

117TH CONGRESS  
1ST SESSION

# H. R. 5921

To require that internet platforms give users the option to engage with a platform without being manipulated by algorithms driven by user-specific data.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2021

Mr. BUCK (for himself, Mr. CICILLINE, Mr. OWENS, and Mrs. TRAHAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To require that internet platforms give users the option to engage with a platform without being manipulated by algorithms driven by user-specific data.

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 “Filter Bubble Trans-  
5 parency Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ALGORITHMIC RANKING SYSTEM.**—The  
9 term “algorithmic ranking system” means a com-

1       putational process, including one derived from algo-  
2       rithmic decision making, machine learning, statis-  
3       tical analysis, or other data processing or artificial  
4       intelligence techniques, used to determine the order  
5       or manner that a set of information is provided to  
6       a user on a covered internet platform, including the  
7       ranking of search results, the provision of content  
8       recommendations, the display of social media posts,  
9       or any other method of automated content selection.

10       (2) COMMISSION.—The term “Commission”  
11       means the Federal Trade Commission.

12       (3) CONNECTED DEVICE.—The term “con-  
13       nected device” means a physical object that—

14               (A) is capable of connecting to the inter-  
15               net, either directly or indirectly through a net-  
16               work, to communicate information at the direc-  
17               tion of an individual; and

18               (B) has computer processing capabilities  
19               for collecting, sending, receiving, or analyzing  
20               data.

21       (4) COVERED INTERNET PLATFORM.—

22               (A) IN GENERAL.—The term “covered  
23               internet platform” means any public-facing  
24               website, internet application, or mobile applica-  
25               tion, including a social network site, video shar-

ing service, search engine, or content aggregation service.

(B) EXCLUSIONS.—Such term shall not include a platform that—

(i) is wholly owned, controlled, and operated by a person that—

(I) for the most recent 6-month period, did not employ more than 500 employees;

(II) for the most recent 3-year period, averaged less than \$50,000,000 in annual gross receipts; and

(III) collects or processes on an annual basis the personal data of less than 1,000,000 individuals; or

(ii) is operated for the sole purpose of conducting research that is not made for profit either directly or indirectly.

(5) INPUT-TRANSPARENT ALGORITHM.—

(A) IN GENERAL.—The term “input-transparent algorithm” means an algorithmic ranking system that does not use the user-specific data of a user to determine the order or manner that information is furnished to such user

on a covered internet platform, unless the user-specific data is expressly provided to the platform by the user for such purpose.

(B) INCLUSION OF AGE-APPROPRIATE CONTENT FILTERS.—Such term shall include an algorithmic ranking system that uses user-specific data to determine whether a user is old enough to access age-restricted content on a covered internet platform, provided that the system otherwise meets the requirements of subparagraph (A).

(C) DATA PROVIDED FOR EXPRESS PURPOSE OF INTERACTION WITH PLATFORM.—For purposes of subparagraph (A), user-specific data that is provided by a user for the express purpose of determining the order or manner that information is furnished to a user on a covered internet platform—

(i) shall include user-supplied search terms, filters, speech patterns (if provided for the purpose of enabling the platform to accept spoken input or selecting the language in which the user interacts with the platform), saved preferences, and the user's current geographical location;

1 (ii) shall include data supplied to the  
2 platform by the user that expresses the  
3 user's desire that information be furnished  
4 to them, such as the social media profiles  
5 the user follows, the video channels the  
6 user subscribes to, or other sources of con-  
7 tent on the platform the user follows;

8 (iii) shall not include the history of  
9 the user's connected device, including the  
10 user's history of web searches and brows-  
11 ing, geographical locations, physical activ-  
12 ity, device interaction, and financial trans-  
13 actions; and

14 (iv) shall not include inferences about  
15 the user or the user's connected device,  
16 without regard to whether such inferences  
17 are based on data described in clause (i).

18 (6) OPAQUE ALGORITHM.—

19 (A) IN GENERAL.—The term “opaque al-  
20 gorithm” means an algorithmic ranking system  
21 that determines the order or manner that infor-  
22 mation is furnished to a user on a covered  
23 internet platform based, in whole or part, on  
24 user-specific data that was not expressly pro-

vided by the user to the platform for such purpose.

(B) EXCEPTION FOR AGE-APPROPRIATE CONTENT FILTERS.—Such term shall not include an algorithmic ranking system used by a covered internet platform if—

(i) the only user-specific data (including inferences about the user) that the system uses is information relating to the age of the user; and

(ii) such information is only used to restrict a user’s access to content on the basis that the individual is not old enough to access such content.

(7) SEARCH SYNDICATION CONTRACT; UPSTREAM PROVIDER; DOWNSTREAM PROVIDER.—

(A) SEARCH SYNDICATION CONTRACT.—

The term “search syndication contract” means a contract or subcontract for the sale, license, or other right to access an index of web pages on the internet for the purpose of operating an internet search engine.

(B) UPSTREAM PROVIDER.—The term “upstream provider” means, with respect to a search syndication contract, the person that

1 grants access to an index of web pages on the  
2 internet to a downstream provider under the  
3 contract.

4 (C) DOWNSTREAM PROVIDER.—The term  
5 “downstream provider” means, with respect to  
6 a search syndication contract, the person that  
7 receives access to an index of web pages on the  
8 internet from an upstream provider under such  
9 contract.

10 (8) USER-SPECIFIC DATA.—The term “user-  
11 specific data” means information relating to an indi-  
12 vidual or a specific connected device that would not  
13 necessarily be true of every individual or device.

14 **SEC. 3. REQUIREMENT TO ALLOW USERS TO SEE**  
15 **UNMANIPULATED CONTENT ON INTERNET**  
16 **PLATFORMS.**

17 (a) IN GENERAL.—Beginning on the date that is 1  
18 year after the date of enactment of this Act, it shall be  
19 unlawful—

20 (1) for any person to operate a covered internet  
21 platform that uses an opaque algorithm unless the  
22 person complies with the requirements of subsection  
23 (b); or

24 (2) for any upstream provider to grant access  
25 to an index of web pages on the internet under a

1 search syndication contract that does not comply  
2 with the requirements of subsection (c).

3 (b) OPAQUE ALGORITHM REQUIREMENTS.—

4 (1) IN GENERAL.—The requirements of this  
5 subsection with respect to a person that operates a  
6 covered internet platform that uses an opaque algo-  
7 rithm are the following:

8 (A) The person provides notice to users of  
9 the platform that the platform uses an opaque  
10 algorithm that makes inferences based on user-  
11 specific data to select the content the user sees.  
12 Such notice shall be presented in a clear, con-  
13 spicuous manner on the platform whenever the  
14 user interacts with an opaque algorithm for the  
15 first time, and may be a one-time notice that  
16 can be dismissed by the user.

17 (B) The person makes available a version  
18 of the platform that uses an input-transparent  
19 algorithm and enables users to easily switch be-  
20 tween the version of the platform that uses an  
21 opaque algorithm and the version of the plat-  
22 form that uses the input-transparent algorithm  
23 by selecting a prominently placed icon, which  
24 shall be displayed wherever the user interacts  
25 with an opaque algorithm.



1           (2) NONAPPLICATION TO CERTAIN DOWN-  
2       STREAM PROVIDERS.—Paragraph (1) shall not apply  
3       with respect to an internet search engine if—

4           (A) the search engine is operated by a  
5       downstream provider with fewer than 1,000 em-  
6       ployees; and

7           (B) the search engine uses an index of web  
8       pages on the internet to which such provider re-  
9       ceived access under a search syndication con-  
10      tract.

11      (c) SEARCH SYNDICATION CONTRACT REQUIRE-  
12      MENT.—The requirements of this subsection with respect  
13      to a search syndication contract are that—

14           (1) as part of the contract, the upstream pro-  
15      vider makes available to the downstream provider  
16      the same input-transparent algorithm used by the  
17      upstream provider for purposes of complying with  
18      subsection (b)(1)(B); and

19           (2) the upstream provider does not impose any  
20      additional costs, degraded quality, reduced speed, or  
21      other constraint on the functioning of such algo-  
22      rithm when used by the downstream provider to op-  
23      erate an internet search engine relative to the per-  
24      formance of such algorithm when used by the up-

1 stream provider to operate an internet search en-  
2 gine.

3 **SEC. 4. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

4 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

5 A violation of this Act by an operator of a covered internet  
6 platform shall be treated as a violation of a rule defining  
7 an unfair or deceptive act or practice prescribed under sec-  
8 tion 18(a)(1)(B) of the Federal Trade Commission Act  
9 (15 U.S.C. 57a(a)(1)(B)).

10 (b) POWERS OF COMMISSION.—

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

19 (2) PRIVILEGES AND IMMUNITIES.—Except as  
20 provided in paragraph (3), any person who violates  
21 this Act shall be subject to the penalties and entitled  
22 to the privileges and immunities provided in the  
23 Federal Trade Commission Act (15 U.S.C. 41 et  
24 seq.).

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

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

12                  (B) organizations not organized to carry  
13                  on business for their own profit or that of their  
14                  members.

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

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