

117TH CONGRESS
1ST SESSION

S. _____

To require transparency, accountability, and protections for consumers online.

IN THE SENATE OF THE UNITED STATES

Mr. SCHATZ (for himself and Mr. THUNE) introduced the following bill; which
was read twice and referred to the Committee on _____

A BILL

To require transparency, accountability, and protections for
consumers online.

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 “Platform Account-
5 ability and Consumer Transparency Act” or the “PACT
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—Except as otherwise pro-
10 vided, the term “Commission” means the Federal
11 Trade Commission.

1 (2) DEMONETIZE.—The term “demonetize”,
2 with respect to content on an interactive computer
3 service, means to take action to prohibit the infor-
4 mation content provider that generated or dissemi-
5 nated the content from receiving direct financial
6 compensation from the interactive computer service
7 provider based on the content.

8 (3) DEPRIORITIZE.—The term “deprioritize”,
9 with respect to content on an interactive computer
10 service, means to take affirmative, content-specific
11 action to reduce the priority level of the content.

12 (4) ILLEGAL ACTIVITY.—The term “illegal ac-
13 tivity” means activity conducted by an information
14 content provider that has been determined by a trial
15 or appellate Federal or State court to violate Fed-
16 eral criminal or civil law.

17 (5) ILLEGAL CONTENT.—The term “illegal con-
18 tent” means information provided by an information
19 content provider that has been determined by a trial
20 or appellate Federal or State court to violate—

21 (A) Federal criminal or civil law; or

22 (B) State defamation law.

23 (6) INDIVIDUAL PROVIDER.—The term “indi-
24 vidual provider” means a provider of an interactive

1 computer service that, during the most recent 12-
2 month period—

3 (A) received fewer than 100,000 unique
4 monthly visitors; and

5 (B) accrued revenue of less than
6 \$1,000,000.

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

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

15 (9) POTENTIALLY POLICY-VIOLATING CON-
16 TENT.—The term “potentially policy-violating con-
17 tent” means content that may violate the acceptable
18 use policy of the provider of an interactive computer
19 service.

20 (10) SMALL BUSINESS PROVIDER.—The term
21 “small business provider” means a provider of an
22 interactive computer service that is not an individual
23 provider and, during the most recent 12-month pe-
24 riod—

1 (A) received fewer than 1,000,000 unique
2 monthly visitors; and

3 (B) accrued revenue of less than
4 \$50,000,000.

5 **SEC. 3. FINDINGS.**

6 Congress finds the following:

7 (1) Technological advancements involving the
8 internet and interactive computer service providers
9 have led to innovations that offer substantial benefit
10 to the people and the economy of the United States.

11 (2) People in the United States increasingly
12 rely on interactive computer services to commu-
13 nicate, gather information, and conduct transactions
14 that are central to our economic, political, social,
15 and cultural life.

16 (3) The content moderation decisions made by
17 providers of interactive computer services shape the
18 online information ecosystem available to people in
19 the United States and impact free expression.

20 (4) There is a compelling government interest
21 in having providers of interactive computer services
22 provide information to the public about their content
23 moderation policies and practices because of the im-
24 pact those policies may have on the speech interests
25 of their consumers.

1 (5) The people of the United States benefit
2 from transparent information about the decisions
3 interactive computer service providers make regard-
4 ing their content moderation practices, including re-
5 moving, maintaining, blocking, amplifying,
6 prioritizing, or deprioritizing information provided
7 by other consumers.

8 (6) The Federal Government should hold inter-
9 active computer service providers accountable when
10 they fail to respond to consumers' concerns about
11 their content moderation decisions.

12 (7) Federal and State court decisions and Fed-
13 eral statutes and regulations that apply to offline
14 commerce do not always govern online commerce
15 and communications.

16 (8) The rights of consumers should extend to
17 online commerce and communications to provide a
18 level playing field for all consumers and companies,
19 and to prevent wrongdoing and victimization of peo-
20 ple in the United States.

21 **SEC. 4. POLICY.**

22 It is the policy of the United States—

23 (1) to preserve the internet and other inter-
24 active computer services as forums for diversity of
25 political discourse, opportunities for cultural develop-

1 ment, and places for intellectual and commercial ac-
2 tivity;

3 (2) to ensure consumers have accessible and
4 clear information about the acceptable use policies of
5 interactive computer service providers so that con-
6 sumers are informed about the content moderation
7 policies and practices of those providers when they
8 participate in, or engage with, those services;

9 (3) to create accountability and transparency
10 measures to diminish the likelihood that interactive
11 computer service providers are engaging in unfair or
12 deceptive practices;

13 (4) to encourage the development and use of
14 technologies that minimize illegal activities and con-
15 tent and potentially policy-violating content;

16 (5) to ensure that the consumer rights of users
17 of interactive computer services are maintained and
18 extended to activities that the users may participate
19 in online; and

20 (6) to hold interactive computer service pro-
21 viders accountable, and exempt them from immunity
22 protections under section 230 of the Communica-
23 tions Act of 1934 (commonly known as “section 230
24 of the Communications Decency Act of 1996”) (47

1 U.S.C. 230), when they help develop illegal content
2 or contribute to illegal content or conduct online.

3 **SEC. 5. TRANSPARENCY AND PROCESS REQUIREMENTS.**

4 (a) ACCEPTABLE USE POLICY.—

5 (1) PUBLICATION OF ACCEPTABLE USE POL-
6 ICY.—A provider of an interactive computer service
7 shall publish an acceptable use policy in accordance
8 with paragraph (2) in a location that is easily acces-
9 sible to the user.

10 (2) CONTENTS OF POLICY.—The acceptable use
11 policy of a provider of an interactive computer serv-
12 ice shall—

13 (A) reasonably inform users about the
14 types of content that are allowed on the inter-
15 active computer service;

16 (B) explain the steps the provider takes to
17 ensure content complies with the acceptable use
18 policy;

19 (C) explain the means by which users can
20 notify the provider of potentially policy-violating
21 content, illegal content, or illegal activity, which
22 shall include—

23 (i) subject to subsection (e), making
24 available a live company representative
25 through a toll-free telephone number dur-

1 ing regular business hours for not fewer
2 than 8 hours per day and 5 days per week
3 to assist users with the process of making
4 a complaint;

5 (ii) an email address or relevant in-
6 take mechanism to handle user complaints;
7 and

8 (iii) subject to subsection (e), a com-
9 plaint system described in subsection (b);
10 and

11 (D) include publication of a biannual
12 transparency report outlining actions taken to
13 enforce the policy, as described in subsection
14 (d).

15 (b) COMPLAINT SYSTEM.—Subject to subsection (e),
16 a provider of an interactive computer service shall provide
17 a system that is easily accessible to a user through which
18 the user may submit in good faith, and track, a complaint
19 regarding any content or activity on the interactive com-
20 puter service, including a complaint regarding—

21 (1) potentially policy-violating content, illegal
22 content, or illegal activity; or

23 (2) a decision of the interactive computer serv-
24 ice provider to remove content posted by the infor-
25 mation content provider.

1 (c) PROCESSING OF COMPLAINTS.—

2 (1) COMPLAINTS REGARDING ILLEGAL CON-
3 TENT, ILLEGAL ACTIVITY, OR POTENTIALLY POLICY-
4 VIOLATING CONTENT.—

5 (A) ILLEGAL CONTENT OR ILLEGAL ACTIV-
6 ITY.—

7 (i) IN GENERAL.—Subject to sub-
8 section (e), and except as provided in
9 clause (ii), if a provider of an interactive
10 computer service receives notice of illegal
11 content or illegal activity on the interactive
12 computer service that substantially com-
13 plies with the requirements under para-
14 graph (3)(B)(ii) of section 230(c) of the
15 Communications Act of 1934 (47 U.S.C.
16 230(c)), as added by section 6(a), the pro-
17 vider shall remove the content or stop the
18 activity not later than 4 days after receiv-
19 ing the notice, subject to reasonable excep-
20 tions, including concerns about the legit-
21 imacy of the notice.

22 (ii) TIMELINE FOR NOTICE EMA-
23 NATING FROM DEFAULT JUDGMENTS AND
24 STIPULATED AGREEMENTS.—If a notice of
25 illegal content or illegal activity described

1 in clause (i) emanates from a default judg-
2 ment or stipulated agreement, that clause
3 shall be applied by substituting “10 days”
4 for “4 days”.

5 (B) POTENTIALLY POLICY-VIOLATING CON-
6 TENT.—Subject to subsection (e), if a provider
7 of an interactive computer service receives a
8 complaint made in good faith through the com-
9 plaint system of the provider established under
10 subsection (b) regarding potentially policy-vio-
11 lating content on the interactive computer serv-
12 ice, the provider shall, not later than 14 days
13 after receiving the complaint—

14 (i) review the content;

15 (ii) determine whether the content ad-
16 heres to the acceptable use policy of the
17 provider; and

18 (iii) initiate appropriate steps based
19 on the determination made under clause
20 (ii), subject to reasonable extensions in
21 cases requiring extraordinary investigation.

22 (2) PROCESS AFTER REMOVAL OF CONTENT.—

23 (A) REMOVAL BASED ON USER COM-
24 PLAIN.—

1 (i) IN GENERAL.—Subject to clause
2 (ii), if a provider of an interactive com-
3 puter service removes potentially policy-vio-
4 lating content based on a user complaint,
5 the provider of the interactive computer
6 service shall, concurrently with the re-
7 moval—

8 (I) notify the information content
9 provider and the complainant of the
10 removal and explain why the content
11 was removed;

12 (II) allow the information content
13 provider to appeal the decision; and

14 (III) notify the information con-
15 tent provider and the complainant
16 of—

17 (aa) the determination re-
18 garding the appeal under sub-
19 clause (II); and

20 (bb) in the case of a reversal
21 of the decision to remove the con-
22 tent in question, the reason for
23 the reversal.

24 (ii) EXCEPTIONS.—A provider of an
25 interactive computer service shall not be

1 required to provide an information content
2 provider with notice or an opportunity to
3 appeal under clause (i) if—

4 (I) the provider of the interactive
5 computer service is unable to contact
6 the information content provider after
7 taking reasonable steps to do so; or

8 (II)(aa) the provider of the inter-
9 active computer service reasonably be-
10 lieves that such notice would risk im-
11 minent harm to any person or impede
12 law enforcement activities; or

13 (bb) a law enforcement agency,
14 based on a reasonable belief that such
15 notice would interfere with an ongoing
16 investigation, requests that the pro-
17 vider of the interactive computer serv-
18 ice not provide such notice.

19 (B) REMOVAL BASED ON MODERATION DE-
20 CISIONS OF INTERACTIVE COMPUTER SERVICE
21 PROVIDER.—If a provider of an interactive com-
22 puter service receives notice, through a com-
23 plaint from the information content provider,
24 that the provider of the interactive computer
25 service removed content of the information con-

1 tent provider that the information content pro-
2 vider believes does not violate the acceptable
3 use policy of the provider of the interactive
4 computer service, the provider of the interactive
5 computer service shall, not later than 14 days
6 after receiving notice—

7 (i) review the content;

8 (ii) determine whether the content ad-
9 heres to the acceptable use policy of the
10 provider of the interactive computer serv-
11 ice;

12 (iii) take appropriate steps based on
13 the determination made under clause (ii);
14 and

15 (iv) notify the information content
16 provider regarding the determination made
17 under clause (ii) and steps taken under
18 clause (iii).

19 (d) BIENNIAL TRANSPARENCY REPORT.—

20 (1) IN GENERAL.—Subject to subsection (e), as
21 part of the acceptable use policy required under sub-
22 section (a), a provider of an interactive computer
23 service shall publish a transparency report every 6
24 months in accordance with this subsection.

1 (2) REQUIREMENTS.—A provider of an inter-
2 active computer service shall include in the trans-
3 parency report required under paragraph (1)—

4 (A) the total number of unique monthly
5 visitors to the interactive computer service dur-
6 ing the preceding 6-month and 12-month peri-
7 ods;

8 (B) the number of instances during the
9 preceding 6-month period in which illegal con-
10 tent, illegal activity, or potentially policy-vio-
11 lating content was flagged—

12 (i) due to a complaint by a user of the
13 interactive computer service;

14 (ii) internally, by—

15 (I) an employee or contractor of
16 the provider; or

17 (II) an internal automated detec-
18 tion tool, not including content or ac-
19 tivity identified as—

20 (aa) spam; or

21 (bb) fraudulent activity; or

22 (iii) by another type of entity, such as
23 a government agency, third-party re-
24 searcher, or other provider of an inter-
25 active computer service;

1 (C) the number of instances during the
2 preceding 6-month period in which the inter-
3 active computer service provider took action
4 with respect to illegal content, illegal activity, or
5 known potentially policy-violating content due
6 to its nature as illegal content, illegal activity,
7 or known potentially policy-violating content,
8 respectively, and the type of action taken, in-
9 cluding the number of instances of content re-
10 moval, content demonetization, content
11 deprioritization, appending content with an as-
12 sessment, account suspension, account removal,
13 or any other action taken in accordance with
14 the acceptable use policy of the provider, cat-
15 egorized by—

16 (i) the category of rule violated, with
17 respect to the acceptable use policy;

18 (ii) the source of the flag, including
19 government, user, internal automated de-
20 tection tool, coordination with other inter-
21 active computer service providers, or per-
22 sonnel employed or contracted for by the
23 provider;

24 (iii) the country of the information
25 content provider; and

1 (iv) whether the action was in re-
2 sponse to a coordinated campaign, as de-
3 termined by the interactive computer serv-
4 ice provider;

5 (D) the number of instances during the
6 preceding 6-month period in which the inter-
7 active computer service provider decided to not
8 take action under subsection (e)(1)(B)(iii) with
9 respect to content that violated the acceptable
10 use policy of the provider;

11 (E)(i) the number of instances during the
12 preceding 6-month period in which an informa-
13 tion content provider appealed a decision to re-
14 move potentially policy-violating content; and

15 (ii) the percentage of appeals described in
16 clause (i) that resulted in the restoration of
17 content;

18 (F) a descriptive summary of the kinds of
19 tools, practices, actions, and techniques used
20 during the preceding 6-month period in enforce-
21 ing the acceptable use policy of the interactive
22 computer service provider that does not jeop-
23 ardize the effectiveness of these tools; and

24 (G) any other information with respect to
25 the preceding 6-month period that would en-

1 hance the effectiveness of the transparency re-
2 port, as determined by the interactive computer
3 service provider.

4 (3) PRIVACY.—An interactive computer service
5 provider shall publish the transparency report under
6 paragraph (1) in a manner that preserves the pri-
7 vacy of information content providers.

8 (4) FORMAT.—A provider of an interactive
9 computer service shall publish the information de-
10 scribed in paragraph (2) with an open license, in a
11 machine-readable and open format, and in a location
12 that is easily accessible to consumers.

13 (e) INDIVIDUAL AND SMALL BUSINESS PROVIDER
14 EXEMPTIONS.—

15 (1) INDIVIDUAL PROVIDERS.—The following
16 provisions shall not apply to an individual provider:

17 (A) Clauses (i) and (iii) of subsection
18 (a)(2)(C) (relating to a live company represent-
19 ative and a complaint system, respectively).

20 (B) Subsection (b) (relating to a complaint
21 system).

22 (C) Paragraphs (1)(B) and (2) of sub-
23 section (c) (relating to processing complaints
24 regarding potentially policy-violating content

1 and the process after removal of such content,
2 respectively).

3 (D) Subsection (d) (relating to a trans-
4 parency report).

5 (2) SMALL BUSINESS PROVIDERS.—

6 (A) IN GENERAL.—The following provi-
7 sions shall not apply to a small business pro-
8 vider:

9 (i) Subsection (a)(2)(C)(i) (relating to
10 a live company representative).

11 (ii) Subsection (d) (relating to a
12 transparency report).

13 (B) DEADLINE FOR PROCESSING COM-
14 PLAINTS REGARDING POTENTIALLY POLICY-VIO-
15 LATING CONTENT.—Subsection (c)(1)(B) shall
16 be applied to a small business provider by sub-
17 stituting “21 days” for “14 days”.

18 (f) INTERNET INFRASTRUCTURE SERVICE EXEMP-
19 TION.—Subsections (a) through (e) shall not apply to—

20 (1) a provider of an interactive computer serv-
21 ice that is used by another interactive computer
22 service for the management, control, or operation of
23 that other interactive computer service, including for
24 services such as web hosting, domain registration,

1 content delivery networks, caching, security, back-
2 end data storage, and cloud management; or

3 (2) a provider of broadband internet access
4 service, as that term is defined in section 8.1(b) of
5 title 47, Code of Federal Regulations (or any suc-
6 cessor regulation).

7 (g) ENFORCEMENT BY COMMISSION.—

8 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
9 TICES.—

10 (A) IN GENERAL.—A violation of sub-
11 section (c)(1)(B), (c)(2), or (d) shall be treated
12 as a violation of a rule defining an unfair or de-
13 ceptive act or practice under section
14 18(a)(1)(B) of the Federal Trade Commission
15 Act (15 U.S.C. 57a(a)(1)(B)).

16 (B) LIMITATION ON AUTHORITY.—Nothing
17 in subparagraph (A) shall be construed to su-
18 persede paragraph (1) or (2) of section 230(c)
19 of the Communications Act of 1934 (47 U.S.C.
20 230(c)) or to otherwise authorize the Commis-
21 sion to review any action or decision by a pro-
22 vider of an interactive computer service related
23 to the application of the acceptable use policy of
24 the provider.

25 (2) POWERS OF COMMISSION.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (C), the Commission shall enforce
3 this section in the same manner, by the same
4 means, and with the same jurisdiction, powers,
5 and duties as though all applicable terms and
6 provisions of the Federal Trade Commission
7 Act (15 U.S.C. 41 et seq.) were incorporated
8 into and made a part of this Act.

9 (B) PRIVILEGES AND IMMUNITIES.—Ex-
10 cept as provided in subparagraph (C), any per-
11 son who violates this section shall be subject to
12 the penalties and entitled to the privileges and
13 immunities provided in the Federal Trade Com-
14 mission Act (15 U.S.C. 41 et seq.).

15 (C) NONPROFIT ORGANIZATIONS.—Not-
16 withstanding section 4 of the Federal Trade
17 Commission Act (15 U.S.C. 44) or any jurisdic-
18 tional limitation of the Commission, the Com-
19 mission shall also enforce this section, in the
20 same manner provided in subparagraphs (A)
21 and (B) of this paragraph, with respect to orga-
22 nizations not organized to carry on business for
23 their own profit or that of their members.

1 (h) NO EFFECT ON OTHER LAWS.—Nothing in this
2 section shall impair, limit, expand, or otherwise affect the
3 scope or application of—

4 (1) rule 65 of the Federal Rules of Civil Proce-
5 dure;

6 (2) section 1651 of title 28, United States Code
7 (commonly known as the “All Writs Act”); or

8 (3) any law pertaining to intellectual property,
9 including—

10 (A) title 17, United States Code; and

11 (B) the Act entitled “An Act to provide for
12 the registration and protection of trademarks
13 used in commerce, to carry out the provisions
14 of certain international conventions, and for
15 other purposes”, approved July 5, 1946 (com-
16 monly known as the “Trademark Act of 1946”
17 or the “Lanham Act”) (15 U.S.C. 1051 et seq).

18 (i) GAO REPORT ON WHISTLEBLOWER PROTECTION
19 AND AWARDS.—Not later than 1 year after the date of
20 enactment of this Act, the Comptroller General of the
21 United States shall submit a report to Congress assessing
22 the viability, including the anticipated cost and benefit to
23 consumers, of establishing a whistleblower protection and
24 award program for employees and contractors of inter-
25 active computer services, to be administered by the Com-

1 mission, that would enable reporting and enforcement of
2 violations of consumer protections that take place online.

3 (j) NIST VOLUNTARY FRAMEWORK.—

4 (1) IN GENERAL.—Not later than 18 months
5 after the date of enactment of this Act, the Director
6 of the National Institute of Standards and Tech-
7 nology shall develop a voluntary framework, with
8 input from relevant experts, that consists of non-
9 binding standards, guidelines, and best practices to
10 manage risk and shared challenges related to, for
11 the purposes of this Act, good faith moderation
12 practices by interactive computer service providers.

13 (2) CONTENTS.—The framework developed
14 under paragraph (1) shall include—

15 (A) technical standards and processes for
16 the sharing of information among providers of
17 an interactive computer service;

18 (B) recommendations on automated detec-
19 tion tools and the appropriate nature and level
20 of human review to correct for machine error in
21 assessing nuanced or context-specific issues;

22 (C) standards and processes for providing
23 researchers access to data to conduct scientific,
24 historical, statistical, and other relevant re-
25 search, including with respect to content that is

1 removed, demonetized, or deprioritized by the
2 provider of an interactive computer service; and

3 (D) methods to strengthen the capacity of
4 a provider of an interactive computer service to
5 authenticate documentation of a determination
6 by a court that content or an activity violates
7 Federal law or State defamation law.

8 **SEC. 6. PROTECTION EXEMPTIONS.**

9 (a) EXEMPTION FROM LIABILITY PROTECTION.—
10 Section 230(c) of the Communications Act of 1934 (47
11 U.S.C. 230(c)) is amended by adding at the end the fol-
12 lowing:

13 “(3) PROTECTION EXEMPTION.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the protection under paragraph (1)
16 shall not apply to a provider of an interactive
17 computer service, with respect to illegal content
18 shared or illegal activity occurring on the inter-
19 active computer service, if the provider—

20 “(i) has actual knowledge of the ille-
21 gal content or illegal activity; and

22 “(ii) does not remove the illegal con-
23 tent or stop the illegal activity—

24 “(I) within 4 days of acquiring
25 that knowledge, subject to reasonable

1 exceptions based on concerns about
2 the legitimacy of the notice; or

3 “(II) if the knowledge is acquired
4 from a notice that emanates from a
5 default judgment or stipulated agree-
6 ment—

7 “(aa) within 10 days of ac-
8 quiring that knowledge; or

9 “(bb) if the provider seeks
10 to vacate the default judgment or
11 stipulated agreement under sub-
12 paragraph (B)(i)(III) and the
13 proceeding initiated under that
14 subparagraph results in a deter-
15 mination that the default judg-
16 ment or stipulated agreement
17 should remain intact, within 24
18 hours of that determination.

19 “(B) NOTICE EMANATING FROM DEFAULT
20 JUDGMENT OR STIPULATED AGREEMENT.—

21 “(i) VACATUR OF DEFAULT JUDG-
22 MENT OR STIPULATED AGREEMENT.—Sub-
23 paragraph (A) shall not apply to a provider
24 of an interactive computer service if—

1 “(I) a notice of illegal content or
2 illegal activity described in that sub-
3 paragraph emanates from a default
4 judgment or stipulated agreement;

5 “(II) the notice described in sub-
6 clause (I) does not include a sworn af-
7 fidavit with sufficient evidence to con-
8 stitute a prima facie showing in sup-
9 port of each underlying cause of ac-
10 tion upon which the default judgment
11 or stipulated agreement was obtained;

12 “(III) not later than 10 days
13 after receiving the notice, the inter-
14 active computer service provider files,
15 in good faith, to intervene and seek to
16 vacate the default judgment or stipu-
17 lated agreement in the court in which
18 the judgment was obtained; and

19 “(IV) the proceeding initiated
20 under subclause (III) results in
21 vacatur of the default judgment or
22 stipulated agreement.

23 “(ii) COSTS AND FEES.—If the pro-
24 ceeding initiated under clause (i)(III) re-
25 sults in a determination that the default

1 judgment or stipulated agreement was
2 sought fraudulently, the provider of the
3 interactive computer service may seek re-
4 imbursement of costs and fees relating to
5 the proceeding.

6 “(C) NOTICE OF ILLEGAL CONTENT OR IL-
7 LEGAL ACTIVITY.—

8 “(i) IN GENERAL.—A provider of an
9 interactive computer service shall be
10 deemed to have actual knowledge of illegal
11 content or illegal activity for purposes of
12 subparagraph (A) only if the provider re-
13 ceives notice of such content or activity
14 that substantially complies with the re-
15 quirements under clause (ii) of this sub-
16 paragraph.

17 “(ii) ELEMENTS.—Notice of illegal
18 content or illegal activity provided to a
19 provider of an interactive computer service
20 as described in clause (i) shall be in writ-
21 ing and include the following:

22 “(I) A copy of the order from a
23 trial or appellate Federal or State
24 court, in its entirety, and unsealed if
25 the court has ordered it to be sealed,

1 under which the content or activity
2 was determined to violate Federal
3 criminal or civil law or State defama-
4 tion law, and to the extent available,
5 any references substantiating the va-
6 lidity of the order, such as the web
7 addresses of public court docket infor-
8 mation.

9 “(II) Information that is reason-
10 ably sufficient to allow the provider to
11 identify and locate the illegal content
12 or illegal activity, including each user
13 or account engaged in the illegal ac-
14 tivity and specific locations of content
15 or accounts involved in the illegal con-
16 tent or activity, such as URLs, links,
17 or unique usernames.

18 “(III) Information reasonably
19 sufficient to permit the provider to
20 contact the complaining party, which
21 shall include—

22 “(aa) if the complaining
23 party is a user of the interactive
24 computer service, information
25 identifying the user account; and

1 “(bb) if the complaining
2 party is not a user of the inter-
3 active computer service, an email
4 address of the complaining party.

5 “(IV) A statement by the com-
6 plaining party, made under penalty of
7 perjury in accordance with section
8 1746 of title 28, United States Code,
9 that—

10 “(aa) the information in the
11 notice is accurate; and

12 “(bb) the content or activity
13 described in the notice has been
14 determined by a trial or appellate
15 Federal or State court to violate
16 Federal criminal or civil law or
17 State defamation law.

18 “(D) NOTICE TO INFORMATION CONTENT
19 PROVIDER BEFORE REMOVAL OR STOPPING.—A
20 provider of an interactive computer service that
21 receives notice of illegal content or illegal activ-
22 ity shall notify the information content provider
23 before removing the content or stopping the ac-
24 tivity, subject to commercially reasonable expect-
25 tations.

1 “(E) LIMITATIONS FOR INTERNET INFRA-
2 STRUCTURE SERVICES.—Subparagraph (A)
3 shall not apply with respect to—

4 “(i) an interactive computer service
5 that is used by another interactive com-
6 puter service for the management, control,
7 or operation of that other interactive com-
8 puter service, including for services such as
9 web hosting, domain registration, content
10 delivery networks, caching, security, back-
11 end data storage, and cloud management;
12 or

13 “(ii) a provider of broadband internet
14 access service, as that term is defined in
15 section 8.1(b) of title 47, Code of Federal
16 Regulations (or any successor regulation).

17 “(F) MONITORING OR AFFIRMATIVE FACT-
18 SEEKING NOT REQUIRED.—Nothing in this
19 paragraph shall be construed to condition the
20 applicability of paragraph (1) to a provider of
21 an interactive computer service on the provider
22 monitoring the interactive computer service or
23 affirmatively seeking facts indicating illegal con-
24 tent or illegal activity in order to identify in-
25 stances of content or activity additional to any

1 instances about which the provider has received
2 notice.

3 “(G) ENFORCEMENT EXEMPTION.—Noth-
4 ing in this paragraph shall be construed to im-
5 pair or limit the application of paragraph (1) or
6 (2) of subsection (e).

7 “(H) NO EFFECT ON OTHER LAWS.—
8 Nothing in this paragraph shall impair, limit,
9 expand, or otherwise affect the scope or applica-
10 tion of—

11 “(i) rule 65 of the Federal Rules of
12 Civil Procedure;

13 “(ii) section 1651 of title 28, United
14 States Code (commonly known as the ‘All
15 Writs Act’); or

16 “(iii) any law pertaining to intellectual
17 property, including—

18 “(I) title 17, United States Code;

19 and

20 “(II) the Act entitled “An Act to
21 provide for the registration and pro-
22 tection of trademarks used in com-
23 merce, to carry out the provisions of
24 certain international conventions, and
25 for other purposes”, approved July 5,

1 1946 (commonly known as the
2 “Trademark Act of 1946” or the
3 ‘Lanham Act’) (15 U.S.C. 1051 et
4 seq).”.

5 (b) DEFINITIONS.—Section 230(f) of the Commu-
6 nications Act of 1934 (47 U.S.C. 230(f)) is amended by
7 adding at the end the following:

8 “(5) ILLEGAL ACTIVITY.—The term ‘illegal ac-
9 tivity’ means activity conducted by an information
10 content provider that has been determined by a trial
11 or appellate Federal or State court to violate Fed-
12 eral criminal or civil law.

13 “(6) ILLEGAL CONTENT.—The term ‘illegal
14 content’ means information provided by an informa-
15 tion content provider that has been determined by a
16 trial or appellate Federal or State court to violate—

17 “(A) Federal criminal or civil law; or

18 “(B) State defamation law.”.

19 (c) TECHNICAL CORRECTION.—Section 230(c)(2)(B)
20 of the Communications Act of 1934 (47 U.S.C.
21 230(c)(2)(B)) is amended by striking “paragraph (1)”
22 and inserting “subparagraph (A)”.

23 **SEC. 7. FEDERAL AND STATE ENFORCEMENT.**

24 Section 230(e)(1) of the Communications Act of
25 1934 (47 U.S.C. 230(e)) is amended to read as follows:

1 “(1) NO EFFECT ON FEDERAL CRIMINAL OR
2 CIVIL LAW.—Nothing in this section shall be con-
3 strued to limit, impair, or prevent the enforcement
4 or investigation by the Federal Government or a
5 State attorney general, as applicable, of—

6 “(A) any other Federal criminal or civil
7 statute; or

8 “(B) any regulation of an Executive agen-
9 cy (as defined in section 105 of title 5, United
10 States Code) or an establishment in the legisla-
11 tive branch of the Federal Government.”.

12 **SEC. 8. SEVERABILITY.**

13 If any provision of this Act or an amendment made
14 by this Act, or the application of such a provision or
15 amendment to any person or circumstance, is held to be
16 unenforceable or invalid, the remaining provisions of this
17 Act and amendments made by this Act, and the applica-
18 tion of the provision or amendment so held to other per-
19 sons not similarly situated or to other circumstances, shall
20 not be affected thereby.

21 **SEC. 9. EFFECTIVE DATE.**

22 This Act and the amendments made by this Act shall
23 take effect on the date that is 18 months after the date
24 of enactment of this Act.