

THE DIGITAL ACCOUNTABILITY ACT

A **Bill** to foster accountability for digital content providers.

Section 1. Short Title.

This Act may be cited as the “Digital Accountability Act”.

Section 2. Purpose

The purpose of this Act is to foster accountability by online platforms and other internet service providers; to protect internet users, voters, and the broader community from the dangers of rampant amplification of disinformation and violence; and to protect online personal privacy and autonomy against commercial exploitation.

Section 3.

(a) Chapter 47 of United States Code Title 18 is amended by adding at the end the following:

Section 1041. False Information About Essential Government Services or Processes.

- (a) **In general**—Whoever, in interstate or foreign commerce, knowingly conveys or disseminates fraudulent civic misinformation, for the purpose or with the reasonable expectation of causing other persons to believe and rely or act upon such information in a manner reasonably expected to cause substantial public harm, shall be fined under this title or imprisoned not more than 5 years, or both.
- (b) **Publishing Entity Liability.** Any publishing entity, or person acting on its behalf who, in interstate or foreign commerce, aids in the dissemination of fraudulent civic misinformation that violates subsection (b) of this section, by
- (1) knowingly disseminating, publishing, or broadcasting fraudulent civic misinformation, or
 - (2) conducting individualized targeting to disseminate, publish, or broadcast the fraudulent civic misinformation, with

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reckless disregard for the risk of substantial public harm, shall be fined under this title or imprisoned not more than 2 years, or both.

(c) **Limitations.** Nothing in this section shall be construed to prohibit, impair, or limit:

- (1) efforts to report or correct false or misleading information;
- (2) good faith efforts to summarize or explain facts pertaining to essential government services or processes or data, guidance, or other information conveyed by government agencies;
- (3) any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of any intelligence agency of the United States; or
- (4) expressions of opinion about, including disagreement with, facts pertaining to essential government services or processes or data, guidance, or other information conveyed by government agencies.

(d) **Definitions.**

- (1) “Publishing entity” means any print publisher, radio-broadcast licensee, broadcast, cable, or local television station, provider of an interactive computer service as defined in 47 U.S.C. § 230(f)(2), covered online platform as defined in 47 U.S.C. § 232(d)(1), or agency or medium for the dissemination of advertising.
- (2) “Fraudulent civic misinformation” means:
 - (i.) Materially false, fraudulent, or misleading information pertaining to essential government services or processes, including government services concerning public health and safety, voting and voter registration, elections, the census, civil rights, and education; or

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- (ii.) Data, guidance, or information that is materially false, fraudulent, or misleading and that is falsely attributed to a government agency, or falsely asserted to have been sanctioned or authored by a government agency.

“Fraudulent civic misinformation” does not include any statement or information accompanied by a prominent disclaimer that clearly characterizes the statement or information as fiction, satire, humor, or criticism, if the disclaimer is presented in a way that is reasonable under the circumstances.

- (3) “Individualized targeting” occurs when a publishing entity:
 - (A) (1) performs or causes to perform any computational process (including one based on algorithmic models, machine learning, statistical analysis, or other data processing or artificial intelligence techniques) designed to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such platform selected based on personal information pertaining to the individuals who make up the subset of users; or
 - (2) allows another person to instruct a publishing entity to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such publishing entity, including by providing to such person a list of individuals, contact information of individuals, or other personal information that can be used to identify individuals;

Provided, however, that displaying, highlighting, emphasizing, or making more prominent, content in direct response to requests made or search terms entered by an individual, such that any individual making such requests or entering such search terms would produce the same display, does not constitute individualized targeting under this section.

- (4) “Personal information” means any information that is linked or reasonably linkable to a specific individual or a specific device, including but not limited to an individual’s

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actual or perceived characteristics or demographics and information that may be derived from such individual's internet browsing history, and including de-identified information.

- (5) "Substantial public harm" means direct and actual damage to property; grievous personal injury or death; damage to the health or safety of the general public; or diversion of law enforcement or other public health and safety authorities from their duties, or deterring, intimidating, or preventing persons from voting, exercising their civil rights, or answering questions in connection with any census or survey provided for by title 13 of the United States Code.

Section 1042. Civil Penalties, Injunction and Damages for Violations of Section 1041.

- (a) **Civil Enforcement by the Attorney General.** The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (b) or (c) of section 1041 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.
- (b) **Injunctive Relief.** If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under subsection (b) or (c) of section 1041, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition

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under this section does not preclude any other remedy which is available by law to the United States or any other person.

- (c) **Civil Action for Damages.** Whoever engages in conduct constituting an offense under subsection (b) or subsection (c) of section 1041 is liable in a civil action to any person incurring expenses incident to any emergency or investigative response to the information that violated subsection (b) of section 1041; to any person incurring expenses incident to any efforts required to correct the fraudulent civic misinformation; to any person incurring injury, illness, or loss of life, loss of personal property, loss of an opportunity to vote in an election, loss of civil rights, loss or denial of government services, or expenses, including medical or legal expenses, as a result of the fraudulent civic misinformation; or for injunctive or other equitable relief to prevent substantial public harm. The court may grant any such relief upon finding by a preponderance of the evidence that the defendant has engaged in conduct constituting an offense under subsection (b) or subsection (c) of section 1041.

Section 4.

- (a) Chapter 21 of the United States Code Title 42 is amended by adding the following:

Section 1986a. Criminal Liability for Amplifying Encouragement of Violence.

- (a) **In general**—Any person who knowingly and intentionally disseminates on the internet, in interstate commerce and in a manner calculated to reach 500 or more viewers, a communication that solicits, commands, induces, encourages, or otherwise endeavors to persuade another person or persons to kidnap or cause death or serious bodily injury to any person, or to engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another, in violation of the laws of the United States, including but not limited to 42 U.S.C 1985 and 42 U.S.C. 1986, whether or not

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such communications identify a specific person or property as the target of such actions shall be fined under this title or imprisoned not more than 2 years, or both.

(b) **Publishing Entity Liability.** Any publishing entity or person acting on behalf of a publishing entity, who, in interstate or foreign commerce,

(1) disseminates, publishes, or broadcasts a communication that solicits, commands, induces, encourages, or otherwise endeavors to persuade another person or persons to kidnap or cause death or serious bodily injury to any person, or to engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another, in violation of the laws of the United States, including but not limited to 42 U.S.C 1985 and 42 U.S.C. 1986, whether or not such communications identify a specific person or property as the target of such actions;

(2) conducts individualized targeting to disseminate, publish, or broadcast such communication; and

(3) causes the communication to be viewed, seen, or read 10,000 or more times within the United States by means of dissemination, publication, or broadcast that are controlled or owned, in whole or in part, by the publishing entity,

shall be fined under this title or imprisoned not more than 2 years, or both.

(c) **Definitions.**

(1) “Individualized targeting” occurs when a publishing entity:
(A) (1) performs or causes to perform any computational process (including one based on algorithmic models, machine learning, statistical analysis, or other data processing or artificial intelligence techniques) designed to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such

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platform selected based on personal information pertaining to the individuals who make up the subset of users; or

- (2) allows another person to instruct a publishing entity to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such publishing entity, including by providing to such person a list of individuals, contact information of individuals, or other personal information that can be used to identify individuals;

Provided, however, that displaying, highlighting, emphasizing, or making more prominent, content in direct response to requests made or search terms entered by an individual, such that any individual making such requests or entering such search terms would produce the same display, does not constitute individualized targeting under this section.

- (3) “Personal information” means any information that is linked or reasonably linkable to a specific individual or a specific device, including but not limited to an individual’s actual or perceived characteristics or demographics and information that may be derived from such individual’s internet browsing history, and including de-identified information.
- (4) “Publishing entity” means any print publisher, radio-broadcast licensee, broadcast, cable, or local television station, provider of an interactive computer service as defined in 47 U.S.C. § 230(f)(2), covered online platform as defined in 47 U.S.C. § 232(d)(1), or agency or medium for the dissemination of advertising.

Section 1986b. Civil Penalties, Injunction and Damages for Violations of Section 1986a.

- (a) **Civil Enforcement by the Attorney General.** The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1986a and, upon proof of

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such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(b) **Injunctive Relief.** If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense section 1986a, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(c) **Civil Action for Damages.** Whoever engages in conduct constituting an offense under section 1986a is liable in a civil action to any person, group of persons, or entity against whom such communication were made, who were injured or harmed as a consequence of such communication, or whose property was injured or harmed as a consequence of such communication, whether or not such person or entity was identified by name in the communication, in an action for damages occasioned by such communication, for injunctive relief, or for other appropriate relief. The court may grant any such relief upon finding by a preponderance of the evidence that the defendant has engaged in conduct constituting an offense under section 1986a.

Section 5.

(a) Section 230(c)(1) of the Communication Act of 1934 (47 U.S.C. 230(c)(1)) is amended to read:

(1) Treatment of Publisher or Speaker.

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~~No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.~~

In any civil action against a provider or user of an interactive computer service (“ICS”) arising from information provided by another information content provider, the ICS shall not be held liable as the publisher or speaker of that information unless the ICS:

1. Engages in targeting the dissemination of the content to an individual or specific group of individuals.
2. Acts knowingly, recklessly or negligently in encouraging or facilitating the spread of misinformation, disinformation, or violence; or
3. Intentionally engages in a course of business that receives a financial benefit from amplifying misinformation, disinformation, or violence.

(b) Section 230(f) of the Communication Act of 1934 (47 U.S.C. 230(f)) is amended by adding the following:

(5) Targeting the Dissemination of Content

An ICS engages in “targeting the dissemination of content to a particular individual or specific group of individuals” if the ICS, or an agent, affiliate, vendor, or other person acting on behalf of such ICS—

(A) (1) performs or causes to perform any computational process (including one based on algorithmic models, machine learning, statistical analysis, or other data processing or artificial intelligence techniques) designed to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such platform selected based on personal information pertaining to the individuals who make up the subset of users; or

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(2) allows another person to instruct an ICS to transmit or display, highlight, emphasize, or make more prominent, the content to a subset of the users of such ICS, including by providing to such ICS a list of individuals, contact information of individuals, or other personal information that can be used to identify individuals.

Provided, however, that displaying, highlighting, emphasizing, or making more prominent, content in direct response to requests made or search terms entered by an individual, such that any individual making such requests or entering such search terms would produce the same display, does not constitute targeting under this section.

(6) Personal Information

The term “personal information” means any information that is linked or reasonably linkable to a specific individual or a specific device, including but not limited to an individual’s actual or perceived characteristics or demographics and information that may be derived from such individual’s internet browsing history, and including de-identified information.

(c) Chapter 5 of United States Code Title 47 is amended by adding the following:

Section 232: Restrictions on Targeted Online Advertising

(a) Restrictions on Advertisements Targeted at Individuals or at Specific Groups of Individuals.

(1) Restrictions. A covered online platform or an agent, affiliate, vendor, or other person acting on behalf of such a platform may not target the dissemination of an advertisement on such platform to an individual or to a specific group of individuals on any basis.

(2) Actions Constituting Targeting. A covered online platform or an agent, affiliate, vendor, or other person

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acting on behalf of such a platform shall be considered to target the dissemination of an advertisement to an individual or to a specific group of individuals if such platform—

(A) (1) performs or causes to perform any computational process (including one based on algorithmic models, machine learning, statistical analysis, or other data processing or artificial intelligence techniques) designed to transmit or display, highlight, emphasize, or make more prominent, the advertisement to a subset of the users of such platform selected based on personal information pertaining to the individuals who make up the subset of users; or

(2) allows another person to instruct a covered online platform to transmit or display, highlight, emphasize, or make more prominent, the advertisement to a subset of the users of such platform, including by providing to such platform a list of individuals, contact information of individuals, or other personal information that can be used to identify individuals; and

(B) receives a fee or other payment, directly or indirectly, for disseminating the advertisement or providing the information.

(3) Exception: Targeting Individuals within a Governmental District. Subsection (a) does not apply to the targeting of the dissemination of an advertisement to an individual residing in, or to a device located in, a Governmental District.

(4) Sorting Based on Individual Search Terms or Requests. Displaying, highlighting, emphasizing or making more prominent, advertising or other content in direct response to requests made or search terms entered by an individual, such that any individual making such

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requests or entering such search terms would produce the same display, does not constitute targeting under subsection (a).

(b) Private Right of Action.

(1) Enforcement by Individuals.

(A) In general. Any person alleging a violation of this section by a covered online platform may bring a civil action in any court of competent jurisdiction, State or Federal.

(B) Relief. In a civil action brought under this paragraph in which the plaintiff prevails, the court may award—

(i) an amount not less than \$100 and not greater than \$1,000 per violation against any person who negligently violates a provision of this section;

(ii) an amount not less than \$500 and not greater than \$5,000 per violation against any person who recklessly, willfully, or intentionally violates a provision of this section;

(iii) reasonable attorney's fees and litigation costs; and

(iv) any other relief, including equitable or declaratory relief, that the court determines appropriate.

(C) Injury in Fact. A violation of this section constitutes a concrete and particularized injury in fact to an individual.

(2) Invalidity of Pre-Dispute Arbitration Agreements and Pre-Dispute Joint Action Waivers.

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(A) In general. Notwithstanding any other provision of law, no pre-dispute arbitration agreement or pre-dispute joint action waiver shall be valid or enforceable with respect to a dispute arising under this section.

(B) Applicability. Any determination as to whether or how this subsection applies to any dispute shall be made by a court, rather than an arbitrator, without regard to whether such agreement purports to delegate such determination to an arbitrator.

(C) Definitions. In this subsection:

(i) “Pre-Dispute Arbitration Agreement” means any agreement to arbitrate a dispute that has not arisen at the time of making the agreement.

(ii) “Pre-Dispute Joint-Action Waiver” means an agreement, whether or not part of a pre-dispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administration, or other forum, concerning a dispute that has not yet arisen at the time of making the agreement.

(iii) “Dispute” means any claim related to an alleged violation of this section and between an individual and a covered organization.

(c) Enforcement by Attorney General.

(1) Civil Action for Fines. The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct in violation of this section. In any such action the district court may award appropriate relief in including a civil

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penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other remedy, which is available by law to the United States or any other person.

(2) **Injunctive Relief.** If the Attorney General has reason to believe that a person is engaged in conduct in violation of this section, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such a violation. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(d) **Effective Date.** Section 232 of United States Code, Title 47 shall take effect 3 months after the date of the enactment of this Act.

(e) **Definitions.** In this section:

(1) “Covered Online Platform” means any website, web application, mobile application, smart device application, digital application (including a social network, or search engine), or advertising network (including a network disseminating advertisements on another website, web application, mobile application, smart device application, or digital application).

(2) “Personal Information” means any information that is linked or reasonably linkable to a specific individual or a specific device, including but not limited to an individual’s actual or perceived characteristics or demographics and information that may be derived from such individual’s internet browsing history, and including de-identified information.

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(3) “Governmental District” means any of the following:

(A) Each State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(B) Indian and tribal lands as defined and recognized under federal law.

(C) A county, municipality, city, town, township, village, borough, or similar unit of general government incorporated under State law or as defined by the Census Bureau; or

(D) A congressional district.

Section 233: Restrictions on Collection, Aggregation and Sale of Personal Information

(a) Congressional Finding.

The Congress finds that the widespread practice of websites, internet service companies, and data brokers, among others, collecting, aggregating and selling personal information of individuals derived from their internet activity (“online personal information”) poses a grave threat to personal privacy and autonomy.

(b) Congressional Purpose and Policy.

The Congress declares it to be its purpose and policy to protect personal privacy and autonomy by restricting the exploitive collection, aggregation, and sale of online personal information and to prohibit the collection, aggregation and sale of any individual’s online personal information without the genuine, informed and meaningful consent of such individual.

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(c) FTC Recommendations to Prohibit the Aggregation and Sale of Personal Information without Consent.

In order to protect personal privacy and autonomy, the Federal Trade Commission is hereby directed to study and make recommendations for specific reforms and legislation restricting the collection, aggregation, or sale of online personal information and prohibiting the collection, aggregation, or sale of any individual's online personal information without the genuine, informed, and meaningful consent of such individual. Among other provisions, the FTC shall include in its recommendations, provisions establishing that blanket consent obtained as a condition to accessing information or services on the internet shall not be considered meaningful consent.

(d) Deadline for FTC Recommendations.

The Federal Trade Commission shall submit a report to Congress containing the recommendations required by this section within 120 days of enactment of this Act.