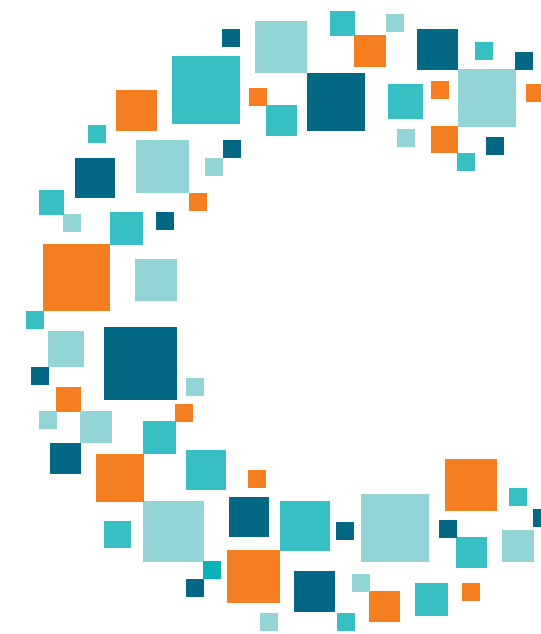


Chamber Technology Engagement Center (C\_TEC)

# 2021 CHILDREN'S PRIVACY BILLS



# \_TEC

U.S. Chamber of Commerce  
Technology Engagement Center

*For more information, please contact:*

**Jordan  
Crenshaw**

*Vice President*  
Chamber Technology Engagement Center  
[JCrenshaw@uschamber.com](mailto:JCrenshaw@uschamber.com)

	Children's Online Privacy Protection Act (15 USC 6501 et seq.)	COPPA Rule (16 CFR 312.1 et seq.)	Children and Teen's Online Privacy Protection Act (S. 1628, Markey)	PROTECT Kids Act (H.R. 1781, Walberg)	Kids PRIVCY Act (H.R. 4108, Castor)	Clean Slate for Kids Online Act (S.1423, Durbin)	
Definitions	<b>Covered Entity</b>	<p>"Operator" means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products of services for sale through that website or online service.</p> <p>Entities considered non-profits under the FTC Act are exempt.</p>	<p>"Operator" means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation.</p> <p>Entities considered non-profits under the FTC Act are exempt</p>	<p><b>"Operator" means any person—</b></p> <p><b>i. who, for commercial purposes, in interstate or foreign commerce operates or provides a website on the internet, an online service, an online application, or a mobile application; AND</b></p> <p><b>ii. who (I) collects or maintains, either directly or through a service provider, personal information from or about the users of that website, service, application, or connected device; (II) allows another person to collect personal information directly from users of that website, service, application, or connected device (in which case, the operator is deemed to have collected the information) OR (III) allows users of that website, service, application, or connected device to publicly disclose personal information...</b></p> <p><b>Entities considered non-profits under the FTC Act are exempt.</b></p>	<p>"Operator" means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products of services for sale through that website or online service.</p> <p>Entities considered non-profits under the FTC Act are exempt.</p>	<p><b>"Operator" means with respect to a digital service, the covered entity that operates such service, to the extent the covered entity is engaged in operating such service or in processing covered information obtained in connection with such service.</b></p> <p><b>Any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or venture over which the FTC has authority as well common carriers and non-profits.</b></p>	<p>"Operator" means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products of services for sale through that website or online service.</p> <p>Entities considered non-profits under the FTC Act are exempt.</p>
	<b>Targeted or Knowledge Requirement</b>	<p>Must be website targeted in whole or in portion to children or actual knowledge collecting personal information from a child.</p>	<p>"Web site or online service directed to children" means a commercial Web site or online service, or portion thereof, that is targeted to children.</p> <p>i. In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising, promoting, or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding the intended audience.</p> <p>ii. A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.</p> <p>iii. A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it (i) does not collect personal information from any visitor prior to collecting age information; and (ii) prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.</p> <p>iv. A Web site or online service shall not be deemed directed to children solely because it refers to or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.</p>	<p><b>(A) "Directed to a child" or "directed to a minor" means...targeted to children or minors as the case may be, as demonstrated by subject matter, visual content, the use of animated characters or child-oriented activities, music or audio content, the age of models, the presence of certain celebrities, language used, advertising, or empirical evidence relating to composition or intended audience.</b></p> <p><b>Constructive knowledge is enough to determine directing to children and minors. Services are considered directed to mixed audiences if content is not targeted to children or minors and they do not collect personal information before verifying age and do not collect from those under 16.</b></p>	<p>Must be website targeted in whole or in portion to children or actual knowledge collecting personal information from a child.</p>	<p><b>"Children's Service" means—</b></p> <p><b>(A) a digital service or portion thereof that is directed to children: OR</b></p> <p><b>(B) any other digital service or portion thereof, if the operator of the service decides to treat all users of the service or portion, as the case may be, as children.</b></p> <p><b>"Directed to children" means, with respect to a digital service, that the digital service is targeted to or attractive to children as demonstrated by the subject matter, visual content, use of animated characters or child-oriented activities, music, age of models, certain celebrities, language used, advertising content, reliable empirical evidence related to composition of audience, or any other evidence or circumstances determined by the FTC.</b></p>	<p>Must be website targeted in whole or in portion to children or actual knowledge collecting personal information from a child.</p>

	Children's Online Privacy Protection Act (15 USC 6501 et seq.)	COPPA Rule (16 CFR 312.1 et seq.)	Children and Teen's Online Privacy Protection Act (S. 1628, Markey)	PROTECT Kids Act (H.R. 1781, Walberg)	Kids PRIVCY Act (H.R. 4108, Castor)	Clean Slate for Kids Online Act (S.1423, Durbin)
Definitions	<p><b>Covered Information</b></p> <p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <ul style="list-style-type: none"> <li>i. A first and last name</li> <li>ii. A home or other physical address including street name and a name of a city or town</li> <li>iii. An e-mail address</li> <li>iv. A telephone number</li> <li>v. A Social Security number</li> <li>vi. Any other identifier that the Commission determines permits the physical or online contacting of a specific individual</li> <li>vii. Information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.</li> </ul>	<p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <ul style="list-style-type: none"> <li>i. A first and last name</li> <li>ii. A home or other physical address including street name and a name of a city or town</li> <li>iii. Online contact information</li> <li>iv. A screen or user name where it functions in the same manner as online contact information</li> <li>v. A telephone number</li> <li>vi. A Social Security number</li> <li>vii. A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier.</li> <li>viii. A photograph, video, or audio file, where such file contains a child's image or voice</li> <li>ix. Geolocation information sufficient to identify street name and name of a city or town</li> <li>x. Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described [in the COPPA rule].</li> </ul> <p>“Online contact information” means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.</p>	<p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <ul style="list-style-type: none"> <li>i. A first and last name</li> <li>ii. A home or other physical address including street name and a name of a city or town</li> <li>iii. An e-mail address</li> <li>iv. A telephone number</li> <li>v. A Social Security number</li> <li><b>vi. Geolocation information</b></li> <li><b>vii. Information used for biometric identification</b></li> <li><b>viii. Information reasonably associated with or attributed to an individual</b></li> <li><b>ix. Information (including an internet protocol address) that permits the identification of an individual or any device used by an individual to access the internet or an online service, online application, or mobile application</b></li> <li><b>x. Information concerning a child or minor or the parents of that child or minor [and combines with any other defined categories of personal information]</b></li> </ul>	<p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <ul style="list-style-type: none"> <li>i. a first and last name</li> <li>ii. a home or other physical address including street name and a name of a city or town</li> <li>iii. an e-mail address</li> <li>iv. a telephone number</li> <li>v. a Social Security number</li> <li><b>vi. precise geolocation information</b></li> <li><b>vii. biometric information</b></li> </ul>	<p>“<b>Covered information</b>” means any information, linked or reasonably linkable to a specific teenager or child, or specific consumer device of a teenager or child and may include:</p> <ul style="list-style-type: none"> <li><b>i. a name, alias, home or other physical address, online identifier, Internet Protocol address, email address, account name, Social Security number, physical characteristics or description, telephone number, State identification card number, driver's license number, passport number, or other similar identifier</b></li> <li><b>ii. actual or perceived race, religion, sex, sexual orientation, sexual behavior, familial status, gender identity, disability, age, political affiliation, or national origin</b></li> <li><b>iii. commercial information, including records relating to personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories, interests or tendencies</b></li> <li><b>iv. biometric information</b></li> <li><b>v. device identifiers, online identifiers, persistent identifiers, or digital fingerprinting information</b></li> <li><b>vi. internet or other electronic network activity information, including browser history, search history, and information regarding a teenager's or child's interaction with an internet website, application, or advertisement</b></li> <li><b>vii. geolocation information</b></li> <li><b>viii. audio, electronic, visual, thermal, olfactory, or similar information</b></li> <li><b>ix. education information</b></li> <li><b>x. health information</b></li> <li><b>xi. facial recognition information</b></li> <li><b>xii. contents of, attachments to, and parties to information, including with respect to electronic mail, text messages, picture messages voicemails, audio conversations, and video conversations</b></li> <li><b>xiii. financial information, including bank account numbers, credit card numbers, debit card numbers, or insurance policy numbers</b></li> <li><b>xiv. inferences drawn from any of the information described in this paragraph to create a profile about a teenager or child reflecting the teenager's or child's preferences, characteristics, psychological trends, predispositions, behaviors, attitudes, intelligence, abilities, or aptitudes</b></li> </ul> <p><b>COVERED INFORMATION DOES NOT INCLUDE TEENAGE EMPLOYMENT OR DEIDENTIFIED INFORMATION</b></p>	<p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <ul style="list-style-type: none"> <li>i. a first and last name</li> <li>ii. a home or other physical address including street name and a name of a city or town</li> <li>iii. an e-mail address</li> <li>iv. a telephone number</li> <li>v. a Social Security number</li> <li>vi. any other identifier that the Commission determines permits the physical or online contacting of a specific individual</li> <li>vii. Information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.</li> </ul>

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Definitions	Protected Group	"Child" means an individual under the age of 13.	"Child" means an individual under the age of 13.	"Child" means an individual under the age of 13. <b>"Minor" means an individual over the age of 12 and under the age of 16.</b>	<b>"Child" means an individual under the age of 16.</b>	"Child" means an individual under the age of 13. <b>"Teenager" means an individual over the age of 12 and under the age of 18.</b>	"Child" means an individual under the age of 13.
Obligations, Consumer Rights and Prohibitions	Transparency	Yes	Yes	Yes	Yes	Yes	Yes
	Right to Access	Yes	Yes	Yes	Yes	Yes	Yes
	Right to Correction					<b>Yes</b>	
	Right to Deletion			<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
	AI Specific or Right to Human Review of Automated Decision Making					<b>Prohibitions on engaging in algorithmic processes that discriminate on the basis of race, age, gender, ability, or other protected characteristics</b>	
	Reasonable Basis/ Exceptions	<ul style="list-style-type: none"> <li>Online contact information used to respond to specific requests of child/parent</li> <li>Data used for the sole purpose of obtaining parental consent or providing notice under the Act</li> <li>Protect safety of the child</li> <li>Protect security and integrity of website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety</li> </ul>	<ul style="list-style-type: none"> <li>For consent, where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain consent [under the Rule]. If the operator has not obtained parental consent after a reasonable time, the operator must delete such information from its records.</li> <li>For consent, where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose childrens' personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose.</li> <li>For consent, online contact information used to respond to specific requests of child/parent</li> <li>For consent, protect safety of child</li> <li>For consent, protect security and integrity of website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety</li> <li>Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service</li> </ul>		<ul style="list-style-type: none"> <li>Online contact information used to respond to specific requests of child/parent</li> <li>Data used for the sole purpose of obtaining parental consent or providing notice under the Act</li> <li>Protect safety of the child</li> <li>Protect security and integrity of website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety</li> </ul>	<ul style="list-style-type: none"> <li><b>For consent, data used to respond to specific requests by child/teenager/parent</b></li> <li><b>For consent, to respond to judicial process</b></li> <li><b>For consent, To provide information to law enforcement for an investigation related to public safety</b></li> <li><b>For data minimization, requirements to document compliance with COPPA and other laws, preventing risks to the health of safety of children or teenagers, and repairing errors that impart existing functionality.</b></li> <li><b>For access, correction, deletion, operator unable to verify identity, request needed for legal request or a threat to privacy</b></li> <li><b>For deletion or retention, data needed to provide product or service, perform a contract, keep record for law enforcement purposes, identify and repair errors, or used in peer reviewed scientific research meeting ethical standards</b></li> </ul>	<ul style="list-style-type: none"> <li>Online contact information used to respond to specific requests of child/parent</li> <li>Data used for the sole purpose of obtaining parental consent or providing notice under the Act</li> <li>Protect safety of the child</li> <li>Protect security and integrity of website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety</li> </ul>

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Obligations, Consumer Rights and Prohibitions (cont.)	Consent	<ul style="list-style-type: none"> <li>Verifiable parental consent required for collection, use, or disclosure of personal information from children.</li> <li>Opportunity at any time for parents to refuse to permit operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.</li> </ul>	<ul style="list-style-type: none"> <li>Verifiable parental consent required prior to the collection, use, and/or disclosure of personal information from children, including consent to any material change in the collection, use or disclosure practices to which the parent has previously consented. Collection and use can be consented to without consent to disclose.</li> </ul>	<ul style="list-style-type: none"> <li>Verifiable parental consent required for collection, use, or disclosure of personal information from children.</li> <li>Opportunity at any time for parents to refuse to permit operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.</li> </ul>	<ul style="list-style-type: none"> <li><b>Verifiable consent required for data processing of teenager or child. If such operator determines, including through actual or constructive knowledge, such operator has not obtained verifiable consent, within 48 hours they must obtain consent or delete all covered information.</b></li> <li><b>There must be a mechanism to withdraw consent.</b></li> </ul>	<ul style="list-style-type: none"> <li>Verifiable parental consent required for collection, use, or disclosure of personal information from children.</li> <li>Opportunity at any time for parents to refuse to permit operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.</li> </ul>	
	Misc. Prohibited Practices	<ul style="list-style-type: none"> <li>Conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity.</li> </ul>	<ul style="list-style-type: none"> <li>Conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity.</li> </ul>	<ul style="list-style-type: none"> <li>Conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity.</li> <li><b>The personal information of a child or minor shall not be used to direct content to the child or minor, or a group of individuals similar to the child or minor, on the basis of race, socio-economic factors, or any proxy thereof.</b></li> <li><b>Collection of personal information from minors is prohibited unless the operator complies with a Digital Marketing Bill of Rights consistent with Fair Information Practice Principles which are outlined in the Act and can be defined by the FTC.</b></li> <li><b>Use, collection, and sharing of data of children and minors for targeted advertising prohibited with exception of consent by minors.</b></li> </ul>	<ul style="list-style-type: none"> <li>Conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity.</li> </ul>	<ul style="list-style-type: none"> <li>Process any covered information in a manner that is inconsistent with that of a reasonable teenager or parent in the context of a particular transaction.</li> <li>Process any covered information in a manner that is harmful or has been shown to be detrimental to the well-being of children or teenagers.</li> <li>Prohibit processing for targeted or personal advertising based on certain collection practices.</li> <li>Condition the participation of a child or teenager in a game, sweepstakes, or other contest on consenting to the processing of more covered information than is necessary for such child or teenager to participate.</li> <li>Engage in cross-device tracking of a child or teenager unless the child or teenager is logging-in to a specific device, for the sole purpose of facilitating the primary purpose of the good or service of a specific feature.</li> <li>Disclose biometric information.</li> <li>Disclose geolocation information.</li> <li>Collect geolocation data by default.</li> </ul>	<ul style="list-style-type: none"> <li>Conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity.</li> </ul>
	Data Minimization		An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.	<b>The personal information of a child or minor should not be retained for longer than is necessary to fulfill a transaction or provide a service requested by the child or minor or such other purposes specified. The operator should implement a reasonable and appropriate data disposal policy based on the nature and sensitivity of personal information.</b>		<b>An operator of a children's service shall process covered information under the principle of data minimization, requiring the operator to only process the minimum amount necessary for a specified purpose.</b> <b>An operator may not keep, retain, or otherwise store covered information for longer than is reasonably necessary for the purposes for which the covered information is processed.</b>	
	Discrimination based on privacy rights	The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations, to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.		<b>The regulations shall prohibit an operator from discontinuing service provided to a child or minor on the basis of a request by the parents of the child or by the minor, under regulations to delete personal information.</b>	<b>The regulations shall prohibit the operator of a website, online service, or mobile application from terminating service provided to a child whose parent has refused, under the regulations, to permit the operator's further collection or use of personal information from that child, or has required such operator to delete such information.</b>	<b>An operator may not refuse to provide service, or discontinue a service provided, to a teenager or child, if the teenager or parents of the child, as applicable, refuses to consent, or withdraws consent, to the processing of any covered information not technically required for the operator to provide such service.</b>	The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations, to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

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Obligations, Consumer Rights and Prohibitions (cont.)	Misc. Provisions			<ul style="list-style-type: none"> <li>Personal information should be collected from a child or minor only when collection of the personal information is consistent with the context of a particular transaction or service or required by law.</li> <li>The personal information of a child or minor should be accurate, complete, and kept up-to-date to the extent necessary to fulfill the purposes.</li> <li>Children or minors have the right to be forgotten for data collected from them.</li> </ul>			
Security	Data Security	Yes	Yes	Yes	Yes		Yes
Misc. Industries	Service Providers and Processors					Written agreements required for third parties.	
Enforcement Issues and Effective Date	Enforcement Agency	FTC and equivalent enforcers	FTC	FTC and equivalent enforcers	FTC and equivalent enforcers	FTC and equivalent enforcers	FTC and equivalent enforcers
	Safe Harbor	FTC approved self-regulatory programs	FTC approved self-regulatory programs	FTC approved self-regulatory programs	FTC approved self-regulatory programs	Repealed	FTC approved self-regulatory programs
	Expanded Penalty Authority			Civil Penalties		Civil Penalty	
	State AG Enforcement	Yes		Yes	Yes	Yes	Yes
	Rulemaking	Yes		Yes	Yes	Yes and new rulemaking on requirements for digital services likely to be accessed by children or teenagers.	Yes
	Private Right of Action					Yes	
	Preemption	<ul style="list-style-type: none"> <li>Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.</li> <li>No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act.</li> </ul>		<ul style="list-style-type: none"> <li>Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.</li> <li>No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act.</li> </ul>	<ul style="list-style-type: none"> <li>Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.</li> <li>No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act.</li> </ul>	<ul style="list-style-type: none"> <li>Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.</li> <li>No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act.</li> </ul>	

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