

119TH CONGRESS
1ST SESSION

S. _____

To improve the communications between social media platforms and law enforcement agencies, to establish the Federal Trade Commission Platform Safety Advisory Committee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCOTT of Florida (for himself and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To improve the communications between social media platforms and law enforcement agencies, to establish the Federal Trade Commission Platform Safety Advisory Committee, 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 “Stopping Online Con-
5 fusion for Investigative Agencies and Law-enforcement by
6 Maintaining Evidence Determined Interparty Arrange-
7 ments Act” or the “SOCIAL MEDIA Act”.

1 **SEC. 2. BETTER INVESTIGATION COMMUNICATIONS.**

2 (a) **LAW ENFORCEMENT PORTAL.**—Not later than
3 90 days after the date of enactment of this Act, each social
4 media platform shall—

5 (1) create a law enforcement portal that meets
6 the requirements described in subsection (b) to pro-
7 vide—

8 (A) clear information to law enforcement
9 on who in the company to contact regarding
10 any law enforcement matter; and

11 (B) if the company has outsourced their
12 law enforcement compliance work to a third
13 party, the contact information of the third
14 party; and

15 (2) publish on the homepage of the social media
16 platform a link to such law enforcement portal.

17 (b) **REQUIREMENTS.**—The law enforcement portal
18 created under subsection (a) shall include—

19 (1) the name of and contact information for the
20 lead point of contact for law enforcement for the so-
21 cial media platform;

22 (2) the phone number (which shall connect to
23 a United States-based call center that is staffed on
24 a 24/7 basis) and email address a law enforcement
25 agency may use to contact the social media platform;
26 and

1 (3) clear policy information related to law en-
2 forcement investigations, such as what, if any, notice
3 is provided to the users of such platform in connec-
4 tion with any law enforcement investigation and
5 when such notice is provided.

6 **SEC. 3. IMPROVING DATA COLLECTION AND REPORTING.**

7 (a) FTC PLATFORM SAFETY ADVISORY COM-
8 MITTEE.—

9 (1) ESTABLISHMENT.—

10 (A) IN GENERAL.—There is established the
11 Federal Trade Commission Platform Safety Ad-
12 visory Committee (in this section referred to as
13 the “Advisory Committee”).

14 (B) PURPOSE.—The purpose of the Advi-
15 sory Committee is to provide recommendations
16 to the Commission for the development of uni-
17 form reporting metrics on—

18 (i) social media platforms’—

19 (I) monitoring or removal of ille-
20 gal or illicit content on their plat-
21 forms; and

22 (II) collaboration with or referral
23 to law enforcement regarding such
24 content; and

1 (ii) the responsiveness of such social
2 media platforms to law enforcement inquir-
3 ies and other relevant metrics as deter-
4 mined by the Commission.

5 (2) MEMBERSHIP.—

6 (A) COMPOSITION.—The Advisory Com-
7 mittee shall be composed of 11 members, each
8 appointed by the Chair, to serve 3-year terms—

9 (i) 1 of whom shall be a representa-
10 tive from the Commission;

11 (ii) 1 of whom shall be a representa-
12 tive from the Drug Enforcement Adminis-
13 tration;

14 (iii) 1 of whom shall be a representa-
15 tive from U.S. Immigration and Customs
16 Enforcement, Homeland Security Inves-
17 tigation;

18 (iv) 1 of whom shall be a representa-
19 tive of social media platforms;

20 (v) 1 of whom shall be a representa-
21 tive of local law enforcement agencies;

22 (vi) 1 of whom shall be a representa-
23 tive of transparency advocates that comes
24 from a nonprofit, non-governmental orga-
25 nization (commonly referred to as an

1 “NGO”), or think tank which does not re-
2 ceive more than 10 percent of their fund-
3 ing support (including the value of any in-
4 kind contribution) from a social media
5 platform or related company;

6 (vii) 1 of whom shall be a representa-
7 tive from a State investigative agency;

8 (viii) 1 of whom shall be a representa-
9 tive from the Federal Bureau of Investiga-
10 tion;

11 (ix) 1 of whom shall be a representa-
12 tive of victims or a victim’s advocacy orga-
13 nization which does not receive funding
14 support from a social media platform or
15 related company;

16 (x) 1 of whom shall be a representa-
17 tive from the United States Marshals Serv-
18 ice; and

19 (xi) 1 of whom shall be a representa-
20 tive of the Criminal Division of the De-
21 partment of Justice.

22 (B) DATE.—The Chair shall make the ap-
23 pointments described in subparagraph (A) as
24 soon as possible after the date of enactment of
25 this Act.

1 (C) TERM LIMITATION.—An individual
2 may not serve more than 3 terms as a member
3 of the Advisory Committee.

4 (D) NO COMPENSATION FOR MEMBERS.—
5 Each member of the Advisory Committee shall
6 serve without compensation in addition to any
7 compensation received for the service of the
8 member as an officer or employee of the United
9 States, if applicable.

10 (3) DUTIES.—

11 (A) IN GENERAL.—The Advisory Com-
12 mittee shall—

13 (i) provide recommendations to the
14 Commission on—

15 (I) developing and updating re-
16 porting metrics in accordance with
17 subparagraph (B); and

18 (II) periodically updating, as the
19 Commission determines necessary, the
20 reporting metrics described in sub-
21 clause (I) through notice and com-
22 ment rulemaking; and

23 (ii) not later than 1 year after the
24 date of enactment of this Act, and annu-
25 ally thereafter, publish, in a single, publicly

1 available report that allows comparison be-
2 tween social media platforms, the informa-
3 tion provided under the reporting metrics
4 described in clause (i).

5 (B) REPORTING METRICS.—The reporting
6 metrics described in subparagraph (A)(i) shall
7 include, with respect to a social media plat-
8 form—

9 (i) the number of accounts on which
10 the social media platform has identified an
11 advertisement for or promotion of counter-
12 feit substances or fentanyl, including the
13 number of such accounts that were identi-
14 fied—

15 (I) through a user report; and

16 (II) by the platform without the
17 use of a user report;

18 (ii) metrics relating to the social
19 media platform's procedure, if any, for re-
20 ferring to law enforcement any account
21 that advertises or otherwise promotes
22 counterfeit substances or fentanyl, includ-
23 ing—

24 (I) whether the platform notifies
25 the account holder of such referral;

1 (II) to which law enforcement
2 agencies the platform makes such re-
3 ferral; and

4 (III) how many such referrals the
5 platform has made during the pre-
6 vious 12-month period;

7 (iii) during the previous 12-month pe-
8 riod, on average, the number of orders
9 under section 2703(d) of title 18, United
10 States Code, subpoenas, and search war-
11 rants received by the social media platform
12 per month related to accounts on the plat-
13 form that are being used for illicit activity;

14 (iv) the social media platform's aver-
15 age response time (not including any auto-
16 mated response or response confirming re-
17 ceipt by the platform) with respect to a
18 subpoena issued by a law enforcement
19 agency; and

20 (v) any other reporting metrics on ille-
21 gal or illicit content (including human traf-
22 ficking, child exploitation, or other crimes),
23 as determined appropriate by the Advisory
24 Committee.

25 (b) ADOPTION OF REPORTING METRICS.—

1 (1) REVIEW OF RECOMMENDATIONS.—Not later
2 than 30 days after the date on which the Advisory
3 Committee provides its recommendations to the
4 Commission under subsection (a)(3)(A)(i), the Com-
5 mission shall submit to Congress a report that indi-
6 cates—

7 (A) which recommendations of the Advi-
8 sory Committee that the Commission imple-
9 mented, plans to implement, or adopted; and

10 (B) which such recommendations the Com-
11 mission did not implement, does not plan to im-
12 plement, or does not adopt and a rationale for
13 that determination.

14 (2) GUIDANCE TO SOCIAL MEDIA PLAT-
15 FORMS.—Not later than 90 days after the Advisory
16 Committee provides its recommendations to the
17 Commission under subsection (a)(3)(A)(i), the Com-
18 mission shall issue guidance to social media plat-
19 forms describing the reporting metrics adopted by
20 the Commission.

21 (c) REPORTING REQUIREMENT.—Not later than 180
22 days after the Commission issues guidance under sub-
23 section (b)(2), and annually thereafter, each social media
24 platform shall submit to the Commission, in a publicly
25 available manner, a report that includes—

1 (1) the reporting metrics required by the Com-
2 mission as described in subsection (a)(3)(B); and

3 (2) a description of any efforts taken by the
4 platform to monitor advertisements or other infor-
5 mation promoting illicit activity on an account on
6 the platform.

7 **SEC. 4. ENFORCEMENT.**

8 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
9 A violation of section 2(a) or 3(c) or a regulation promul-
10 gated under this Act shall be treated as a violation of a
11 rule defining an unfair or deceptive act or practice under
12 section 18(a)(1)(B) of the Federal Trade Commission Act
13 (15 U.S.C. 57a(a)(1)(B)).

14 (b) POWERS OF THE COMMISSION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (3), the Commission shall enforce this Act in
17 the same manner, by the same means, and with the
18 same jurisdiction, powers, and duties as though all
19 applicable terms and provisions of the Federal Trade
20 Commission Act (15 U.S.C. 41 et seq.) were incor-
21 porated into and made a part of this Act.

22 (2) PRIVILEGES AND IMMUNITIES.—Except as
23 provided in paragraph (3), any person who violates
24 section 2(a) or 3(c) or a regulation promulgated
25 under this Act shall be subject to the penalties and

1 entitled to the privileges and immunities provided in
2 the Federal Trade Commission Act (15 U.S.C. 41 et
3 seq.).

4 (3) COMMON CARRIERS AND NONPROFIT ORGA-
5 NIZATIONS.—Notwithstanding section 4, 5(a)(2), or
6 6 of the Federal Trade Commission Act (15 U.S.C.
7 44, 45(a)(2), 46) or any jurisdictional limitation of
8 the Commission, the Commission shall also enforce
9 this Act, in the same manner provided in paragraphs
10 (1) and (2), with respect to—

11 (A) common carriers subject to the Com-
12 munications Act of 1934 (47 U.S.C. 151 et
13 seq.) and Acts amendatory thereof and supple-
14 mentary thereto; and

15 (B) organizations not organized to carry
16 on business for their own profit or that of their
17 members.

18 (4) AUTHORITY PRESERVED.—Nothing in this
19 Act shall be construed to limit the authority of the
20 Commission under any other provision of law.

21 (5) RULEMAKING.—The Commission shall pro-
22 mulgate in accordance with section 553 of title 5,
23 United States Code, such rules as may be necessary
24 to carry out this Act.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) CHAIR.—The term “Chair” means the
4 Chair of the Federal Trade Commission.

5 (2) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (3) CONTROLLED SUBSTANCE.—The term
8 “controlled substance” has the meaning given that
9 term in section 102 of the Controlled Substances
10 Act (21 U.S.C. 802).

11 (4) COUNTERFEIT SUBSTANCE.—The term
12 “counterfeit substance” has the meaning given that
13 term in section 102 of the Controlled Substances
14 Act (21 U.S.C. 802).

15 (5) ILLICIT ACTIVITY.—The term “illicit activ-
16 ity” means the unlawful production, manufacturing,
17 distribution, advertisement, or sale of a controlled
18 substance.

19 (6) SOCIAL MEDIA PLATFORM.—The term “so-
20 cial media platform”—

21 (A) means a website or mobile web applica-
22 tion that—

23 (i) permits a person to become a reg-
24 istered user, establish an account, or create
25 a profile for the purpose of allowing the
26 user to create, share, and view user-gen-

1 erated content (including goods or services
2 offered for sale) through such an account
3 or profile;

4 (ii) enables 1 or more users to gen-
5 erate content that can be viewed by other
6 users of the platform; and

7 (iii) primarily serves as a medium for
8 users to interact with content generated by
9 other users of the medium and for the
10 platform to deliver advertisements to users;
11 and

12 (B) includes a social network, an online
13 chat room or message board, an online market-
14 place, and any other platform determined ap-
15 propriate by the Commission.