and control options in the same language, form,
13 and manner as the covered platform provides the product or service used by
14 minors and their parents.

15 (h) It is unlawful and a violation of the Deceptive Trade Practices
16 Act, § 4-88-101 et seq., for any covered platform to design, modify, or
17 manipulate a user interface of a covered platform with the purpose or
18 substantial effect of subverting or impairing user autonomy, decision-making,
19 or choice regarding safeguards or parental controls required under this
20 section.

21 (i) Nothing in this section shall be construed to:

22 (1) Prevent a covered platform from taking reasonable measures
23 to:

24 (A) Block, detect, or prevent the distribution of
25 unlawful, obscene, or other harms to minors as described in § 4-88-1503; or

26 (B) Block or filter spam, prevent criminal activity, or
27 protect the security of a covered platform;

28 (2) Require the disclosure of a minor’s browsing behavior,
29 search history, messages, contact list, or other content or metadata of his
30 or her communications;

31 (3) Prevent a covered platform from using a personalized
32 recommendation system to display content to a minor if the personalized
33 recommendation system only uses information on:

34 (A) The language spoken by the minor;

35 (B) The city the minor is located in; or

36 (C) The minor’s age; or

1 (4) Prohibit a covered platform from integrating its products or
2 service with controls from third-party systems, including without limitation
3 operating systems or gaming consoles, to meet the requirements imposed under
4 subsections (a)–(d) of this section regarding safeguards for minors and tools
5 for parents, provided that:

6 (A) The controls meet the requirements under subsections
7 (a)–(d) of this section; and

8 (B) The minor or parent is provided with reasonable notice
9 under the circumstances of the integration and use of the controls.

10
11 4-88-1505. Disclosure – Notice – Personalized recommendation system –
12 Advertising and marketing information and labels – Resources.

13 (a)(1) Before registration or purchase of a covered platform by an
14 individual that the platform knows is a minor, the covered platform shall
15 provide clear, conspicuous, and easy-to-understand:

16 (A) Notice of the policies and practices of the covered
17 platform regarding personal data and safeguards for minors;

18 (B) Information about how to access the safeguards and
19 parental tools required under § 4-88-1504; and

20 (C) Notice regarding whether the covered platform uses or
21 makes available to minors a product, service, or feature, including without
22 limitation a personalized recommendation system, that poses any heightened
23 risk of harm to minors.

24 (2)(A) In the case of an individual that a covered platform
25 knows is a child, the platform shall provide information about the parental
26 tools and safeguards required under § 4-88-1504 to a parent of the child and
27 obtain verifiable parental consent from the parent before the initial use of
28 the covered platform by the child.

29 (B) A covered platform is deemed to have satisfied the
30 requirement described in subdivision (a)(2)(A) if the covered platform uses
31 reasonable efforts taking into consideration available technology to provide
32 a parent with the information described in subdivision (a)(2)(A) of this
33 section and to obtain verifiable parental consent under § 4-88-1504.

34 (C) If the covered platform is not required to obtain
35 verifiable parental consent under § 4-88-1504, the covered platform shall
36 provide information about the parental tools and safeguards required under §

1 4-88-1504 to a parent of a user that the platform knows is a child and obtain
2 parental consent from the parent before the initial use of the covered
3 platform by the child.

4 (b) A covered platform that operates a personalized recommendation
5 system shall, in a clear, conspicuous, and easy-to-understand manner, set out
6 in its terms and conditions of use:

7 (1) An overview of how the personalized recommendation system is
8 used by the covered platform to provide information to the users of the
9 platform who are minors, including without limitation how the personalized
10 recommendation system uses the personal data of minors; and

11 (2) Information about options for a minor or his or her parent
12 to opt out of or control the personalized recommendation system.

13 (c) A covered platform that facilitates advertising aimed at a user
14 that the covered platform knows is a minor shall provide clear, conspicuous,
15 and easy-to-understand information and labels to the minor on advertisements
16 regarding:

17 (1) The name of the product, service, or brand and the subject
18 matter of an advertisement;

19 (2) If the covered platform engages in individual-specific
20 advertising to minors, why a particular advertisement is directed to a
21 specific minor, including without limitation material information about how
22 the minor's personal data is used to direct the advertisement to the minor;
23 and

24 (3) Whether particular media displayed to the minor is an
25 advertisement or marketing material, including without limitation disclosure
26 of endorsements of products, services, or brands made for commercial
27 consideration by other users of the covered platform.

28 (d) A covered platform shall provide to a minor and his or her parent
29 clear, conspicuous, easy-to-understand, and comprehensive information in a
30 prominent location regarding:

31 (1) The covered platform's policies and practices regarding
32 collection and retention of personal data and safeguards in place to protect
33 minors; and

34 (2) How to access the safeguards and tools required under § 4-
35 88-1504.

36 (e) A covered platform shall ensure, to the extent practicable, that

1 the disclosures required by this section are made available in the same
2 language, form, and manner as the covered platform provides any product or
3 service used by a minor and his or her parent.

4
5 4-88-1506. Enforcement.

6 (a) In an enforcement action brought under this subchapter, the
7 Attorney General shall allege a violation of a provision of this subchapter.

8 (b)(1) A violation of this subchapter is:

9 (A) An unfair and deceptive act or practice under the
10 Deceptive Trade Practices Act, § 4-88-101 et seq.; and

11 (B) Punishable solely by action of the Attorney General.

12 (2) All remedies, penalties, and authority granted to the
13 Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq.,
14 shall be available to the Attorney General for the enforcement of this
15 subchapter.

16 (3) The remedies and penalties for violations under this
17 subchapter are cumulative and in addition to other procedures or remedies for
18 violations or conduct under other law.

19
20 4-88-1507. Kids Online Safety Council.

21 (a) There is created within the Department of Commerce a council to be
22 known as the "Kids Online Safety Council".

23 (b) The council shall consist of nine (9) members appointed by the
24 Secretary of Commerce and include diverse participation from:

25 (1) Academic experts, health professionals, and members of civil
26 society with expertise in mental health, substance use disorders, and the
27 prevention of harms to minors;

28 (2) Representatives in academia and civil society with specific
29 expertise in privacy and civil liberties;

30 (3) Parents and youth representation;

31 (4) Representatives of covered platforms;

32 (5) Representatives of the State Securities Department, the
33 Department of Corrections, the Department of Health, and the Department of
34 Human Services;

35 (6) Educators; and

36 (7) Representatives of communities of socially disadvantaged

1 individuals as defined in the Small Business Act, 15 U.S.C. § 631 et seq., as
2 it existed on January 1, 2025.

3 (c) The council shall:

4 (1) Identify emerging or current risks of harms to minors
5 associated with online platforms;

6 (2) Recommend measures and methods for assessing, preventing,
7 and mitigating harms to minors online;

8 (3) Recommend methods and themes for conducting research
9 regarding online harms to minors, including in English and languages other
10 than English; and

11 (4) Recommend best practices and clear, consensus-based
12 technical standards for transparency reports and audits, as required under
13 this subchapter, including methods, criteria, and scope to promote overall
14 accountability.

15
16 4-88-1508. Filter bubble transparency requirements.

17 (a) As used in this section:

18 (1) "Algorithmic ranking system" means a computational process,
19 including without limitation a computational process derived from algorithmic
20 decision-making, machine learning, statistical analysis, or other data
21 processing or artificial intelligence techniques, used to determine the
22 selection, order, relative prioritization, or relative prominence of content
23 from a set of information that is provided to a user on a covered platform,
24 including without limitation the:

25 (A) Ranking of search results;

26 (B) Provision of content recommendations;

27 (C) Display of social media posts; or

28 (D) Any other method of automated content selection;

29 (2) "Downstream provider" means, with respect to a search
30 syndication contract, the person that receives access to an index of web
31 pages on the internet from an upstream provider under such contract;

32 (3)(A) "Input-transparent algorithm" means an algorithmic
33 ranking system that does not use the user-specific data of a user to
34 determine the selection, order, relative prioritization, or relative
35 prominence of information that is furnished to such user on a covered
36 platform, unless the user-specific data is expressly provided to the covered

1 platform by the user for that purpose.

2 (B) For purposes of subsection (3)(A) of this section,
3 user-specific data that is provided by a user for the express purpose of
4 determining the selection, order, relative prioritization, or relative
5 prominence of information that is furnished to such user on a covered
6 platform:

7 (i) Shall include user-supplied search terms,
8 filters, speech patterns, if provided for the purpose of enabling the
9 platform to accept spoken input or selecting the language in which the user
10 interacts with the platform, saved preferences, and the current precise
11 geolocation information that is supplied by the user;

12 (ii) Shall include the user's current approximate
13 geolocation information;

14 (iii) Shall include data affirmatively supplied to
15 the covered platform by the user that expresses the user's desire to receive
16 particular information, such as the social media profiles the user follows,
17 the video channels the user subscribes to, or other content or sources of
18 content on the platform the user has selected;

19 (iv) Shall not include the history of the user's
20 connected device, including the user's history of web searches and browsing,
21 previous geographical locations, physical activity, device interaction, and
22 financial transactions; and

23 (v) Shall not include inferences about the user or
24 the user's connected device, without regard to whether such inferences are
25 based on data described in subdivision (4)(B)(i) or (4)(B)(iii) of this
26 section;

27 (4)(A) "Opaque algorithm" means an algorithmic ranking system
28 that determines the selection, order, relative prioritization, or relative
29 prominence of information that is furnished to the user on a covered internet
30 platform based, in whole or part, on user-specific data that was not
31 expressly provided by the user to the platform for such purpose.

32 (B) "Opaque algorithm" does not include an algorithmic
33 ranking system used by a covered platform if:

34 (i) The only user-specific data, including without
35 limitation inferences about the user, that algorithmic ranking system uses is
36 information relating to the age of the user; and

1 (ii) The information is only used to restrict a
2 user's access to content on the basis that the individual is a minor;

3 (5) "Search syndication contract" means a contract or
4 subcontract for the sale of, license of, or other right to access an index of
5 web pages or search results on the internet for the purpose of operating an
6 internet search engine;

7 (6) "Upstream provider" means, with respect to a search
8 syndication contract, the person that grants access to an index of web pages
9 or search results on the internet to a downstream provider under the
10 contract; and

11 (7) "User-specific data" means information relating to an
12 individual or a specific connected device that would not necessarily be true
13 of every individual or device.

14 (b)(1) Beginning on the date that is one (1) year after the date of
15 enactment of this subchapter, it shall be unlawful:

16 (A) For any person to operate a covered platform that uses
17 an opaque algorithm unless the person complies with the requirements of
18 subdivision (b)(2) of this section; or

19 (B) For any upstream provider to grant access to an index
20 of web pages on the internet under a search syndication contract that does
21 not comply with the requirements of subdivision (b)(3) of this section.

22 (2)(A) A covered platform operating an opaque algorithm shall:

23 (i) Provide notice to users of the platform:

24 (a) That the covered platform uses an opaque
25 algorithm that uses user-specific data to select the content the user sees,
26 with such notice presented in a clear, conspicuous manner on the covered
27 platform whenever the user interacts with an opaque algorithm for the first
28 time that can be dismissed by the user; and

29 (b) In the terms and conditions of the covered
30 platform, in a clear, accessible, and easily comprehensible manner to be
31 updated no less frequently than once every six (6) months:

32 (1) The most important features, inputs,
33 and parameters used by the algorithm;

34 (2) How any user-specific data used by
35 the algorithm is collected or inferred about a user of the covered platform,
36 and the categories of such data;

1 (3) Any options that the covered
2 internet platform makes available for a user of the platform to opt out or
3 exercise options under subsection (b)(2)(A)(ii) of this section, modify the
4 profile of the user, or influence the features, inputs, or parameters used by
5 the algorithm; and

6 (4) Any quantities, such as time spent
7 using a product or specific measures of engagement or social interaction,
8 that the algorithm is designed to optimize, as well as a general description
9 of the relative importance of each quantity for such ranking; and

10 (ii) Make available a version of the platform that
11 uses an input-transparent algorithm and enables users to easily switch
12 between the version of the platform that uses an opaque algorithm and the
13 version of the platform that uses the input-transparent algorithm.

14 (B) Subdivision (b)(2)(A) of this section shall not apply
15 with respect to an internet search engine if:

16 (i) The search engine is operated by a downstream
17 provider with fewer than one thousand (1,000) employees; and

18 (ii) The search engine uses an index of web pages on
19 the internet to which such provider received access under a search
20 syndication contract.

21 (3) An upstream provider engaged in a search syndication
22 contract shall:

23 (A) Make the upstream provider makes available to the
24 downstream provider the same input-transparent algorithm used by the upstream
25 provider for purposes of complying with subdivision (b)(2)(A)(ii) of this
26 section; and

27 (B) Not impose any additional costs, degraded quality,
28 reduced speed, or other constraint on the functioning of the algorithm when
29 used by the downstream provider to operate an internet search engine relative
30 to the performance of the algorithm when used by the upstream provider to
31 operate an internet search engine.

32 (4) A covered platform shall not deny, charge different prices
33 or rates for, or condition the provision of a service or product to an
34 individual based on the individual's election to use a version of the
35 platform that uses an input-transparent algorithm as provided under
36 subdivision (b)(2)(A)(ii) of this section.

1 (c) A violation of this section by an operator of a covered platform
2 shall be treated as an unfair or deceptive act or practice under the
3 Deceptive Trade Practices Act, § 4-88-101 et seq.

4 (d) Nothing in this section shall be construed to limit or prohibit a
5 covered platform's ability to, at the direction of an individual user or
6 group of users, restrict another user from searching for, finding, accessing,
7 or interacting with such user's or group's account, content, data, or online
8 community.

9
10 4-88-1509. Construction.

11 (a) For purposes of enforcing this subchapter, in making a
12 determination as to whether a covered platform has knowledge fairly implied
13 on the basis of objective circumstances that a user is a minor, the Attorney
14 General shall rely on competent and reliable empirical evidence, taking into
15 account the totality of the circumstances, including without limitation
16 consideration of whether the operator, using available technology, exercised
17 reasonable care.

18 (b) Nothing in this subchapter shall be construed to require:

19 (1) The affirmative collection of any personal data with respect
20 to the age of users that a covered platform is not already collecting in the
21 normal course of business; or

22 (2) A covered platform to implement an age gating or age
23 verification functionality.

24 (c) Nothing in this subchapter shall be construed to restrict a
25 covered platform's ability to:

26 (1) Cooperate with law enforcement agencies regarding activity
27 that the covered platform reasonably and in good faith believes may violate
28 federal law, state law, or local regulations;

29 (2) Comply with a civil, criminal, or regulatory inquiry or any
30 investigation, subpoena, or summons by federal, state, local, or other
31 government authorities; or

32 (3) Investigate, establish, exercise, respond to, or defend
33 against legal claims.

34 (d) A video streaming service is in compliance with this subchapter
35 if:

36 (1) It predominantly consists of news, sports, entertainment, or

1 other video programming content that is preselected by the provider and not
2 user-generated;

3 (2) Any chat, comment, or interactive functionality that the
4 video streaming service provides is incidental to, directly related to, or
5 dependent on provision of that content; and

6 (3) If the video streaming service requires account owner
7 registration and is not predominantly news or sports, the service includes
8 the capability:

9 (A) To limit a minor's access to the service, including
10 without limitation utilizing a system of age-rating;

11 (B) To limit the automatic playing of on-demand content
12 selected by a personalized recommendation system for an individual that the
13 service knows is a minor;

14 (C) To provide an individual that the service knows is a
15 minor with readily accessible and easy-to-use options to delete an account
16 held by the minor and delete any personal data collected from the minor on
17 the service, or, in the case of a service that allows a parent to create a
18 profile for a minor, to allow a parent to delete the minor's profile, and to
19 delete any personal data collected from the minor on the service;

20 (D) For a parent to manage a minor's privacy and account
21 settings, and restrict purchases and financial transactions by a minor;

22 (E) To provide an electronic point of contact specific to
23 matters described in subdivision (e)(3) of this section;

24 (F) To offer a clear, conspicuous, and easy-to-understand
25 notice of the covered platform's policies and practices with respect to
26 personal data and the capabilities described in this subdivision (e)(3) of
27 this section; and

28 (G) When providing on-demand content, to employ measures
29 that safeguard against serving advertising for narcotic drugs, tobacco
30 products, gambling, or alcohol directly to the account or profile of an
31 individual that the service knows is a minor.

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