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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To foster accountability for digital content providers.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCGOVERN introduced the following bill; which was referred to the
Committee on _____

A BILL

To foster accountability for digital content providers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Big Tech Account-
5 ability Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) foster accountability by online platforms
9 and other internet service providers;

1 (2) protect internet users, voters, and the
2 broader community from the dangers of rampant
3 amplification of disinformation and violence; and

4 (3) protect online personal privacy and auton-
5 omy against commercial exploitation.

6 **SEC. 3. FALSE INFORMATION ABOUT ESSENTIAL GOVERN-**
7 **MENT SERVICES OR PROCESSES.**

8 Chapter 47 of title 18, United States Code, is amend-
9 ed by inserting at the end the following:

10 **“§ 1041. False information about essential govern-**
11 **ment services or processes**

12 “(a) IN GENERAL.—Whoever, in interstate or foreign
13 commerce, knowingly conveys or disseminates fraudulent
14 civic misinformation, for the purpose or with the reason-
15 able expectation of causing other persons to believe and
16 rely or act upon such information, shall be fined under
17 this title or imprisoned not more than 5 years, or both.

18 “(b) PUBLISHING ENTITY LIABILITY.—Any pub-
19 lishing entity, or person acting on behalf of such pub-
20 lishing entity who, in interstate or foreign commerce, aids
21 in the dissemination of fraudulent civic misinformation
22 that violates subsection (a) of this section, by—

23 “(1) knowingly disseminating, publishing, or
24 broadcasting fraudulent civic misinformation; or

1 “(2) conducting individualized targeting to dis-
2 seminate, publish, or broadcast fraudulent civic mis-
3 information,
4 shall be fined under this title or imprisoned not more than
5 5 years, or both.

6 “(c) DEFINITIONS.—In this section:

7 “(1) FRAUDULENT CIVIC MISINFORMATION.—

8 The term ‘fraudulent civic misinformation’ means—

9 “(A) materially false, fraudulent, or mis-
10 leading information pertaining to essential gov-
11 ernment services or processes, including govern-
12 ment services concerning public health and
13 safety, voting and voter registration, elections,
14 the census, civil rights, and education; or

15 “(B) data, guidance, or information that is
16 materially false, fraudulent, or misleading and
17 that is falsely attributed to a government agen-
18 cy, or falsely asserted to have been sanctioned
19 or authored by a government agency.

20 “(2) INDIVIDUALIZED TARGETING.—The term
21 ‘individualized targeting’—

22 “(A) means a publishing entity—

23 “(i) performs or causes to perform
24 any computational process (including one
25 based on algorithmic models, machine

1 learning, statistical analysis, or other data
2 processing or artificial intelligence tech-
3 niques) designed to transmit or display,
4 highlight, emphasize, or make more promi-
5 nent, the content to a subset of the users
6 of such platform selected based on per-
7 sonal information pertaining to the individ-
8 uals who make up the subset of users; or
9 “(ii) allows another person or entity
10 to instruct a publishing entity to transmit
11 or display, highlight, emphasize, or make
12 more prominent, the content to a subset of
13 the users of such publishing entity, includ-
14 ing by providing to such person a list of in-
15 dividuals, contact information of individ-
16 uals, or other personal information that
17 can be used to identify individuals; and
18 “(B) does not include when a publishing
19 entity displays, highlights, emphasizes, or
20 makes more prominent, content in direct re-
21 sponse to requests made or search terms en-
22 tered by an individual, such that any individual
23 making such requests or entering such search
24 terms would produce the same display.

1 “(3) PERSONAL INFORMATION.—The term ‘per-
2 sonal information’ means any information that is
3 linked or reasonably linkable to a specific individual
4 or a specific device, including an individual’s actual
5 or perceived characteristics or demographics and in-
6 formation that may be derived from such individ-
7 ual’s internet browsing history, and including de-
8 identified information.

9 “(4) PUBLISHING ENTITY.—The term ‘pub-
10 lishing entity’ means any print publisher, radio-
11 broadcast licensee, broadcast, cable, or local tele-
12 vision station, provider of an interactive computer
13 service (as such term is defined in section 230(f)(2)
14 of the Communications Act of 1934 (47 U.S.C.
15 230(f)(2)), covered online platform (as such term is
16 defined in section 232(e)(1) of the Communications
17 Act of 1934), or agency or medium for the dissemi-
18 nation of advertising.

19 **“§ 1042. Civil penalties, injunction, and damages for**
20 **violations of section 1041**

21 “(a) CIVIL ENFORCEMENT BY THE ATTORNEY GEN-
22 ERAL.—The Attorney General may bring a civil action in
23 the appropriate United States district court against any
24 person who engages in conduct constituting an offense
25 under subsection (a) or (b) of section 1041 and, upon

1 proof of such conduct by a preponderance of the evidence,
2 such person shall be subject to a civil penalty of not more
3 than \$50,000 for each violation or the amount of com-
4 pensation which the person received or offered for the pro-
5 hibited conduct, whichever amount is greater.

6 “(b) INJUNCTIVE RELIEF.—If the Attorney General
7 has reason to believe that a person is engaged in conduct
8 constituting an offense under subsection (a) or (b) of sec-
9 tion 1041, the Attorney General may petition an appro-
10 priate United States district court for an order prohibiting
11 that person from engaging in such conduct. The court may
12 issue an order prohibiting that person from engaging in
13 such conduct if the court finds that the conduct con-
14 stitutes such an offense.

15 “(c) CIVIL ACTION.—Whoever engages in conduct
16 constituting an offense under subsection (a) or subsection
17 (b) of section 1041 is liable in a civil action—

18 “(1) to any person incurring expenses incident
19 to any emergency or investigative response to the
20 conduct that violated subsection (a) of section 1041;

21 “(2) to any person incurring expenses incident
22 to any efforts required to correct the fraudulent civic
23 misinformation;

24 “(3) to any person incurring injury, illness, or
25 loss of life, loss of personal property, loss of an op-

1 portunity to vote in an election, loss of civil rights,
2 loss or denial of government services, or expenses,
3 including medical or legal expenses, as a result of
4 the fraudulent civic misinformation; or

5 “(4) to any person injured for injunctive or
6 other equitable relief.

7 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to preclude any other criminal or
9 civil statutory, common law, or administrative remedy,
10 which is available by law to the United States or any other
11 person.”.

12 **SEC. 4. CRIMINAL LIABILITY FOR AMPLIFYING ENCOUR-**
13 **AGEMENT OF VIOLENCE.**

14 Chapter 13 of title 18, United States Code, is amend-
15 ed by inserting at the end the following:

16 **“§ 251. Criminal liability for amplifying encourage-**
17 **ment of violence**

18 “(a) IN GENERAL.—Any person who knowingly dis-
19 seminate on the internet, in interstate commerce and in
20 a manner calculated to reach 500 or more viewers, a com-
21 munication that solicits, commands, induces, encourages,
22 or otherwise endeavors to persuade another person to kid-
23 nap or cause death or serious bodily injury to any person,
24 or to engage in conduct constituting a felony offense (as
25 defined by State or Federal law governing the applicable

1 jurisdiction) that has as an element the use, attempted
2 use, or threatened use of physical force against property
3 or against the person of another, whether or not such com-
4 munications identify a specific person or property as the
5 target of such actions, shall be fined under this title, im-
6 prisoned not more than 2 years, or both.

7 “(b) PUBLISHING ENTITY LIABILITY.—Any pub-
8 lishing entity or person acting on behalf of a publishing
9 entity, who, in interstate or foreign commerce,—

10 “(1) disseminates, publishes, or broadcasts a
11 communication that solicits, commands, induces, en-
12 courages, or otherwise endeavors to persuade an-
13 other person or persons to kidnap or cause death or
14 serious bodily injury to any person, or to engage in
15 conduct constituting a felony offense (as defined by
16 State or Federal law governing the applicable juris-
17 diction) that has as an element the use, attempted
18 use, or threatened use of physical force against
19 property or against the person of another, whether
20 or not such communications identify a specific per-
21 son or property as the target of such actions;

22 “(2) conducts individualized targeting to dis-
23 seminate, publish, or broadcast such communication;
24 and

1 “(3) causes the communication to be viewed,
2 seen, or read 10,000 or more times within the
3 United States by means of dissemination, publica-
4 tion, or broadcast that are controlled or owned, in
5 whole or in part, by the publishing entity,
6 shall be fined under this title or imprisoned not more than
7 2 years, or both.

8 “(c) DEFINITIONS.—In this section, the terms ‘indi-
9 vidualized targeting’, ‘personal information’, and ‘pub-
10 lishing entity’ shall have the meaning given such terms
11 in section 1041.

12 **“§ 252. Civil penalties, injunction and damages for**
13 **violations of section 251**

14 “(a) CIVIL ENFORCEMENT BY THE ATTORNEY GEN-
15 ERAL.—The Attorney General may bring a civil action in
16 the appropriate United States district court against any
17 person who engages in conduct constituting an offense
18 under section 251 and, upon proof of such conduct by a
19 preponderance of the evidence, such person shall be sub-
20 ject to a civil penalty of not more than \$50,000 for each
21 violation or the amount of compensation which the person
22 received or offered for the prohibited conduct, whichever
23 amount is greater.

24 “(b) INJUNCTIVE RELIEF.—If the Attorney General
25 has reason to believe that a person is engaged in conduct

1 constituting an offense under section 251, the Attorney
2 General may petition an appropriate United States district
3 court for an order prohibiting that person from engaging
4 in such conduct. The court may issue an order prohibiting
5 that person from engaging in such conduct if the court
6 finds that the conduct constitutes such an offense.

7 “(c) CIVIL ACTION.—Whoever engages in conduct
8 constituting an offense under section 251 is liable in a
9 civil action to any person, including an entity or group
10 of persons, about whom such communication were made,
11 who were injured or harmed as a consequence of such
12 communication, or whose property was injured or harmed
13 as a consequence of such communication, whether or not
14 such person or entity was identified by name in the com-
15 munication, in an action for damages occasioned by such
16 communication, for injunctive relief, or for other appro-
17 priate relief. The court may grant any such relief upon
18 finding by a preponderance of the evidence that the de-
19 fendant has engaged in conduct constituting an offense
20 under section 251.

21 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed to preclude any other criminal or
23 civil statutory, common law, or administrative remedy,
24 which is available by law to the United States or any other
25 person.”.

1 **SEC. 5. TREATMENT OF CERTAIN PUBLISHERS OR SPEAK-**
2 **ERS.**

3 (a) TREATMENT OF PUBLISHER OR SPEAKER.—Sec-
4 tion 230(c)(1) of the Communications Act of 1934 (47
5 U.S.C. 230(c)(1)) is amended to read as follows:

6 “(1) TREATMENT OF PUBLISHER OR SPEAK-
7 ER.—

8 “(A) IN GENERAL.—In any civil action
9 against a provider or user of an interactive
10 computer service arising from information pro-
11 vided by another information content provider,
12 the interactive computer service shall not be
13 held liable as the publisher or speaker of that
14 information unless the interactive computer
15 service—

16 “(i) engages in targeting the dissemi-
17 nation of the content to an individual or
18 specific group of individuals;

19 “(ii) acts knowingly, recklessly or neg-
20 ligently in encouraging or facilitating the
21 spread of misinformation, disinformation,
22 or violence; or

23 “(iii) intentionally engages in a course
24 of business that receives a financial benefit
25 from amplifying misinformation,
26 disinformation, or violence.

1 “(B) INTERACTIVE COMPUTER SERVICE.—

2 In this paragraph, the term ‘interactive com-
3 puter service’ includes an agent, affiliate, ven-
4 dor, or other person acting on behalf of the
5 interactive computer service.”.

6 (b) TARGETING THE DISSEMINATION OF CON-
7 TENT.—Section 230(f) of the Communications Act of
8 1934 (47 U.S.C. 230(f)) is amended by inserting at the
9 end the following:

10 “(5) TARGETING THE DISSEMINATION OF CON-
11 TENT.—The term ‘targeting the dissemination of
12 content to a particular individual or specific group
13 of individuals’—

14 “(A) means to—

15 “(i) perform or cause to perform any
16 computational process (including one based
17 on algorithmic models, machine learning,
18 statistical analysis, or other data proc-
19 essing or artificial intelligence techniques)
20 designed to transmit or display, highlight,
21 emphasize, or make more prominent, the
22 content to a subset of the users of such
23 platform selected based on personal infor-
24 mation pertaining to the individuals who
25 make up the subset of users; or

1 “(ii) allow another person to instruct
2 an interactive computer service to transmit
3 or display, highlight, emphasize, or make
4 more prominent, the content to a subset of
5 the users of such interactive computer
6 service, including by providing to such
7 interactive computer service a list of indi-
8 viduals, contact information of individuals
9 or other personal information that can be
10 used to identify individuals; and

11 “(B) does not include displaying, high-
12 lighting, emphasizing, or making more promi-
13 nent, content in direct response to requests
14 made or search terms entered by an individual,
15 such that any individual making such requests
16 or entering such search terms would produce
17 the same display, does not constitute targeting
18 under this section.

19 “(6) PERSONAL INFORMATION.—The term ‘per-
20 sonal information’ means any information that is
21 linked or reasonably linkable to a specific individual
22 or a specific device, including an individual’s actual
23 or perceived characteristics or demographics and in-
24 formation that may be derived from such individ-

1 ual’s internet browsing history, and including de-
2 identified information.”.

3 (c) RESTRICTIONS ON TARGETED ONLINE ADVER-
4 TISING.—

5 (1) IN GENERAL.—Part I of title II of the Com-
6 munications Act of 1934 (47 U.S.C. 201 et seq.) is
7 amended by inserting at the end the following:

8 **“SEC. 232. RESTRICTIONS ON TARGETED ONLINE ADVER-**
9 **TISING.**

10 “(a) RESTRICTIONS ON ADVERTISEMENTS TAR-
11 GETED AT INDIVIDUALS OR AT SPECIFIC GROUPS OF IN-
12 DIVIDUALS.—

13 “(1) RESTRICTIONS.—A covered online plat-
14 form or an agent, affiliate, vendor, or other person
15 acting on behalf of such a platform may not target
16 the dissemination of an advertisement on such plat-
17 form to an individual or to a specific group of indi-
18 viduals on any basis.

19 “(2) ACTIONS CONSTITUTING TARGETING.—A
20 covered online platform or an agent, affiliate, ven-
21 dor, or other person acting on behalf of such a plat-
22 form shall be considered to target the dissemination
23 of an advertisement to an individual or to a specific
24 group of individuals if such platform—

1 “(A)(i) performs or causes to perform any
2 computational process (including one based on
3 algorithmic models, machine learning, statistical
4 analysis, or other data processing or artificial
5 intelligence techniques) designed to transmit or
6 display, highlight, emphasize, or make more
7 prominent, the advertisement to a subset of the
8 users of such platform selected based on per-
9 sonal information pertaining to the individuals
10 who make up the subset of users; or

11 “(ii) allows another person to instruct a
12 covered online platform to transmit or display,
13 highlight, emphasize, or make more prominent,
14 the advertisement to a subset of the users of
15 such platform, including by providing to such
16 platform a list of individuals, contact informa-
17 tion of individuals, or other personal informa-
18 tion that can be used to identify individuals;
19 and

20 “(B) receives a fee or other payment, di-
21 rectly or indirectly, for disseminating the adver-
22 tisement or providing the information.

23 “(3) SORTING BASED ON INDIVIDUAL SEARCH
24 TERMS OR REQUESTS.—Displaying, highlighting,
25 emphasizing or making more prominent, advertising

1 or other content in direct response to requests made
2 or search terms entered by an individual, such that
3 any individual making such requests or entering
4 such search terms would produce the same display,
5 does not constitute targeting under this subsection.

6 “(b) PRIVATE RIGHT OF ACTION.—

7 “(1) ENFORCEMENT BY INDIVIDUALS.—

8 “(A) IN GENERAL.—Any person alleging a
9 violation of this section by a covered online
10 platform may bring a civil action in any State
11 or Federal court of competent jurisdiction.

12 “(B) RELIEF.—In a civil action brought
13 under this paragraph in which the plaintiff pre-
14 vails, the court may award—

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

19 “(ii) an amount not less than \$500
20 and not greater than \$5,000 per violation
21 against any person who recklessly, will-
22 fully, or intentionally violates a provision of
23 this section;

24 “(iii) reasonable attorney’s fees and
25 litigation costs; and

1 “(iv) any other relief, including equi-
2 table or declaratory relief, that the court
3 determines appropriate.

4 “(C) INJURY IN FACT.—A violation of this
5 section constitutes a concrete and particularized
6 injury in fact to an individual.

7 “(2) INVALIDITY OF PRE-DISPUTE ARBITRA-
8 TION AGREEMENTS AND PRE-DISPUTE JOINT ACTION
9 WAIVERS.—

10 “(A) IN GENERAL.—Notwithstanding any
11 other provision of law, no pre-dispute arbitra-
12 tion agreement or pre-dispute joint action waiv-
13 er shall be valid or enforceable with respect to
14 a dispute arising under this section.

15 “(B) APPLICABILITY.—Any determination
16 as to whether or how this section applies to any
17 dispute shall be made by a court, rather than
18 an arbitrator, without regard to whether such
19 agreement purports to delegate such determina-
20 tion to an arbitrator.

21 “(C) DEFINITIONS.—In this section:

22 “(i) DISPUTE.—The term ‘dispute’
23 means any claim related to an alleged vio-
24 lation of this section and between an indi-
25 vidual and a covered organization.

1 “(ii) PRE-DISPUTE ARBITRATION
2 AGREEMENT.—The term ‘pre-dispute arbi-
3 tration agreement’ means any agreement
4 to arbitrate a dispute that has not arisen
5 at the time of making the agreement.

6 “(iii) PRE-DISPUTE JOINT-ACTION
7 WAIVER.—The term ‘pre-dispute joint-ac-
8 tion waiver’ means an agreement, whether
9 or not part of a pre-dispute arbitration
10 agreement, that would prohibit, or waive
11 the right of, one of the parties to the
12 agreement to participate in a joint, class,
13 or collective action in a judicial, arbitral,
14 administration, or other forum, concerning
15 a dispute that has not yet arisen at the
16 time of making the agreement.

17 “(c) ENFORCEMENT BY ATTORNEY GENERAL.—

18 “(1) CIVIL ACTION.—The Attorney General
19 may bring a civil action in the appropriate United
20 States district court against any person who engages
21 in conduct in violation of this section. In any such
22 action the district court may award appropriate re-
23 lief in including a civil penalty of not more than
24 \$50,000 for each violation or the amount of com-
25 pensation which the person received or offered for

1 the prohibited conduct, whichever amount is greater.
2 The imposition of a civil penalty under this sub-
3 section does not preclude any other remedy, which is
4 available by law to the United States or any other
5 person.

6 “(2) INJUNCTIVE RELIEF.—If the Attorney
7 General has reason to believe that a person is en-
8 gaged in conduct in violation of this section, the At-
9 torney General may petition an appropriate United
10 States district court for an order prohibiting that
11 person from engaging in such conduct. The court
12 may issue an order prohibiting that person from en-
13 gaging in such conduct if the court finds that the
14 conduct constitutes such a violation. The filing of a
15 petition under this section does not preclude any
16 other remedy which is available by law to the United
17 States or any other person.

18 “(d) EFFECTIVE DATE.—This section shall take ef-
19 fect 90 days after the date of the enactment of the Big
20 Tech Accountability Act.

21 “(e) DEFINITIONS.—In this section:

22 “(1) COVERED ONLINE PLATFORM.—The term
23 ‘covered online platform’ means any website, web ap-
24 plication, mobile application, smart device applica-
25 tion, digital application (including a social network,

1 or search engine), or advertising network (including
2 a network disseminating advertisements on another
3 website, web application, mobile application, smart
4 device application, or digital application).

5 “(2) GOVERNMENTAL DISTRICT.—The term
6 ‘governmental district’ means any of the following:

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

12 “(B) Indian and tribal lands as defined
13 and recognized under Federal law.

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

18 “(D) A congressional district.

19 “(3) PERSONAL INFORMATION.—The term ‘per-
20 sonal Information’ means any information that is
21 linked or reasonably linkable to a specific individual
22 or a specific device, including an individual’s actual
23 or perceived characteristics or demographics and in-
24 formation that may be derived from such individ-

1 ual’s internet browsing history, and including de-
2 identified information.

3 **“SEC. 233. RESTRICTIONS ON COLLECTION, AGGREGATION**
4 **AND SALE OF PERSONAL INFORMATION.**

5 “(a) CONGRESSIONAL FINDING.—The Congress finds
6 that the widespread practice of websites, internet service
7 companies, and data brokers, among others, collecting, ag-
8 gregating and selling personal information of individuals
9 derived from their internet activity (‘online personal infor-
10 mation’) poses a grave threat to personal privacy and au-
11 tonomy.

12 “(b) CONGRESSIONAL PURPOSE AND POLICY.—The
13 Congress declares it to be its purpose and policy to protect
14 personal privacy and autonomy by restricting the
15 exploitive collection, aggregation, and sale of online per-
16 sonal information and to prohibit the collection, aggrega-
17 tion and sale of any individual’s online personal informa-
18 tion without the genuine, informed and meaningful con-
19 sent of such individual.

20 “(c) FTC RECOMMENDATIONS TO PROHIBIT THE
21 AGGREGATION AND SALE OF PERSONAL INFORMATION
22 WITHOUT CONSENT.—In order to protect personal pri-
23 vacy and autonomy, the Federal Trade Commission is
24 hereby directed to study and make recommendations for
25 specific reforms and legislation restricting the collection,

1 aggregation, or sale of online personal information and
2 prohibiting the collection, aggregation, or sale of any indi-
3 vidual’s online personal information without the genuine,
4 informed, and meaningful consent of such individual.
5 Among other provisions, the Federal Trade Commission
6 shall include in its recommendations, provisions estab-
7 lishing that blanket consent obtained as a condition to ac-
8 cessing information or services on the internet shall not
9 be considered meaningful consent.

10 “(d) DEADLINE FOR FTC RECOMMENDATIONS.—
11 The Federal Trade Commission shall submit a report to
12 Congress containing the recommendations required by this
13 section within 120 days of the date of enactment of the
14 Big Tech Accountability Act.”.

15 **SEC. 6. CLERICAL AMENDMENT.**

16 (a) CHAPTER 13.—The table of contents for chapter
17 13 of title 18, United States Code, is amended by inserting
18 after the item relating to section 250 the following new
19 items:

“251. Criminal liability for amplifying encouragement of violence.

“252. Civil penalties, injunction and damages for violations of section 251.”.

20 (b) CHAPTER 47.—The table of contents for chapter
21 47 of title 18, United States Code, is amended by inserting
22 after the item relating to section 1040 the following new
23 items:

“1041. False information about essential government services or processes.

“1042. Civil penalties, injunction, and damages for violations of section 1041.”.