

attorney's fees and litigation costs, and any other relief, including equitable or declaratory relief, that the court determines appropriate.

(C) Injury in fact.—A violation of this subtitle or a regulation promulgated under this subtitle with respect to the covered data of an individual constitutes a concrete and particularized injury in fact to that individual.

(c) Rule of construction.—Nothing in this subtitle shall be construed—

(1) to preempt or limit any Federal, State, local, or Tribal law that provides equal or greater protection for privacy, data security, data portability, interoperability, or protection against deceptive, manipulative, misleading, abusive, or intrusive advertising or data practices; or

(2) to limit the authority of the Federal Trade Commission, the Attorney General, the Federal Communications Commission, the Secretary of Health and Human Services, or any other Federal agency under any other provision of law.

Subtitle E—Rein In Big Tech

SEC. 571. COMPETITION AND TRANSPARENCY IN DIGITAL ADVERTISING.

(a) Digital advertising trading transparency and competition.—The Clayton Act is amended by inserting after section 8 ([15 U.S.C. 19](#)) the following:

"Sec. 8A. Competition and transparency in digital advertising.

"(a) Definitions.—In this section:

"(1) Applicability date.—The term 'applicability date' means the date that is 1 year after the date of enactment of this section.

"(2) Brokerage customer.—The term 'brokerage customer' means a person who has purchased or sold digital advertisements, or directly related goods or services, through a buy-side brokerage or a sell-side brokerage.

"(3) Buy-side brokerage.—The term 'buy-side brokerage' means a person in the business of effecting transactions on digital advertising exchanges, including by offering software or services that assist in serving or displaying digital advertisements, for other buyers.

"(4) Digital advertisement.—The term 'digital advertisement' means an advertisement that is served electronically over a computer network, including the internet.

"(5) Digital advertising exchange.—The term 'digital advertising exchange' means a person who constitutes, maintains, or provides a marketplace for or facilitates bringing together buyers and 1 or more sellers of digital advertisements, or for otherwise performing with respect to digital advertising the functions commonly performed by a digital advertising marketplace.

"(6) Digital advertising revenue.—The term 'digital advertising revenue' means the greater of—

"(A) global revenue derived from or directly related to the operation of a digital advertising exchange, a buy-side brokerage, or a sell-side brokerage;

"(B) the sum of the clearing prices of all digital advertisements bought or sold from or through a digital advertising exchange;

"(C) the total value of the gross advertising spending managed by a buy-side brokerage;
or

"(D) the total value of the gross advertising sales managed by a sell-side brokerage.

"(7) Divestiture deadline.—The term 'divestiture deadline' means, with respect to a required divestiture approved by the Attorney General, the later of—

"(A) 30 days after the date on which the Attorney General approves the required divestiture; or

"(B) 30 days after the expiration of any applicable waiting period specified in section 7A.

"(8) Own.—The term 'own' means to own, operate, or control, directly or indirectly, in whole or in part.

"(9) Person.—The term 'person' includes—

"(A) any subsidiary of an entity; and

"(B) any corporate parent of an entity.

"(10) Required divestiture.—The term 'required divestiture'—

"(A) means a divestiture, sale, or other transaction undertaken to comply with any provision of this section; and

"(B) does not include any action required by a court of the United States.

"(11) Sell-side brokerage.—The term 'sell-side brokerage' means a person in the business of effecting transactions on digital advertising exchanges, including by offering software or services that assist in serving or displaying digital advertisements, for sellers.

"(b) Prohibitions.—No person with more than \$20,000,000,000 in digital advertising revenue during the previous calendar year may, after the applicability date—

"(1) own a digital advertising exchange if the person—

"(A) owns a sell-side brokerage or a buy-side brokerage; or

"(B) is a seller of digital advertising space;

"(2) own a sell-side brokerage if the person owns a buy-side brokerage; or

"(3) own a buy-side brokerage or a sell-side brokerage if the person is a buyer or seller of digital advertising space.

"(c) Requirements.—On and after the applicability date, any person with more than \$5,000,000,000 in digital advertising revenue during the previous calendar year shall be subject to the following requirements:

"(1) Best interest duty.—A buy-side brokerage or sell-side brokerage—

"(A) shall, in the course of providing services as a brokerage, use reasonable diligence, care, and skill to act in the best interests of the brokerage customers; and

"(B) may not put the interests of the brokerage ahead of those of the brokerage customers.

"(2) Best execution duty.—A buy-side brokerage or sell-side brokerage shall seek the most favorable terms reasonably available under the circumstances for each order transaction of the brokerage customer.

"(3) Transparency requirements.—

"(A) In general.—Upon written request from a brokerage customer, a buy-side brokerage or sell-side brokerage shall supply to the brokerage customer, within a reasonable time, information sufficient to permit the brokerage customer to verify compliance of the brokerage with the obligations under paragraphs (1) and (2).

"(B) Contents.—The information described in subparagraph (A) shall include, if requested and to the extent such information is collected by the brokerage in the ordinary course of business—

"(i) in the case of a sell-side brokerage providing information to a sell-side brokerage customer—

"(I) a unique and persistent identifier that identifies each unique digital advertising space for sale;

"(II) for each identifier described in subclause (I), all bids received, and, for each bid received, the bid submitted to the digital advertising exchange on behalf of the buy-side brokerage customer, the winning price, the uniform resource locator or other property identifier at the lowest level of granularity, the identity of the digital advertising exchange or other digital advertising venue returning the bid, date, time that the bid response was received in microseconds or a lower level of granularity, web domain associated with the advertising creative, the advertising creative size and format, and whether the bid won the impression of the seller;

"(III) the nature of any data collected or derived from the brokerage customer or any user or customer of the brokerage customer, and the ways in which the data is used by the sell-side brokerage;

"(IV) the order or bid routing practices or processes, including any material exceptions to the standard practice of the brokerage; and

"(V) the source and nature of any compensation paid or received in connection with transactions; and

"(ii) in the case of a buy-side brokerage providing information to a buy-side brokerage customer—

"(I) all bids won by the buy-side brokerage customer, and for each bid won, the maximum allowed bid of the advertiser, if any, the uniform resource locator or other property identifier at the lowest level of granularity, date, the digital advertising exchange, the web domain associated with the advertising creative, the advertising creative size and format, the winning price, the bid submitted to the digital advertising exchange on behalf of the buy-side brokerage customer, and, if possible, whether the ad served and whether the ad rendered;

"(II) the order or bid routing practices or processes; and

"(III) the source and nature of any compensation paid or received in connection with transactions.

"(C) Retention of records.—Brokerages shall retain the applicable records specified in subparagraph (B) collected in the ordinary course of business until provided to a requesting brokerage customer but not longer than 90 days. Brokerages shall retain billing information for brokerage customers for not fewer than 12 months.

"(D) User privacy.—

"(i) In general.—When providing information to a brokerage customer in response to a request authorized by subparagraph (A), the brokerage shall, to the greatest extent possible consistent with the purpose of subparagraph (A), anonymize, hash, or otherwise render the information incapable of being tied to an individual web user.

"(ii) Prohibiting tracking.—A brokerage customer may not use data or information received in response to a request made under subparagraph (A) for any purpose other than—

"(I) verifying compliance of a brokerage with the obligations under paragraphs (1) and (2); or

"(II) bringing an action under subsection (d)(3).

"(4) Firewalls.—

"(A) Buy-side and sell-side brokerages.—Buy-side brokerages and sell-side brokerages shall establish, maintain, and enforce written policies and procedures reasonably designed to ensure compliance with the obligations under this subsection.

"(B) Other persons.—Persons not subject to prohibitions under subsection (b) shall establish, maintain, and enforce written policies and procedures reasonably designed to ensure that the buy-side brokerage, sell-side brokerage, digital advertising exchange, and role as a buyer or seller of digital advertising, as applicable, operate separate and independent from one another and transact business at arm's length.

"(5) Fair access duty.—A digital advertising exchange shall provide every buyer and seller in the exchange fair access, including with respect to operations of the exchange, colocation, any technology systems or data, information related to transactions, service, or products offered, exchange processes, and functionality.

"(6) Time synchronization.—A digital advertising exchange, buy-side brokerage, or sell-side brokerage shall—

"(A) synchronize its business clocks at a minimum to within a 2 milliseconds tolerance of the time maintained by the atomic clock of the National Institute of Standards and Technology; and

"(B) maintain the synchronization described in subparagraph (A).

"(7) Data ownership.—All records pertaining to an order solicited or submitted by a brokerage customer, and the subsequent result of the order, shall remain the property of the customer, including any bids solicited from or submitted to any digital advertising exchange, unless the information is otherwise publicly available.

"(8) Routing practices disclosure.—

"(A) In general.—Every sell-side brokerage and buy-side brokerage shall—

"(i) make publicly available for each calendar quarter a report on the order routing practices of the sell-side brokerage or buy-side brokerage, as applicable, for digital advertisements during the quarter broken down by calendar month; and

"(ii) retain the report described in clause (i) posted on an internet website that is free and readily accessible to the public for the 3-year period beginning on the date on which the report is posted.

"(B) Format.—Reports made available pursuant to subparagraph (A) shall—

"(i) be rendered in a format that makes the reports readily informative to the average brokerage customer; and

"(ii) include for the 10 venues to which the largest number of total bid requests or bid responses were routed for execution and for any venue to which 5 percent or more of bid requests or bid responses were routed for execution—

"(I) the total number of bids routed;

"(II) the total number of bids executed;

"(III) the fill rate of bids;

"(IV) the average net execution fee or rebate per 1,000 impressions;

"(V) the average time in milliseconds between when a bid request is sent and when a bid response is received; and

"(VI) the value and form of any compensation given in exchange for routing or execution.

"(9) Certification.—A digital advertising exchange, buy-side brokerage, or sell-side brokerage shall certify to the Attorney General on an annual basis that such certifying entity has complied with the requirements under this subsection.

"(d) Enforcement.—

"(1) Attorney General and State attorneys general.—

"(A) Definition.—In this paragraph, the term 'Fund' means the Antitrust Consumer Damages Fund established under subparagraph (D).

"(B) Civil action.—The Attorney General and State attorneys general may bring an action on behalf of persons in the United States injured in their business or property by reason of any violation of this section in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall—

"(i) in a case brought by the Attorney General or a State attorney general, be entitled to injunctive relief; and

"(ii) in a case brought by the Attorney General, recover damages sustained by such persons.

"(C) Damages.—

"(i) In general.—The court may award under this subsection, pursuant to a motion by the Attorney General promptly made, damages calculated under section 4 of the Clayton Act ([15 U.S.C. 15](#)).

"(ii) No duplicative award.—A court may not award any damages under this subparagraph that are duplicative of damages awarded before the date of the award under this subparagraph in a separate civil action pertaining to the same conduct and injured party.

"(iii) Payments.—A court awarding damages to a person in a civil action after the date of an award of damages under this subsection that would be duplicative of damages awarded to the Attorney General on behalf of the person shall direct that such damages shall first be paid by the Attorney General from amounts in the Fund and, to the extent such damages are not fully paid from amounts in the Fund, shall be paid by the defendant.

"(D) Antitrust Consumer Damages Fund.—

"(i) In general.—There is established in the Treasury of the United States a fund to be known as the 'Antitrust Consumer Damages Fund', which shall consist of amounts deposited under clause (ii).

"(ii) Deposits and availability.—Notwithstanding [section 3302 of title 31, United States Code](#), any amounts received by the Attorney General under an award under this subsection—

"(I) shall be deposited in the Fund; and

"(II) shall be available to the Attorney General, without further appropriation, for distribution to persons in the United States harmed by the applicable violation of the Clayton Act ([15 U.S.C. 12 et seq.](#)).

"(iii) Deposits into the general fund.—Effective on the day after the date that is 10 years after the date on which an award is received under this paragraph, the unobligated balances in the Fund of amounts that were received under the award are rescinded and shall be deposited in the general fund of the Treasury.

"(2) Divestiture enforcement.—The Attorney General may bring an action on behalf of the United States in any district court of the United States in the district in which the defendant resides or is found or has an agent, and may obtain injunctive relief upon showing by a preponderance of the evidence that the defendant has—

"(A) violated a requirement of subsection (e); or

"(B) undertaken a required divestiture that unnecessarily harms or threatens competition in any market.

"(3) Private civil action.—

"(A) In general.—A brokerage customer harmed by a knowing violation of subsection (c) by a person with more than \$20,000,000,000 in digital advertising revenue during the previous calendar year may bring a civil action in an appropriate court to obtain injunctive relief, if appropriate, and recover damages in the amount of the greater of—

"(i) \$1,000,000 for each month in which the violation occurred and reasonable attorney's fees; or

"(ii) actual damages and reasonable attorney's fees.

"(B) No class action waiver.—No person covered by this section may require a class action waiver for claims under this section, including for arbitration.

"(C) Timing.—A civil action for a violation of subsection (c) may be brought—

"(i) on or after the applicability date, if no required divestiture applies to the defendant; or

"(ii) if a required divestiture applies to the defendant, at any time after the later of—

"(I) the expiration of any applicable divestiture deadline; or

"(II) the expiration of the deadline described in subsection (e)(1), if no filing has been made.

"(e) Divestiture.—

"(1) Filing.—Any agreement or other document setting out the terms of a required divestiture shall be filed with the Attorney General not later than the later of—

"(A) the applicability date; or

"(B) the earlier of—

"(i) 30 days after the date on which an agreement making a required divestiture under this section is executed; or

"(ii) 180 days after meeting the criteria specified in any paragraph of subsection (b).

"(2) Attorney General review.—The Attorney General shall approve a required divestiture upon a showing by the person making the divestiture that the terms of the divestiture, including the qualifications of any counterparty to the divestiture, will not unnecessarily harm or threaten competition in any market.

"(3) Timing.—

"(A) In general.—The Attorney General shall grant or deny approval of a required divestiture, unless agreed to by the parties, not later than the later of—

"(i) 60 days after receipt of all information obtained pursuant to paragraph (5); or

"(ii) 60 days after receipt of the filing made under paragraph (1).

"(B) Completion.—A divestiture shall be completed not later than the divestiture deadline.

"(C) Effect of denial.—If the Attorney General denies approval of a required divestiture, the person shall file a revised agreement or other document under paragraph (1) not later than 30 days after the date of the denial. A denied divestiture may not be completed.

"(4) Guidance.—The Attorney General shall—

"(A) not later than 90 days after the date of enactment of the POPULIST Act, issue guidance on the divestiture process; and

"(B) update the guidance described in subparagraph (A) as the Attorney General determines is appropriate.

"(5) Compulsory process.—The Attorney General may request or issue a civil investigative demand under section 3 of the Antitrust Civil Process Act ([15 U.S.C. 1312](#)) for documents from any person involved in a required divestiture to determine the competitive effects of the divestiture.

"(f) Rules of construction.—Nothing in this section shall—

"(1) prohibit a person from—

"(A) selling their own inventory of advertising space if—

"(i) the inventory was not acquired solely for the purposes of resale, except to monetize the content or intellectual property of the person; and

"(ii) the person does not also assist a third-party in the sale or purchase of advertising space, other than purchasing advertising space from the person; or

"(B) buying inventory to market the products or services of the person;

"(2) abridge or supersede any provision of, or rules issued pursuant to, section 7A;

"(3) prohibit a person from, consistent with the antitrust laws, entering into a joint venture or other collaboration to prevent harm from spam, fraud, or other forms of abuse in digital advertising; or

"(4) require the disclosure of information if the disclosure would violate a law of the United States or a foreign country.

"(g) Inflation adjustment.—For each fiscal year commencing after September 30, 2027, the Federal Trade Commission shall adjust and publish each dollar amount in this section that references digital advertising revenue in the same manner as provided in section 8(a)(5), except that the base year shall be the fiscal year ending September 30, 2026."

SEC. 572. OPEN APP MARKETS ACT.

(a) Definitions.—In this section:

(1) App.—The term "app" means a software application or electronic service that may be run or directed by a user on a computer, a mobile device, or any other general purpose computing device.

(2) App store.—The term "app store" means a publicly available website, software application, or other electronic service that distributes apps from third-party developers to users of a computer, a mobile device, or any other general purpose computing device.

(3) Covered company.—The term "covered company" means any person that owns or controls an app store for which users in the United States exceed 50,000,000.

(4) Developer.—The term "developer" means a person that owns or controls an app or an app store.

(5) In-app payment system.—The term "in-app payment system" means an application, service, or user interface to process payments from users of an app.

(6) Nonpublic business information.—The term "nonpublic business information" means nonpublic data that is—

(A) derived from a developer or an app or app store owned or controlled by a developer, including interactions between users and the app or app store of the developer; and

(B) collected by a covered company in the course of operating an app store or providing an operating system.

(b) Protecting a competitive app market.—

(1) Exclusivity and tying.—A covered company shall not—

(A) require developers to use an in-app payment system owned or controlled by the covered company or any of its business partners as a condition of being—

- (i) distributed on an app store; or
- (ii) accessible on an operating system;

(B) require, as a term of distribution on an app store, that pricing terms or conditions of sale be equal to or more favorable on its app store than the terms or conditions under another app store; or

(C) take punitive action or otherwise impose less favorable terms and conditions against a developer for using or offering different pricing terms or conditions of sale through another in-app payment system or on another app store.

(2) Interference with legitimate business communications.—A covered company shall not impose restrictions on communications of developers with users of an app through an app or direct outreach to a user concerning legitimate business offers, including pricing terms and product or service offerings.

(3) Nonpublic business information.—A covered company shall not use nonpublic business information derived from a third-party app for the purpose of competing with that app.

(4) Interoperability.—A covered company that controls, directly or indirectly, the operating system or operating system configuration on which its app store operates shall allow and provide readily accessible means for users of that operating system to—

(A) choose third-party apps or app stores as defaults for categories appropriate to the app or app store;

(B) install third-party apps or app stores through means other than the covered company's app store, without requiring the developer to be verified or approved by the covered company; and

(C) hide or delete apps or app stores provided or preinstalled by the covered company or any of its business partners.

(5) Self-preferencing in search.—

(A) In general.—A covered company shall not provide unequal treatment of apps in an app store through unreasonably preferencing or ranking the apps of the covered company or any of its business partners over those of other apps.

(B) Considerations.—Unreasonably preferencing—

(i) includes applying ranking schemes or algorithms that prioritize apps based on a criterion of ownership interest by the covered company or its business partners; and

(ii) does not include clearly disclosed advertising.

(6) Open app development.—Access to operating system interfaces, development information, and hardware and software features shall be provided to developers on a timely basis and on terms that are equivalent or functionally equivalent to the terms for access by similar apps or functions provided by the covered company or to its business partners.

(c) Protecting the security and privacy of users.—

(1) In general.—Subject to paragraph (2), a covered company shall not be in violation of subsection (b) for an action that is—

- (A) necessary to achieve user privacy, security, or digital safety;
- (B) taken to prevent spam or fraud; or
- (C) taken to prevent a violation of, or comply with, Federal or State law.

(2) Requirements.—Paragraph (1) shall apply only if the covered company establishes by clear and convincing evidence that the action—

- (A) is applied on a demonstrably consistent basis to apps of the covered company or its business partners and to other apps;
- (B) is not used as a pretext to exclude, or impose unnecessary or discriminatory terms on, third-party apps, in-app payment systems, or app stores; and
- (C) is narrowly tailored and could not be achieved through a less discriminatory and technically possible means.

(d) Enforcement.—

(1) In general.—The Federal Trade Commission, the Attorney General, and any attorney general of a State subject to paragraph (4) shall enforce this 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.](#)) or the Clayton Act ([15 U.S.C. 12 et seq.](#)), as appropriate, were incorporated into and made a part of this section.

(2) Unfair methods of competition.—A violation of this section constitutes an unfair method of competition under section 5 of the Federal Trade Commission Act ([15 U.S.C. 45](#)).

(3) Federal Trade Commission independent litigation authority.—If the Federal Trade Commission has reason to believe that a covered company violated this section, the Federal Trade Commission may commence a civil action, in its own name, by any of its attorneys designated for such purpose, to recover a civil penalty and seek other appropriate relief in a district court of the United States.

(4) Parens patriae.—Any attorney general of a State may bring a civil action in the name of such State for a violation of this section as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction over the defendant, and may secure any form of relief provided for in this subsection.

(5) Suits by developers injured.—

(A) In general.—Any developer who shall be injured by reason of anything forbidden in this section may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages sustained by such developer, and the

cost of suit, including a reasonable attorney's fee. The court may award under this subparagraph, pursuant to a motion by such developer promptly made, simple interest on actual damages for the period beginning on the date of service of such developer's pleading setting forth a claim under this section and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this subparagraph for any period is just in the circumstances, the court shall consider only—

(i) whether such developer or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

(ii) whether, in the course of the action involved, such developer or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

(iii) whether such developer or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.

(B) Injunctive relief.—Any developer shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this section, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue. In any action under this subparagraph in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

(e) Rule of construction.—Nothing in this section shall be construed to limit any authority of the Attorney General or the Federal Trade Commission under the antitrust laws (as defined in the first section of the Clayton Act ([15 U.S.C. 12](#))), the Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#)), or any other provision of law, or to limit the application of any law.

(f) Effective date.—This section shall be effective January 1, 2027.

SEC. 573. PROHIBITION RELATED TO LARGE PLATFORM UTILITIES.

(a) Definitions.—In this section:

(1) Affiliate.—The term "affiliate" has the meaning given that term under section 2 of the Bank Holding Company Act of 1956.

(2) Alternative trading system.—The term "alternative trading system" has the meaning given that term under [section 242.300 of title 17, Code of Federal Regulations](#).

(3) Banking definitions.—The terms "depository institution" and "depository institution holding company" have the meanings given those terms, respectively, under section 3 of the Federal Deposit Insurance Act.

(4) Commodities definitions.—The terms "commodity pool operator", "commodity trading advisor", and "futures commission merchant" have the meanings given those terms, respectively, under section 1a of the Commodity Exchange Act.

(5) Credit union.—The term "credit union" means a Federal credit union or a State credit union, as such terms are defined, respectively, under section 101 of the Federal Credit Union Act.

(6) Digital asset.—The term "digital asset" means an asset that is issued and transferred using distributed ledger or blockchain technology, including "virtual currencies", "coins", and "tokens".

(7) Exchange.—The term "exchange" means a platform that facilitates the matching of third parties for the purpose of transacting goods, services, data, or value under standardized platform rules.

(8) Financial institution.—The term "financial institution" means—

(A) an alternative trading system;

(B) a branch or agency of a foreign bank, as defined in section 1(b) of the International Banking Act of 1978;

(C) a broker;

(D) a commodity pool operator;

(E) a commodity trading advisor;

(F) a credit union;

(G) a dealer;

(H) a depository institution;

(I) a depository institution holding company;

(J) a futures commission merchant;

(K) an investment adviser;

(L) an investment company;

(M) a national securities exchange;

(N) an organization operating under section 25 or 25A of the Federal Reserve Act;

(O) a private fund;

(P) a State-licensed money services business; and

(Q) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956.

(9) Large platform utility.—The term "large platform utility" means a technology company—

(A) with annual global revenue of \$25,000,000,000 or more; and

(B) that is predominantly engaged in the business of offering to the public an online marketplace, an exchange, or a platform for connecting third parties.

(10) Medium of exchange.—The term "medium of exchange" means an asset that is used or intended to be used to facilitate the purchase or sale of goods or services.

(11) Money services business.—The term "money services business" has the meaning given that term under [section 1010.100 of title 31, Code of Federal Regulations](#).

(12) Online marketplace.—The term "online marketplace" means a digital platform that facilitates transactions between 2 or more unaffiliated third parties for the sale, lease, or exchange of goods or services, and that establishes, enforces, or materially influences the terms under which such transactions occur.

(13) Private fund.—The term "private fund" has the meaning given that term under section 202(a) of the Investment Advisers Act of 1940.

(14) Securities definitions.—The terms "broker", "dealer", "investment adviser", "investment company", and "national securities exchange" have the meanings given those terms, respectively, under section 3 of the Securities Exchange Act of 1934.

(15) Store of value.—The term "store of value" means an asset that is used or intended to be used to preserve value for future use.

(16) Unit of account.—The term "unit of account" means an asset that is used or intended to be used to denominate prices, debts, or financial obligations.

(b) Prohibition on affiliation with financial institutions.—A large platform utility may not be, and may not be affiliated with any person that is, a financial institution.

(c) Prohibition related to cryptocurrencies.—A large platform utility may not establish, maintain, or operate, and may not be affiliated with any person that establishes, maintains, or operates, a digital asset that is intended to be widely used as a medium of exchange, unit of account, store of value, or any other similar function.

(d) Wind-down period.—With respect to a large platform utility—

(1) if the large platform utility is, or is affiliated with a person that is, a financial institution on the date of enactment of this section, subsection (b) shall not apply to such large platform utility until July 1, 2027.

(2) if the large platform utility maintains or operates, or is affiliated with a person that maintains or operates, a digital asset described under subsection (c) on the date of enactment of this section, subsection (c) shall not apply to such large platform utility until July 1, 2027.

(e) Enforcement.—

(1) Unfair method of competition.—A violation of this section shall constitute an unfair method of competition under section 5 of the Federal Trade Commission Act ([15 U.S.C. 45](#)).

(2) Federal Trade Commission.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms of the Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#)) were incorporated into and made a part of this section.

(3) Injunctive relief.—The Federal Trade Commission or Department of Justice may seek injunctive or other equitable relief to enjoin conduct that violates this section.

(4) Penalty.—Any large platform utility that violates subsection (b) or (c), and any financial institution or other affiliate that knowingly participates in such a violation, shall be subject to a fine of not more than \$1,000,000 for each day of the violation.

SEC. 574. STRUCTURAL SEPARATION REQUIREMENTS FOR TECHNOLOGY PLATFORMS.

(a) Definitions.—In this section:

(1) Affiliated entity.—The term "affiliated entity" means any entity that is under common ownership or control with another entity.

(2) Antitrust Division.—The term "Antitrust Division" means the Antitrust Division of the Department of Justice, acting through the Assistant Attorney General in charge of the Antitrust Division.

(3) Back-end infrastructure platform.—The term "back-end infrastructure platform" means the business of operating a service whose primary function is providing computing, storage, hosting, content delivery, database, networking, identity, security, developer, foundation model services, model serving, payment processing, or similar infrastructure services that other businesses, developers, or services depend upon to operate digital products or services. Such term does not include infrastructure used solely for an operator's own internal operations.

(4) Commission.—The term "Commission" means the Federal Trade Commission.

(5) Common ownership or control.—The term "common ownership or control" means ownership or control, direct or indirect, of 2 or more entities by the same person or group of persons.

(6) Control.—The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies, or operations of an entity. A person shall be rebuttably presumed to control an entity if such person—

(A) owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the entity;

(B) has the power to appoint 25 percent or more of the board of directors or equivalent governing body of the entity; or

(C) possesses contractual or other rights that permit such person to direct or materially influence the strategic, operational, hosting, distribution, curation, search, communications, marketplace, gatekeeping, gaming, or access decisions of the entity.

(7) Covered person.—The term "covered person" means a person that—

(A) operates 1 or more technology platform verticals; and

(B) for any such vertical, meets the following threshold or thresholds set forth in the following clauses:

(i) With respect to a search platform, public attention platform, private communications platform, or marketplace platform, in not fewer than 3 months during the most recently completed 12-month period, had—

(I) more than 30,000,000 users in the United States or more than 300,000,000 users worldwide; and

(II) during the most recently completed taxable year, had more than \$1,500,000,000 in global revenue.

(ii) With respect to a gatekeeping platform, in not fewer than 3 months during the most recently completed 12-month period, had—

(I) more than 30,000,000 devices in the United States or more than 300,000,000 devices worldwide; and

(II) during the most recently completed taxable year, had more than \$1,500,000,000 in global revenue.

(iii) With respect to a gaming platform, in not fewer than 3 months during the most recently completed 12-month period, had—

(I) more than 10,000,000 users in the United States or more than 100,000,000 users worldwide; and

(II) during the most recently completed taxable year, had more than \$1,500,000,000 in global revenue.

(iv) With respect to a back-end infrastructure platform, during the most recently completed taxable year, had more than \$10,000,000,000 in global revenue.

For purposes of this paragraph, the users, devices, revenue, and activities of a person shall include those of any affiliated entity.

(8) Gatekeeping platform.—The term "gatekeeping platform" means the business of controlling an operating system, device-level software environment, application-distribution layer, or other technical access layer whose primary function is materially determining the terms on which persons or applications may access, interoperate with, install, distribute, or use software, hardware, or digital services on a computer, smartphone, tablet, wearable device, smart television, game console, or similar connected device.

(9) Gaming platform.—The term "gaming platform" means the business of operating a digital service whose primary function is materially enabling, distributing, hosting, selling, streaming, licensing, or controlling access to video games or interactive entertainment content, including a game console ecosystem, digital game storefront, cloud gaming service, gaming subscription service, or first-party gaming network. Such term does not include a general-purpose operating system or connected-device ecosystem solely because it permits the use of video games.

(10) Marketplace platform.—The term "marketplace platform" means an online platform whose primary function is facilitating, intermediating, or governing transactions between buyers and sellers of goods or services. Such term does not include a service whose transaction functionality is merely incidental to another technology platform vertical or a service that exclusively facilitates the sale of goods or services offered by the operator or an affiliated entity.

(11) Online platform.—The term "online platform" means the business of operating a website, application, operating system, or other internet-accessible service that enables users to access, view, generate, share, modify, or otherwise interact with digital content.

(12) Person.—The term "person" has the meaning given such term in section 1 of the Clayton Act ([15 U.S.C. 12](#)).

(13) Primary function.—The term "primary function" means the principal function of a service, business line, or platform, as determined by the predominance of its revenues, usage, design, marketing, operational deployment, and strategic purpose. The Commission and the Antitrust Division may, by joint rule, further clarify the application of this paragraph.

(14) Private communications platform.—The term "private communications platform" means an online platform whose primary function is enabling users to send, receive, store, or manage private, encrypted, semi-private, or limited-audience communications, including direct messages, text messages, voice messages, voice calls, video calls, group chats, and similar person-to-person or closed-group communications. Such term does not include communications functionality that is merely incidental to another technology platform vertical.

(15) Profits.—The term "profits" means, with respect to any person and any month, the amount equal to the greater of—

(A) the net income (or loss) of such person before provision for income taxes for such month, as determined in accordance with generally accepted accounting principles and consistent with the accounting principles used in the most recent audited consolidated financial statements of such person; and

(B) 4 percent of the gross revenues of such person for such month, as so determined.

(16) Public attention platform.—The term "public attention platform" means an online platform whose primary function is curating, distributing, presenting, or otherwise making content supplied by users or other third parties available to the public, including through feeds, subscriptions, recommendations, rankings, trending displays, or similar mechanisms. Such term does not include an online platform that consists primarily of content selected by the operator of such platform and for which any comment, product review, or other user-generated content is incidental to, directly related to, or dependent on the provision of such content.

(17) Search platform.—The term "search platform" means an online platform whose primary function is allowing users to submit queries in order to retrieve, recommend, or display responsive search results, listings, maps, or other discoverable content from across the internet. Such term does not include search functionality that is merely internal to a technology platform vertical.

(18) Technology platform vertical.—The term "technology platform vertical" means any of the following:

- (A) Back-end infrastructure platform.
- (B) Gaming platform.
- (C) Gatekeeping platform.
- (D) Marketplace platform.
- (E) Private communications platform.
- (F) Public attention platform.
- (G) Search platform.

(b) Prohibition on ownership of more than 1 technology platform vertical.—

(1) (A) In general.—It shall be unlawful for any covered person to directly or indirectly own, operate, control, or direct the operation of any entity or combination of entities engaged in more than 1 technology platform vertical, in or affecting interstate or foreign commerce.

(B) Prohibition on new acquisitions.—After the date of enactment of this Act, no covered person may acquire, directly or indirectly, control of assets or operations in a technology platform vertical other than the technology platform vertical in which such person already engages, in violation of subparagraph (A).

(2) Rulemaking.—Not later than January 30, 2027, the Commission and the Antitrust Division shall, by joint interim final rule, define for purposes of this section—

(A) a de minimis threshold, by technology platform vertical and relevant technology market, below which an activity may be excluded from prohibition under this subsection, except that—

(i) no such threshold may exceed 5 percent of the primary market measure specified by joint rule for the applicable technology platform vertical in the relevant technology market, which may include revenue, users, devices, queries, viewing time, messages, transactions, gross merchandise value, compute, storage, bandwidth, or a comparable measure;

(ii) with respect to a gatekeeping platform, no such threshold may exceed 1 percent of the applicable measure described in clause (i); and

(iii) any exclusion under this subparagraph shall be construed narrowly and shall not permit the preservation, recreation, or continuation of vertically integrated control inconsistent with the purposes of this section;

(B) standards for applying the definitions of "affiliated entity", "common ownership or control", and "control" under subsection (a), including standards addressing contractual arrangements of operational control, exclusive contractual arrangements, indirect means of control, and functions materially comparable to a technology platform vertical;

(C) milestones for divestiture to ensure compliance within the deadline under subsection (c), provided such milestones may not be later than permitted under subsection (d), including but not limited to—

(i) filing of a divestiture plan;

(ii) the length of time the Commission and the Antitrust Division will review such plan;

(iii) filing of a revised plan, if necessary;

(iv) notification of the person acquiring such divestiture;

(v) the submission of any transaction filing required by section 7A of the Clayton Act ([15 U.S.C. 18a](#)) by the person acquiring such divestiture; and

(vi) the completion of such divestiture; and

(D) for each milestone, whether, in the case of a covered person's knowing and willful failure to meet the milestone, the Commission and the Antitrust Division shall seek—

(i) penalties under subsection (e)(3);

(ii) appointment of a divestiture trustee for such covered person under subsection (e)(4); or

(iii) both clauses (i) and (ii).

(3) Effect of interim final rule.—The interim final rule under paragraph (2) shall take effect upon publication in the Federal Register, shall have the force and effect of law, and may be issued without regard to [section 553 of title 5](#), United States Code. The Commission and the Antitrust Division shall provide a public comment period of not less than 60 days after publication and shall issue final rules not later than October 30, 2027. A delay in issuance or finalization of rules under this paragraph shall not delay, limit, extinguish, or reduce any prohibition, duty, enforcement authority, or divestiture obligation established by this section.

(4) Notice of divestiture requirement.—

(A) In general.—Not later than 60 days after the date of enactment of this Act, the Commission and the Antitrust Division shall, using the best information available, identify each covered person that the Commission and the Antitrust Division jointly determine is required to divest under subsection (c) and notify such covered person of the determination.

(B) 60-day notice not exhaustive.—Notwithstanding subparagraph (A), if the Commission and the Antitrust Division later jointly determine, using the best information available, that a covered person not notified under subparagraph (A) is required to divest under subsection (c), the Commission and the Antitrust Division shall promptly notify such covered person.

(C) No immunity.—Failure to identify or notify a covered person under this paragraph shall not limit, extinguish, or otherwise affect any prohibition, duty, enforcement authority, or divestiture obligation established by this section.

(5) Determination upon request.—

(A) Request.—Any covered person that has not received notice under paragraph (4) may submit to the Commission and the Antitrust Division a written request for a determination of whether that covered person is required to divest under subsection (c).

(B) Determination.—Not later than the later of 30 days after receipt of a request under subparagraph (A) or the expiration of the 60-day period under paragraph (4)(A), the Commission and the Antitrust Division shall jointly issue to the covered person a written determination that states whether the covered person is required to divest under subsection (c). Notice issued under paragraph (4) after receipt of a request under subparagraph (A) shall satisfy this requirement.

(C) No admission or tolling.—Submission of a request under subparagraph (A) shall not—

(i) constitute an admission that the covered person is subject to subsection (b) or required to divest under subsection (c); or

(ii) toll or extend any prohibition, duty, enforcement authority, divestiture obligation, or deadline under this section.

(6) Judicial review.—

(A) Petition for review.—

(i) Determination.—A covered person receiving notice under paragraph (4) or a determination under paragraph (5) may, not later than 30 days after receipt of such notice or determination, file a petition for review of the determination in the United States Court of Appeals for the District of Columbia Circuit.

(ii) Failure to act.—A covered person that submits a request under paragraph (5)(A) and does not receive a written determination within the period required under paragraph (5)(B) may, at any time before receipt of such determination, file a petition in the United States Court of Appeals for the District of Columbia Circuit to compel issuance of the determination.

(B) Application of chapter 7.—[Chapter 7 of title 5, United States Code](#), shall apply to a petition under subparagraph (A). For purposes of such chapter—

(i) a determination under paragraph (4) or (5) shall constitute final agency action; and

(ii) a failure to issue a determination within the period required under paragraph (5)(B) shall constitute agency action unlawfully withheld.

(C) Expedited consideration.—The court shall expedite consideration of a petition filed under subparagraph (A) to the greatest extent practicable.

(c) Divestiture.—Not later than July 1, 2028, any covered person in violation of subsection (b) shall divest such interests as are necessary to come into compliance.

(d) FTC and DOJ review.—

(1) Divestiture plan required.—Not later than April 1, 2027, any covered person required to divest under subsection (c) shall submit to the Commission and the Antitrust Division a divestiture plan. Such plan—

(A) shall be submitted to the Commission and the Antitrust Division in the same manner, and containing substantially similar information, as a transaction filing under section 7A of the Clayton Act ([15 U.S.C. 18a](#)), without respect to any threshold, exemption, or other limitation of such section; and

(B) shall include—

(i) identification of the business, assets, or interests to be divested to come into compliance with subsection (b);

(ii) identification of the proposed acquiring person, if known;

(iii) a timetable for execution;

(iv) any transitional services proposed; and

(v) such other information as the Commission and the Antitrust Division may require by joint rule.

(2) Agency review process.—Not later than 180 days after receipt of a divestiture plan under paragraph (1), but in no case later than October 1, 2027, the Commission and the Antitrust Division shall review the plan.

(A) Lead agency.—The Commission and the Antitrust Division may designate 1 agency to take the lead in conducting the review and communicating with the person submitting the plan.

(B) Review criteria.—The lead agency shall review the effect on competition, interoperability, independent market access, and the public interest—

(i) of the divestiture; and

(ii) of the subsequent acquisition of the divested entity by the acquiring person.

(C) Additional information.—Any request for additional information by an agency shall be made within 30 days of receipt of the plan.

(D) Acquiring person.—

(i) A divestiture plan that identifies a proposed acquiring person may be approved only if the lead agency determines that—

(I) the proposed acquisition of the divested business, assets, or interests by such acquiring person is consistent with subsection (b);

(II) the proposed acquisition would not materially harm competition or otherwise undermine the purposes of this section; and

(III) any statutory reporting, waiting period, or approval requirement applicable to the proposed acquisition will be satisfied before consummation.

(ii) A divestiture plan may be submitted and reviewed without identifying a proposed acquiring person, but no sale, transfer, assignment, or other disposition to an acquiring person shall be consummated if either the Commission or the Antitrust Division disapproves in writing.

(E) Notice of decision.—Not later than the end of the review period, the lead agency shall notify the person in writing—

(i) whether the plan is approved, approved with conditions, or disapproved; and

(ii) the reasons for any disapproval or conditions.

(F) Approval standard.—A divestiture plan shall be treated as approved only if, before the end of the review period, the lead agency has approved the plan in writing, whether unconditionally or subject to conditions accepted in writing by the person submitting the plan, and neither the Commission nor the Antitrust Division has disapproved the plan in writing.

(3) Revised plan following disapproval.—If a plan is disapproved under paragraph (2), the covered person shall submit a revised divestiture plan not later than 60 days after receipt of the disapproval notice.

(A) Review deadline.—Not later than 150 days after receipt of a revised plan, but in no case later than May 1, 2028, the lead agency shall review the revised plan under the procedures set forth in paragraph (2).

(4) No tolling.—No submission, resubmission, agency review, negotiation, request for additional information, waiting period, court proceeding, or other matter shall toll or extend any deadline under this section.

(5) Consequences of noncompliance.—A covered person required to divest under subsection (c) shall be subject to subsection (e)(3), subsection (e)(4), or both, if such person fails to—

(A) submit a divestiture plan under paragraph (1);

(B) submit a revised plan under paragraph (3), if required to do so;

(C) obtain approval of either—

(i) a plan under paragraph (2); or

(ii) a revised plan under paragraph (3);

(D) conform to agreed-upon conditions of an approved plan; or

(E) conclude the divestiture required by subsection (c).

(6) Blocking of actions.—The Commission and the Antitrust Division, jointly or separately, may bring a civil action in any court of competent jurisdiction to block any action relating to the conflicts of interest described in subsection (b) that would materially harm competition, interoperability, or independent market access, or otherwise undermine the purposes of this section.

(e) Enforcement.—

(1) In general.—When the Commission, the Antitrust Division, or an attorney general of a State has reason to believe that a covered person is in violation of this section or a rule promulgated under this section, the Commission, the Antitrust Division, or the attorney general of the State may bring a civil action in an appropriate district court of the United States.

(2) Injunctive and equitable relief.—In any action described in paragraph (1), the applicable court, on a finding that a covered person is in violation of this section or a rule promulgated under this section, shall issue an order requiring such covered person—

(A) to cease and desist from such violation and, if applicable, divest such interests as are necessary to come into compliance with this section; and

(B) to pay an amount equal to the profits derived from any business, asset, operation, or interest subject to divestiture during the period of the violation.

(3) Penalties.—

(A) Written determination and transfer.—If a covered person knowingly and willfully fails to comply with a milestone specified under subsection (b)(2)(C), the Commission and the Antitrust Division, acting jointly, or the lead agency designated under subsection (d)(2)(A), shall issue a written determination identifying the missed milestone, the month for which escrow is required, the amount required to be transferred, and the method used to calculate such amount. Beginning not later than 15 days after receipt of such written determination, the covered person shall transfer into escrow on a monthly basis 10 percent of the profits of the covered person, to be—

(i) returned to the covered person if divestiture occurs by the deadline under subsection (c); or

(ii) deposited into the general fund of the Treasury if divestiture does not occur by the deadline under subsection (c).

(B) Escrow administration and certification.—Any transfer into escrow under subparagraph (A) shall be deposited with the Secretary of the Treasury into a segregated account established for purposes of this section.

(i) Not later than 15 days after the end of each month for which a transfer is required, the covered person shall submit to the Chair of the Commission and the Antitrust Division a certification, signed by the chief executive officer and chief financial officer, attesting to the calculation of profits and gross revenues for such month and the amount transferred.

(ii) Not later than 120 days after the end of each fiscal year, the covered person shall submit a reconciliation based on audited financial statements, and shall pay any underpayment together with interest, calculated from the date the underpaid amount was required to be transferred at the rate and in the manner provided under sections [6621\(a\)\(2\)](#) and [6622\(a\)](#) of the Internal Revenue Code of 1986, or shall receive a return of any overpayment, as applicable.

(C) Judicial review.—A covered person subject to a transfer requirement under subparagraph (A) may, not later than 30 days after notice of such requirement, petition for review in the United States Court of Appeals for the District of Columbia Circuit. The filing of a petition for review shall not stay any obligation to transfer amounts into escrow unless the court orders otherwise.

(4) Trustee.—The Commission or the Antitrust Division may apply to a court of competent jurisdiction for the appointment of a divestiture trustee.

(A) Authority.—The divestiture trustee shall have the authority, at the expense of the covered person required to divest, to take such actions as are necessary to effectuate the divestiture required under this section, including selling, transferring, assigning, or otherwise disposing of the business, assets, entity, or interests required to be divested.

(B) Cooperation.—The covered person required to divest shall cooperate fully with the divestiture trustee and shall take no action to interfere with, delay, or impede the divestiture.

(C) Approval.—Any proposed sale by the divestiture trustee shall be subject to approval under subsection (d).

(D) Duty of trustee.—The divestiture trustee shall act in the interest of effectuating prompt compliance with this section and restoring competition, and shall not be required to maximize the value received by the covered person required to divest.

(5) Deposit.—Any amount paid under paragraph (2)(B) shall be deposited into the general fund of the Treasury.

(6) Other relief.—In addition to any relief obtained under paragraph (1) or (2), the court may grant any other equitable relief necessary to redress and prevent recurrence of the violation.

(f) Anti-circumvention.—It shall be unlawful for any covered person to evade or attempt to evade this section, including by entering into an agreement or contract, engaging in a transaction,

structuring an entity, or recreating, through contractual means, the conflicts of interest described in subsection (b).

(g) Rulemaking authority.—The Commission and the Antitrust Division shall, by joint rule, promulgate regulations to carry out this section.

(h) Reports required.—The Chair of the Commission and the Antitrust Division shall submit to the appropriate congressional committees quarterly reports on compliance with this section, including the status of any divestitures required under this section.

(i) Rule of construction.—Nothing in this section shall be construed to limit the authority of the Commission, the Department of Justice, or the attorney general of a State under any other provision of law.

SEC. 575. CODIFYING NET NEUTRALITY.

(a) Definitions.—In this section:

(1) Affiliated prioritization.—The term "affiliated prioritization" means the management of a broadband internet access service provider's network to directly or indirectly favor traffic from an affiliate of the provider, or from a person with which the provider has a financial, ownership, contractual, or other preferential relationship, over substantially similar traffic from an unaffiliated person.

(2) Broadband internet access service.—The term "broadband internet access service" has the meaning given such term in section 801 of the Communications Act of 1934 ([47 U.S.C. 641](#)), or any successor provision.

(3) Commission.—The term "Commission" means the Federal Communications Commission.

(4) Data usage allowance.—The term "data usage allowance" means a limitation, cap, threshold, or metered allocation applicable to the amount of data that an end user may transmit or receive through broadband internet access service during a billing period or other period.

(5) Edge provider.—The term "edge provider" means any person that provides any content, application, service, or device accessed over the internet.

(6) Paid prioritization.—The term "paid prioritization" means the management of a broadband internet access service provider's network to directly or indirectly favor some traffic over other traffic in exchange for consideration, monetary or otherwise.

(7) Reasonable network management.—The term "reasonable network management" means a network management practice that has a primarily technical network management justification, is narrowly tailored to achieve a legitimate network management purpose, and is not based on the source, destination, content, application, service, device, class of user, or competitive effect of traffic, except to the extent reasonably necessary to achieve such legitimate network management purpose.

(8) Zero-rating.—The term "zero-rating" means exempting some internet traffic from a data usage allowance or otherwise treating such traffic as not counting against a data cap, data threshold, usage-based charge, or similar limitation.

(b) Broadband internet access service treated as telecommunications service.—Section 3(53) of the Communications Act of 1934 ([47 U.S.C. 153\(53\)](#)) is amended to read as follows:

"The term 'telecommunications service' means—

"(A) the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used; and

"(B) the offering of broadband internet access service, as defined in section 801, for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.".

(c) No blocking.—A provider of broadband internet access service may not block lawful content, applications, services, or nonharmful devices, subject to reasonable network management.

(d) No throttling.—A provider of broadband internet access service may not impair, degrade, slow, or otherwise disadvantage lawful internet traffic on the basis of content, application, service, device, source, destination, or class of user, subject to reasonable network management.

(e) No paid prioritization or affiliated prioritization.—A provider of broadband internet access service may not engage in paid prioritization or affiliated prioritization.

(f) Data-cap exemptions and zero-rating.—

(1) In general.—A provider of broadband internet access service may not—

(A) engage in zero-rating in exchange for consideration, monetary or otherwise, from any third party;

(B) zero-rate some internet content, applications, services, or devices within a category of internet content, applications, services, or devices unless the category is defined without regard to source, destination, ownership, affiliation, payment, or viewpoint and the entire category is zero-rated on equal terms; or

(C) use a data usage allowance, data cap exemption, sponsored data arrangement, usage-based charge, or zero-rating practice to evade this section, favor an affiliate, favor a payor, or unreasonably interfere with or unreasonably disadvantage end users or edge providers.

(2) Application-agnostic zero-rating.—Application-agnostic zero-rating shall not violate this subsection if no consideration, monetary or otherwise, is provided by any third party in exchange for the provider's decision whether to zero-rate traffic and the practice is not used to evade this section.

(g) No unreasonable interference or unreasonable disadvantage.—A provider of broadband internet access service may not unreasonably interfere with, or unreasonably disadvantage—

(1) the ability of end users to select, access, use, send, receive, or offer lawful content, applications, services, or devices of the user's choice; or

(2) the ability of edge providers to make lawful content, applications, services, or devices available to end users.

(h) Transparency.—

(1) In general.—A provider of broadband internet access service shall publicly disclose accurate information regarding the provider's network management practices, performance, commercial terms, and any practice that blocks, throttles, prioritizes, degrades, interferes with, or otherwise affects traffic, in sufficient detail to enable consumers, edge providers, and the Commission to evaluate compliance with this section.

(2) Nonpublic information.—A disclosure required under this subsection shall not require public disclosure of information that would compromise network security, undermine cybersecurity measures, disclose personal information, or disclose trade secrets or other confidential business information, if the provider makes such information available to the Commission upon request.

(i) Exceptions.—Nothing in this section shall be construed to prohibit a provider of broadband internet access service from—

(1) engaging in reasonable network management;

(2) addressing network congestion through application-agnostic and content-neutral measures;

(3) protecting the security and integrity of the provider's network, users, services, or equipment;

(4) preventing or mitigating spam, malware, fraud, denial-of-service attacks, malicious traffic, or other cybersecurity threats;

(5) prioritizing, routing, or managing traffic for emergency communications, public safety communications, or national security communications;

(6) complying with a court order or other lawful order issued pursuant to statutory authority, but only to the extent required by such order;

(7) complying with Federal, State, or local law, but only to the extent required by such law;

(8) offering user-directed filtering, parental controls, accessibility tools, or security tools, if such tools are selected, controlled, and revocable by the user;

(9) taking action to prevent the transmission of unlawful content, if such action is required by law and narrowly tailored to comply with such law; or

(10) offering end-user service tiers based on bandwidth, speed, data volume, or other application-agnostic terms, if such tiers are clearly disclosed and are not used to evade this section.

(j) Enforcement.—

(1) In general.— The obligations imposed under this section shall be treated as requirements under the Communications Act of 1934 ([47 U.S.C. 151 et seq.](#)). A violation of this section or a rule promulgated under this section shall be treated as a violation of such Act.

(2) Powers of Commission.—The Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though this section were part of such Act.

(3) Rules.—Not later than January 1, 2027, the Commission shall issue interim final rules to carry out this section and shall thereafter promulgate final rules after notice and comment.

(k) Enforcement by State attorneys general.—

(1) Civil action.—Except as provided in paragraph (5), the attorney general of a State, or any other officer of a State authorized by the law of that State to bring civil actions on behalf of the residents of the State, alleging a violation of this section or any rule promulgated under this section that affects or may affect that State or its residents, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to enforce this section or such rule and to obtain appropriate injunctive relief, damages, restitution, civil penalties, or other relief that the court considers appropriate.

(2) Notice to Commission.—Before filing an action under paragraph (1), the State shall provide written notice to the Commission and provide the Commission with a copy of the complaint for such action, except that if it is not feasible to provide such prior notice, the State shall provide such notice immediately upon instituting such action.

(3) Intervention by Commission.—Upon receiving notice under paragraph (2), the Commission may intervene in the action, be heard on all matters arising in the action, and file petitions for appeal.

(4) Construction.—Nothing in this subsection shall be construed to prevent the attorney general of a State, or any other authorized State officer, from exercising the powers conferred on such attorney general or officer by the laws of that State, including by proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) Limitation.—No separate action may be brought under this subsection if, at the time the action is brought, the same alleged violation is the subject of a pending civil action by the Commission or the United States under this section.

(l) Rule of construction.—

(1) State law.—Nothing in this section shall be construed to preempt, displace, or limit any provision of State law that provides equal or greater protection for an open internet, net neutrality, broadband users, edge providers, or the public, except to the extent of a direct and irreconcilable conflict with this section.

(2) Other law.—Nothing in this section shall be construed to limit any authority, duty, remedy, penalty, or prohibition otherwise available under Federal or State law.

(3) No authorization of unlawful conduct.—Nothing in this section shall be construed to authorize any content, application, service, device, or conduct that is otherwise unlawful.

(4) Specialized services.—Nothing in this section shall be construed to prohibit a provider of broadband internet access service from offering a service that is not broadband internet access service, if such service is not offered or used to evade this section and does not materially impair the availability or quality of broadband internet access service offered to end users.

SEC. 576. PHASED-IN MINIMUM AGE FOR SOCIAL MEDIA ACCOUNTS.

(a) Definitions.—In this section:

(1) Commission.—The term "Commission" means the Federal Trade Commission.

(2) Covered minor.—The term "covered minor" means—

(A) on and after January 1, 2027, and before January 1, 2030, an individual born on or after January 1, 2014; or

(B) on and after January 1, 2030, an individual who has not attained 16 years of age.

(3) Know or knows.—The term "know" or "knows" means to have actual knowledge or knowledge fairly implied on the basis of objective circumstances.

(4) Personal data.—The term "personal data" has the same meaning as the term "personal information" as defined in [section 312.2 of title 16](#), Code of Federal Regulations, or any successor regulation.

(5) Social media platform.—

(A) In general.—The term "social media platform" means a public-facing website, online service, online application, or mobile application that—

(i) is directed to consumers; and

(ii) as a primary function provides a community forum for user-generated content, including messages, videos, audio files, or other content among users, where such content is primarily intended for viewing, resharing, or platform-enabled distributed social endorsement or comment.

(B) Limitations.—The term "social media platform" does not include a platform that, as its primary function for consumers, provides or facilitates any of the following:

(i) The purchase and sale of commercial goods.

(ii) Teleconferencing or videoconferencing services that allow reception and transmission of audio or video signals for real-time communication, provided that the real-time communication is initiated by using a unique link or identifier to facilitate access.

(iii) Crowdsourced reference guides such as encyclopedias and dictionaries.

(iv) Cloud storage, file sharing, or file collaboration services, including such services that allow collaborative editing by invited users.

(v) The playing or creation of video games.

(vi) Content that consists primarily of news, sports, sports coverage, entertainment, or other information or content that is not user-generated but is preselected by the platform and for which any chat, comment, or interactive functionality is incidental, directly related to, or dependent on the provision of the content provided by the platform.

(vii) Business, product, or travel information including user reviews or rankings of such businesses, products, or travel information.

(viii) Educational information, experiences, training, or instruction provided to build knowledge, skills, or a craft, district-sanctioned or school-sanctioned learning management systems and school information systems for the purposes of schools conveying content related to the education of students, or services on behalf of or in support of an elementary school or secondary school, as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 ([20 U.S.C. 7801](#)).

(ix) An email service.

(x) A wireless messaging service, including such a service provided through short message service or multimedia messaging protocols, that is not a component of, or linked to, a social media platform and where the predominant or exclusive function of the messaging service is direct messaging consisting of the transmission of text, photos, or videos that are sent by electronic means, where messages are transmitted from the sender to the recipient and are not posted publicly or within a social media platform.

(xi) A broadband internet access service (as such term is defined for purposes of section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation).

(xii) A virtual private network or similar service that exists solely to route internet traffic between locations.

(6) User.—The term "user" means, with respect to a social media platform, an individual who creates, maintains, or uses an account or profile on the social media platform.

(b) Prohibition.—It shall be unlawful for a social media platform to knowingly permit a covered minor to become or remain a user of such platform.

(c) Deletion of covered minors' personal data.—

(1) In general.—Subject to paragraph (2), upon termination of an existing account or profile pursuant to subsection (b), a social media platform shall immediately disable public access to the account or profile and segregate personal data collected from or submitted to the social media platform by the individual whose account or profile was terminated.

(2) User access to personal data.—To the extent technically feasible, a social media platform shall allow an individual whose account or profile was terminated by the social media platform pursuant to subsection (b), from the date such termination occurs to the date that is 90 days after such date, to request, and shall provide to such individual upon such request, a copy of the personal data collected from, or submitted by, such individual to the social media platform both—

(A) in a manner that is readable and which a reasonable person can understand; and

(B) in a portable, structured, and machine-readable format.

(3) Deletion after access period.—A social media platform may retain the segregated personal data described in paragraph (1) during the period described in paragraph (2) solely to comply with that paragraph. At the end of that period, the platform shall delete the segregated personal data, except that the platform may retain a record of the termination of the account or profile and the minimum information necessary to demonstrate compliance with this section.

(d) Determination of knowledge; protections for privacy.—

(1) Rules of construction.—For purposes of enforcing this section, in making a determination as to whether a social media platform has knowledge fairly implied on the basis of objective circumstances that a user is a covered minor, the Commission or the attorney general of a State, as applicable, shall rely on competent and reliable evidence, taking into account the totality of circumstances, including whether a reasonable and prudent person under the circumstances would have known that the user is a covered minor.

(2) Protections for privacy.—Nothing in this section, including a determination described in paragraph (1), shall be construed to require a social media platform to—

(A) implement age-gating or age-verification functionality; or

(B) affirmatively collect any personal data with respect to the age of users that the social media platform is not already collecting in the normal course of business.

(3) Restriction on use and retention of personal data.—If a social media platform or a third party acting on behalf of a social media platform voluntarily collects personal data for the purpose of complying with this section, the social media platform or third party shall not—

(A) use any personal data collected specifically for a purpose other than sole compliance with the obligations under this section; or

(B) retain any personal data collected from a user for longer than is necessary to comply with the obligations under this section or than is minimally necessary to demonstrate compliance with this section.

(e) Enforcement by Commission.—

(1) Unfair, deceptive, or abusive acts or practices.—A violation of this section shall be treated as a violation of a rule defining an unfair, deceptive, or abusive act or practice prescribed under section 18 of the Federal Trade Commission Act ([15 U.S.C. 57a](#)).

(2) Powers of Commission.—The Commission shall enforce this 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.

(3) Authority preserved.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

(f) Actions by States.—

(1) Authorization.—Subject to paragraph (3), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of a social media platform in a practice that violates this section, the attorney general of the State may, as *parens patriae*, bring a civil action against the social media platform on behalf of the residents of the State in an appropriate district court of the United States to—

(A) enjoin that practice;

(B) enforce compliance with this section;

(C) on behalf of residents of the State, obtain damages, restitution, or other compensation, each of which shall be distributed in accordance with State law; or

(D) obtain such other relief as the court may consider appropriate.

(2) Commission intervention.—

(A) Notice to Commission.—

(i) In general.—The attorney general of a State shall notify the Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before the filing of the civil action.

(ii) Contents.—The notification required under clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

(iii) Exception.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph if the attorney general of the State determines that it is not feasible to provide the notice required in that clause before filing the action.

(B) Intervention by Commission.—Upon receiving notice under subparagraph (A)(i), the Commission may intervene in the action that is the subject of the notice.

(3) Effect of intervention.—If the Commission intervenes in an action under paragraph (1), it may—

(A) be heard with respect to any matter that arises in that action; and

(B) file a petition for appeal.

(4) Investigatory powers.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary or other evidence.

(5) Preemptive action by Commission.—In any case in which an action is instituted by or on behalf of the Commission for a violation of this section, no State may, during the pendency of that action, institute a separate civil action under paragraph (1) against any defendant named in the complaint in the action instituted by or on behalf of the Commission for that violation.

(6) Venue; service of process.—

(A) Venue.—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under [section 1391 of title 28, United States Code](#); or

(ii) another court of competent jurisdiction.

(B) Service of process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(g) Relationship to other laws.—The provisions of this section shall preempt any State law, rule, or regulation only to the extent that such State law, rule, or regulation conflicts with a provision of this section. Nothing in this section shall be construed to prohibit a State from enacting a law, rule, or regulation that provides greater protection to minors than the protection provided by the provisions of this section.

SEC. 577. COMPULSIVE DIGITAL PRODUCT DESIGN PROHIBITED.

(a) In general.—The Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#)) is amended by inserting after section 5 the following:

"Sec. 5A. Compulsive digital product design prohibited.

"(a) Definitions.—In this section:

"(1) Behavioral data.—The term 'behavioral data' means data relating to the activity, browsing, engagement, clicks, views, dwell time, purchases, interactions, or other conduct of a user on or across online products or services.

"(2) Commission.—The term 'Commission' means the Federal Trade Commission.

"(3) Compulsive usage.—The term 'compulsive usage' means persistent and repetitive use of a covered digital product that materially impairs sleep, education, employment, caregiving, social functioning, psychological well-being, or the ability of an individual to self-regulate their use of the covered digital product.

"(4) Covered digital product.—The term 'covered digital product' means a website, online service, online application, mobile application, game, or comparable digital interface that—

"(A) is publicly available for use by consumers; and

"(B) is used primarily for recurring consumer engagement, including entertainment, social interaction, gaming, simulated gambling, shopping, video or audio consumption, user-generated content, or other recurring consumer engagement.

"(5) Design feature.—The term 'design feature' means any feature, component, interface choice, ranking method, reward mechanism, or default setting of a covered digital product that encourages, prolongs, intensifies, or increases the frequency of a user's engagement with the covered digital product.

"(6) Personal data.—The term 'personal data' means information that identifies or is linked or reasonably linkable to an individual or to a device used by an individual.

"(b) Prohibition.—On and after July 1, 2027, it shall be unlawful for a person that owns, operates, or controls a covered digital product, in or affecting commerce, to design, deploy, maintain, or materially modify a design feature, or combination of design features, that, based on the totality of the circumstances, results in compulsive usage or is reasonably foreseeable to materially contribute to compulsive usage.

"(c) Factors.—In determining whether a person has violated subsection (b), the Commission shall consider the totality of the circumstances, including whether the design feature, or combination of design features—

"(1) uses infinite scrolling, autoplay, auto-advance, or similar mechanisms that reduce a user's natural stopping points;

"(2) uses notifications, push alerts, prompts, reminders, or re-engagement messages that are not reasonably necessary for account security, fraud prevention, billing, or direct person-to-person communication;

"(3) uses streaks, badges, likes, follower counts, engagement counts, variable rewards, or other gamified or socially comparative feedback mechanisms tied to the frequency, duration, or intensity of use;

"(4) uses appearance-altering filters, social-comparison tools, or similar features that are likely to exploit body-image concerns, status anxiety, or fear of missing out;

"(5) uses personal data, behavioral data, personalized recommendation systems, default ranking systems, or other automated curation systems optimized to maximize time spent, repeated checking, or repeated interaction rather than to satisfy an immediate user request;

"(6) uses time-limited, disappearing, countdown-based, or artificially urgent content, offers, or prompts that induce repeated checking or fear of missing out; or

"(7) impedes, frustrates, or materially burdens a user's effort to stop using the covered digital product, log off, disable notifications, dismiss prompts, select a chronological feed, or set limits on use.

"(d) Enforcement.—

"(1) Unfair, deceptive, or abusive act or practice.—A violation of this section, or a regulation promulgated under this section, shall constitute an unfair, deceptive, or abusive act or practice in or affecting commerce under section 5(a)(1).

"(2) Powers of the Commission.—The Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as under section 5.

"(3) Remedies.—In addition to any other remedy available under law, the Commission may commence a civil action in an appropriate district court of the United States to obtain temporary, preliminary, or permanent injunctive relief, restitution, refund of moneys, damages, disgorgement, civil penalties, deletion or disabling of offending design features, corrective notice, reporting, auditing, and other appropriate relief.

"(4) Regulations.—Not later than July 1, 2027, the Commission shall promulgate regulations to carry out this section.

"(e) Rule of construction.—Nothing in this section shall be construed to prohibit a person that owns, operates, or controls a covered digital product from offering chronological feeds, accessibility features, parental controls, user-selected settings, or notifications reasonably necessary for account security, fraud prevention, billing, or direct person-to-person communications, unless such feature or setting is designed, deployed, or optimized in a manner that violates subsection (b)."

SEC. 578. ABANDONMENT OF POPULAR OPERATING SYSTEMS UNLAWFUL.

(a) Definitions.—In this section:

(1) Covered operating system.—The term "covered operating system" means a general-purpose operating system that is licensed, sold, or otherwise distributed for use by consumers on a general-purpose computing device and that, during not fewer than 3 months in the preceding 12-month period, was installed on not fewer than 10,000,000 devices in the United States or not fewer than 100,000,000 devices worldwide.

(2) Security support.—The term "security support" means to provide security updates or patches that materially address vulnerabilities in a covered operating system, including through updates or patches to device-specific firmware, drivers, or software used to operate the covered operating system securely on a general-purpose computing device.

(3) General-purpose computing device.—The term "general-purpose computing device" means a desktop computer, laptop computer, tablet, smartphone, or other multipurpose consumer computing device, but does not include a single-purpose embedded system,

household appliance, industrial control system, Internet of Things device, medical device, or video game console.

(4) Vendor.—The term "vendor" means a person that develops or controls a covered operating system or a device-specific implementation of a covered operating system and is capable, directly or indirectly, of providing security updates for such operating system or implementation.

(b) Prohibition.—It shall be unlawful, and shall constitute an unfair, deceptive, or abusive act or practice under section 5(a)(1) of the Federal Trade Commission Act ([15 U.S.C. 45\(a\)\(1\)](#)), for a vendor of a covered operating system to—

(1) refuse to provide free security support for the covered operating system, if such security support was previously provided without a separate fee or was included in the original purchase or license;

(2) impose any new or separate fee, or require the purchase of any new license, subscription, product, or service, as a condition of continued security support for a covered operating system; or

(3) materially degrade or reduce the security, functionality, performance, interoperability, compatibility, or usability of a covered operating system, without a legitimate security or technical integrity justification, for the purpose or substantial effect of forcing users to migrate to another operating system.

(c) Measurement and anti-evasion rules.—

(1) For purposes of subsection (a)(1)—

(A) the Federal Trade Commission shall measure installations by monthly active installations, or by another commercially reasonable method where monthly active installation data are unavailable; and

(B) the Commission shall aggregate editions, variants, service releases, and substantially similar successor versions marketed as part of the same operating system family;

(C) for purposes of subsection (b), security support for a covered operating system shall include security support for each model or substantially similar family of models of general-purpose computing devices on which the covered operating system, during not fewer than 3 months in the preceding 12-month period, had not fewer than 10,000,000 monthly active installations in the United States or not fewer than 100,000,000 monthly active installations worldwide;

(2) A vendor may not evade this section by—

(A) assigning, delegating, licensing, transferring, or otherwise purporting to transfer responsibility for providing security updates to another person; or

(B) rebranding, fragmenting, or artificially separating substantially similar operating system versions, device models or model families, device-specific implementations, or support channels.

(3) Each vendor of a covered operating system shall maintain records sufficient to demonstrate compliance with this section.

(d) Termination after cessation of covered status.—When an operating system ceases to be a covered operating system, it shall be unlawful for the vendor of such operating system to end security support unless such vendor—

(1) provided not less than 6 months of clear and conspicuous notice to users of such operating system; and

(2) notified the Commission.

(e) Rule of construction.—Nothing in this section shall be construed—

(1) to require a vendor to provide feature updates, cosmetic changes, or nonsecurity improvements; or

(2) to authorize the ending of security support for a covered operating system merely because a newer operating system version exists.

(f) Enforcement.—This section shall be enforced by the Federal Trade Commission under the Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#)) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this section.

(g) Actions by States.—

(1) In general.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates this section, the attorney general of the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to—

(A) enjoin that violation;

(B) enforce compliance with this section;

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

(D) obtain civil penalties and such other relief as the court may consider appropriate.

(2) Notice.—Before filing an action under paragraph (1), the attorney general of the State shall provide to the Federal Trade Commission—

(A) written notice of the action; and

(B) a copy of the complaint for that action.

(3) Exception.—If it is not feasible for the attorney general of a State to provide the notice required by paragraph (2) before filing an action under paragraph (1), the attorney general shall provide that notice immediately upon filing the action.

(4) Intervention by Commission.—Upon receiving notice under paragraph (2) or (3), the Federal Trade Commission may—

(A) intervene in the action;

(B) be heard on all matters arising in the action; and

(C) file petitions for appeal.

(5) Construction.—Nothing in this subsection shall be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

(h) Regulations.—Not later than July 1, 2027, the Federal Trade Commission shall promulgate regulations to carry out this section, including regulations establishing standardized methods for estimating installation counts and identifying evasive version fragmentation practices.

SEC. 579. FOUNDATION MODEL ACCESS NEUTRALITY.

(a) Definitions.—In this section:

(1) Affiliated artificial intelligence application; affiliated AI application.—The terms "affiliated artificial intelligence application" and "affiliated AI application" mean a downstream AI application that is owned, operated, controlled, or materially favored by a foundation model provider or an affiliate of a foundation model provider.

(2) Antitrust Division.—The term "Antitrust Division" means the Antitrust Division of the Department of Justice, acting through the Assistant Attorney General in charge of the Antitrust Division.

(3) Commission.—The term "Commission" means the Federal Trade Commission.

(4) Customer data.—The term "customer data" means prompts, outputs, logs, code, embeddings, fine tuning data, evaluation data, metadata, usage patterns, integration data, performance data, business information, confidential information, or other information obtained by a foundation model provider from or about a customer through a model access service.

(5) Downstream artificial intelligence application; downstream AI application.—The terms "downstream artificial intelligence application" and "downstream AI application" mean an application, tool, service, product, agent, workflow, or other system that relies in whole or in part on a model access service.

(6) Foundation model.—The term "foundation model" means an artificial intelligence model that is trained on broad data at scale, is adaptable to a wide range of distinct tasks, and is made available to another person for use in a downstream AI application, directly or through a model access service.

(7) Foundation model provider.—The term "foundation model provider" means any person that offers, provides, sells, licenses, or otherwise makes available a model access service in or affecting interstate or foreign commerce and—

(A) during the most recently completed taxable year, had more than \$1,000,000,000 in global revenue from foundation model products or model access services;

(B) in not fewer than 3 months during the most recently completed 12-month period, made a model access service available to more than 10,000 unique business customers, developers, or organizational accounts in the United States;

(C) accounts for not less than 20 percent of commercial foundation model access in the United States, as measured by revenue, usage, inference requests, tokens processed, active downstream AI applications, or any comparable measure prescribed by the Commission by rule; or

(D) is designated by the Commission under subsection (b).

(8) Model access service.—The term "model access service" means an application programming interface, hosted interface, hosted model service, fine tuning service, embedding service, inference service, model serving service, agent platform, retrieval augmented generation service, or other remote, hosted, licensed, or operationally controlled method by which a foundation model provider makes the capabilities of a foundation model available to another person.

(9) Similarly situated customer.—The term "similarly situated customer" means a customer or downstream AI application that is comparable to another customer or downstream AI application with respect to material technical, commercial, security, capacity, legal compliance, safety, and service support characteristics relevant to the provision of a model access service.

(b) Designation authority.—

(1) In general.—The Commission, in consultation with the Antitrust Division, may designate a person as a foundation model provider if the Commission determines that—

(A) the person offers, provides, sells, licenses, or otherwise makes available a model access service in or affecting interstate or foreign commerce;

(B) the model access service is a commercially significant input for downstream AI applications; and

(C) designation would advance competition, prevent discriminatory access to foundation model infrastructure, reduce the ability of a foundation model provider to pick winners among downstream AI applications, or prevent the use of model access services to entrench or extend platform power.

(2) Factors.—In making a designation under paragraph (1), the Commission may consider—

(A) the number of customers, developers, or downstream AI applications that rely on the model access service;

(B) the share of commercial foundation model access in the United States accounted for by the person;

(C) the revenue, usage, inference requests, tokens processed, active downstream AI applications, or comparable measures associated with the model access service;

(D) the extent to which customers or downstream AI applications face switching costs, lock-in, technical dependency, or lack of reasonable substitutes;

(E) the extent to which the person owns, operates, controls, funds, or materially advantages affiliated AI applications;

(F) the ability and incentive of the person to deny, degrade, throttle, condition, price, or otherwise manipulate access to disadvantage unaffiliated downstream AI applications; and

(G) any other factor the Commission determines is relevant to whether the model access service functions as commercially significant infrastructure for downstream AI applications.

(3) Procedure.—A designation under this subsection shall be issued after notice to the person, an opportunity to respond, and publication in the Federal Register.

(4) Duration.—A designation under this subsection shall remain in effect unless removed by the Commission under paragraph (5).

(5) Removal.—A person designated under this subsection may petition the Commission for removal of the designation. Not later than 120 days after receiving a petition under this paragraph, the Commission shall grant or deny the petition. A denial shall constitute final agency action for purposes of chapter 7 of [title 5, United States Code](#).

(6) Public list.—The Commission shall maintain and periodically update on its website a public list of persons designated as foundation model providers under this subsection.

(c) Duty of nondiscriminatory access.—

(1) In general.—A foundation model provider may not unjustly or unreasonably discriminate among similarly situated customers or downstream AI applications in providing a model access service.

(2) Specific practices.—The prohibition under paragraph (1) includes unjust or unreasonable discrimination with respect to—

(A) price, discounts, credits, rebates, fees, or other commercial terms;

(B) speed, latency, throughput, uptime, reliability, availability, rate limits, capacity limits, error rates, or quality of service;

(C) access to model versions, model capabilities, model modalities, context windows, fine tuning, embeddings, retrieval features, agent tooling, safety review, evaluation tools, monitoring tools, or application programming interface functionality;

(D) documentation, integration support, technical support, account management, dispute resolution, migration support, or notice of material changes; and

(E) any other term, condition, technical feature, operational practice, or service characteristic that materially affects the ability of a customer or downstream AI application to use, compete through, or rely upon a model access service.

(3) Permitted differentiation.—Nothing in this subsection shall prohibit a foundation model provider from offering different terms, conditions, features, or service levels if the differentiation is based on objective, documented, and nonpretextual differences in volume, duration, technical integration, capacity demand, security risk, legal compliance risk, safety risk, support cost, service commitment, or other material cost or risk associated with providing the model access service.

(d) No retaliatory denial, degradation, or termination.—

(1) In general.—A foundation model provider may not deny, degrade, suspend, throttle, terminate, condition, materially alter, or materially reduce a model access service provided to a customer or downstream AI application because the customer or downstream AI application—

(A) competes with the foundation model provider or an affiliate of the foundation model provider;

(B) uses or integrates with a competing foundation model, model access service, or downstream AI application;

(C) enables a user to compare, switch among, or use multiple foundation models or model access services;

(D) is owned, controlled, funded, acquired, or proposed to be acquired by a competitor of the foundation model provider or an affiliate of the foundation model provider;

(E) refuses to enter into an exclusivity arrangement, tying arrangement, most favored nation agreement, data sharing arrangement, or other arrangement that would restrict the ability of the customer or downstream AI application to use, integrate, or compete with another foundation model provider or model access service;

(F) develops, offers, or proposes to develop or offer a product, service, feature, or application in a field in which the foundation model provider or an affiliate of the foundation model provider operates or may operate; or

(G) makes a good faith complaint to the Commission, the Antitrust Division, an attorney general of a State, or any other Federal or State agency.

(2) Notice.—Except where delayed notice is reasonably necessary to address fraud, abuse, cybersecurity risk, safety risk, legal compliance risk, or other imminent risk of material harm, a foundation model provider shall provide a customer with written notice stating the specific basis for any denial, suspension, termination, or material degradation of a model access service.

(e) No preferential treatment of affiliated AI applications.—

(1) In general.—A foundation model provider that owns, operates, controls, or materially favors an affiliated AI application may not provide such affiliated AI application with preferential access to a model access service over a similarly situated unaffiliated customer or downstream AI application.

(2) Specific practices.—The prohibition under paragraph (1) includes preferential treatment with respect to—

- (A) price, discounts, credits, rebates, fees, or other commercial terms;
- (B) speed, latency, throughput, uptime, reliability, availability, rate limits, capacity limits, error rates, or quality of service;
- (C) access to model versions, model capabilities, model modalities, context windows, fine tuning, embeddings, retrieval features, agent tooling, safety review, evaluation tools, monitoring tools, or application programming interface functionality;
- (D) documentation, integration support, technical support, account management, dispute resolution, migration support, or notice of material changes;
- (E) access to customer data, performance data, market intelligence, usage patterns, or other commercially sensitive information obtained through a model access service; and
- (F) any other term, condition, technical feature, operational practice, or service characteristic that materially affects the ability of a customer or downstream AI application to use, compete through, or rely upon a model access service.

(f) Customer data and copycat restrictions.—

(1) In general.—A foundation model provider may not use customer data obtained through a model access service to—

- (A) develop, train, fine tune, improve, operate, or materially advantage a competing downstream AI application;
- (B) develop, train, fine tune, improve, operate, or materially advantage an affiliated AI application;
- (C) reverse engineer, replicate, or appropriate the product strategy, business strategy, workflows, integrations, prompts, outputs, code, fine tuning data, evaluation data, customer relationships, or commercially sensitive information of a customer or downstream AI application;
- (D) identify, target, solicit, acquire, or disadvantage the users, customers, suppliers, investors, or business partners of a customer or downstream AI application; or
- (E) condition access to a model access service on a customer granting rights to customer data beyond the rights strictly necessary to provide the model access service requested by the customer.

(2) Permitted uses.—Nothing in paragraph (1) shall prohibit a foundation model provider from using customer data to the extent strictly necessary to—

(A) provide, maintain, secure, debug, or bill for the model access service requested by the customer;

(B) comply with Federal, State, or local law, a court order, sanctions, export controls, or other lawful order issued pursuant to statutory authority;

(C) prevent, detect, investigate, or mitigate fraud, spam, malware, cybersecurity threats, safety risks, abuse, unlawful conduct, or material violations of generally applicable terms of service;

(D) carry out fine tuning, evaluation, monitoring, data retention, or other processing expressly directed by the customer for the benefit of the customer;

(E) generate aggregated or de-identified analytics that do not reveal customer data, customer identity, customer strategy, user identity, or commercially sensitive information of any customer or downstream AI application; or

(F) comply with any other purpose prescribed by the Commission by rule that is consistent with the purposes of this section.

(3) Contract rights.—Any term or condition of a contract, license, terms of service, acceptable use policy, or other agreement that purports to waive or limit the restrictions in this subsection shall be void as contrary to public policy.

(g) Objective exceptions.—

(1) In general.—Nothing in this section shall prohibit a foundation model provider from denying, limiting, suspending, terminating, degrading, conditioning, or differentiating access to a model access service if the action is based on objective, documented, and nonpretextual grounds and is reasonably necessary to address—

(A) nonpayment;

(B) capacity constraints, if such constraints are allocated on a fair, reasonable, and nondiscriminatory basis among similarly situated customers;

(C) fraud, spam, malware, cybersecurity threats, malicious activity, abuse, or material security risk;

(D) safety risks, including reasonably foreseeable use to facilitate biological, chemical, cyber, weapons, child sexual exploitation, self harm, fraud, impersonation, or other severe misuse;

(E) violation of generally applicable terms of service, acceptable use policies, or technical requirements that are publicly disclosed, consistently applied, and not designed or used to evade this section;

(F) compliance with Federal, State, or local law, a court order, sanctions, export controls, or other lawful order issued pursuant to statutory authority, but only to the extent required by such law or order;

(G) protection of intellectual property rights, privacy rights, data security, confidential information, or trade secrets, if the action is narrowly tailored to the specific risk;

(H) model retirement, deprecation, maintenance, incident response, or material technical change, if applied on neutral terms to similarly situated customers and with reasonable notice where practicable; or

(I) any other objective ground prescribed by the Commission by rule that is consistent with the purposes of this section.

(2) Limits.—An action described in paragraph (1) may not be used as a pretext to discriminate against, retaliate against, or disadvantage an unaffiliated customer or downstream AI application.

(3) Burden.—In any enforcement action under this section, a foundation model provider asserting an exception under this subsection shall have the burden of production with respect to the objective, documented, and nonpretextual basis for the action.

(h) Transparency, notice, and appeal.—

(1) Public terms.—A foundation model provider shall make publicly available, in a clear and reasonably accessible manner, the material terms under which the foundation model provider offers each model access service, including material information concerning pricing structure, usage limits, rate limits, service levels, model availability, model deprecation, safety review, data use, retention, confidentiality, suspension, termination, and dispute resolution.

(2) Notice of material changes.—A foundation model provider shall provide reasonable advance notice to affected customers of any material change to pricing, rate limits, model capabilities, model availability, application programming interface functionality, safety review, data use, retention, confidentiality, suspension, termination, or other material term of a model access service, except where delayed or abbreviated notice is reasonably necessary to address fraud, abuse, cybersecurity risk, safety risk, legal compliance risk, or other imminent risk of material harm.

(3) Explanation of adverse action.—A foundation model provider that denies, degrades, suspends, throttles, terminates, conditions, materially alters, or materially reduces a model access service provided to a customer shall provide the customer with a written explanation of the specific basis for the action, except where delayed notice is reasonably necessary to address fraud, abuse, cybersecurity risk, safety risk, legal compliance risk, or other imminent risk of material harm.

(4) Appeal.—A foundation model provider shall maintain a reasonable internal process by which a customer may appeal an action described in paragraph (3).

(5) Records.—A foundation model provider shall retain for not less than 5 years records sufficient to demonstrate compliance with this section, including records relating to pricing, access terms, suspensions, terminations, degradations, rate limits, customer data use, affiliated AI applications, complaints, appeals, and exceptions asserted under subsection (g).

(6) Confidential information.—Nothing in this subsection shall require public disclosure of trade secrets, confidential business information, customer data, cybersecurity information, or information that would materially increase a safety risk, if such information is made available to the Commission or the Antitrust Division upon request.

(i) Enforcement and rulemaking.—

(1) Unfair method of competition.—A violation of this section or a rule promulgated under this section shall be treated as an unfair method of competition under section 5 of the Federal Trade Commission Act ([15 U.S.C. 45](#)).

(2) Enforcement by Commission.—The Commission shall enforce this 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.

(3) Enforcement by Antitrust Division.—The Antitrust Division may bring a civil action in an appropriate district court of the United States to enforce this section and may seek declaratory relief, injunctive relief, civil penalties, disgorgement, restitution, and any other equitable relief necessary to prevent, restrain, or remedy a violation of this section.

(4) Enforcement by State attorneys general.—If the attorney general of a State has reason to believe that a foundation model provider has violated or is violating this section or a rule promulgated under this section in a manner that affects or may affect that State or its residents, the State, as *parens patriae*, may bring a civil action in any appropriate district court of the United States to—

- (A) enjoin any further violation;
- (B) enforce compliance with this section or such rule;
- (C) obtain damages, restitution, or other compensation on behalf of residents of the State;
- (D) obtain civil penalties available for the same violation in an action brought by the Commission; and
- (E) obtain any other appropriate relief.

(5) Notice.—The attorney general of a State shall provide prior written notice of any action under paragraph (4) to the Commission and the Antitrust Division and provide a copy of the complaint, except in any case in which such prior notice is not feasible, in which case the attorney general shall provide such notice immediately upon instituting such action.

(6) Intervention.—Upon receiving notice under paragraph (5), the Commission and the Antitrust Division may each—

- (A) intervene in the action;
- (B) upon so intervening, be heard on all matters arising therein; and
- (C) file petitions for appeal.

(7) Coordination.—If the Commission, the Antitrust Division, or the United States has instituted a civil action for the same alleged violation, the court may stay, consolidate, coordinate, or otherwise manage an action brought under paragraph (4) to avoid unnecessary duplication, but an action under paragraph (4) shall not be barred solely because of the pendency of a civil action brought by the Commission, the Antitrust Division, or the United States.

(8) Rules.—Not later than January 1, 2027, the Commission, in consultation with the Antitrust Division, shall issue interim final rules to carry out this section and shall thereafter promulgate final rules after notice and comment.

(j) Rule of construction.—

(1) No duty to disclose model weights.—Nothing in this section shall be construed to require a foundation model provider to disclose, publish, transfer, license, or make available model weights, source code, training data, system prompts, cybersecurity information, safety mitigations, trade secrets, or other confidential business information, except to the Commission or the Antitrust Division as necessary to enforce this section.

(2) No duty to provide unsafe or unlawful access.—Nothing in this section shall be construed to require a foundation model provider to provide, continue, or restore access to a model access service where such access would violate Federal, State, or local law, sanctions, export controls, a court order, or another lawful order issued pursuant to statutory authority, or would create a material and reasonably foreseeable risk of severe harm that cannot be mitigated through a narrower measure.

(3) No limitation on safety rules.—Nothing in this section shall be construed to prohibit a foundation model provider from adopting and enforcing bona fide, generally applicable, publicly disclosed, and consistently applied safety, security, abuse prevention, or legal compliance policies.

(4) No limitation on antitrust laws.—Nothing in this section shall be construed to limit the authority of the Commission, the Antitrust Division, an attorney general of a State, or any other person under the antitrust laws.

(5) No limitation on other law.—Nothing in this section shall be construed to limit any stricter duty, liability, remedy, penalty, or prohibition otherwise available under Federal or State law.

Subtitle F—Regulating Artificial Intelligence

SEC. 581. DEFINITIONS.

(a) Definitions.—In this subtitle:

(1) Advertising system.—The term "advertising system" means any service or system that facilitates the dissemination of advertising to users, viewers, listeners, or other members of the public, and includes:

(A) a digital advertising platform, exchange, network, marketplace, or intermediary;