

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) When consent not required

The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) Termination of service

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 prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) Enforcement

Subject to sections 6503 and 6505 of this title, a violation of a regulation prescribed under subsection (a) of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 57a(a)(1)(B) of this title.

(d) Inconsistent State law

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 or actions under this section.

(Pub. L. 105-277, div. C, title XIII, §1303, Oct. 21, 1998, 112 Stat. 2681-730.)

EFFECTIVE DATE

For effective date of subsec. (a) of this section, see section 1308 of Pub. L. 105-277, set out as a note under section 6501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6503, 6504, 6505, 6506 of this title.

§ 6503. Safe harbors

(a) Guidelines

An operator may satisfy the requirements of regulations issued under section 6502(b) of this title by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b) of this section.

(b) Incentives

(1) Self-regulatory incentives

In prescribing regulations under section 6502 of this title, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) Deemed compliance

Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 6502 of this title if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the

regulations issued under section 6502 of this title.

(3) Expedited response to requests

The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) Appeals

Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) of this section may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5.

(Pub. L. 105-277, div. C, title XIII, §1304, Oct. 21, 1998, 112 Stat. 2681-732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6502 of this title.

§ 6504. Actions by States

(a) In general

(1) Civil actions

In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 6502(b) of this title, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

- (A) enjoin that practice;
- (B) enforce compliance with the regulation;
- (C) obtain damage, restitution, or other compensation on behalf of residents of the State; or
- (D) obtain such other relief as the court may consider to be appropriate.

(2) Notice

(A) In general

Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

- (i) written notice of that action; and
- (ii) a copy of the complaint for that action.

(B) Exemption

(i) In general

Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification

In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention

(1) In general

On receiving notice under subsection (a)(2) of this section, the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention

If the Commission intervenes in an action under subsection (a) of this section, it shall have the right—

- (A) to be heard with respect to any matter that arises in that action; and
- (B) to file a petition for appeal.

(3) Amicus curiae

Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file *amicus curiae* in that proceeding.

(c) Construction

For purposes of bringing any civil action under subsection (a) of this section, nothing in this chapter shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

- (1) conduct investigations;
- (2) administer oaths or affirmations; or
- (3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by Commission

In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 6502 of this title, no State may, during the pendency of that action, institute an action under subsection (a) of this section against any defendant named in the complaint in that action for violation of that regulation.

(e) Venue; service of process

(1) Venue

Any action brought under subsection (a) of this section may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28.

(2) Service of process

In an action brought under subsection (a) of this section, process may be served in any district in which the defendant—

- (A) is an inhabitant; or
- (B) may be found.

(Pub. L. 105-277, div. C, title XIII, §1305, Oct. 21, 1998, 112 Stat. 2681-733.)

EFFECTIVE DATE

For effective date of section, see section 1308 of Pub. L. 105-277, set out as a note under section 6501 of this title.

§ 6505. Administration and applicability

(a) In general

Except as otherwise provided, this chapter shall be enforced by the Commission under the