

118TH CONGRESS
1ST SESSION

S. 1801

To ensure that large online platforms are addressing the needs of non-English users.

IN THE SENATE OF THE UNITED STATES

JUNE 1, 2023

Mr. LUJÁN (for himself, Mr. PADILLA, Mr. MENENDEZ, Ms. HIRONO, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To ensure that large online platforms are addressing the needs of non-English users.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Language-Inclusive Support and Transparency for On-
6 line Services Act of 2023” or the “LISTOS Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of Congress.
- Sec. 3. Duty to ensure consistent enforcement.
- Sec. 4. Disclosures on staffing and automated processes.

Sec. 5. Consistent access to tools and documentation.

Sec. 6. Advisory Group.

Sec. 7. Enforcement.

Sec. 8. Regulations.

Sec. 9. Effective dates.

Sec. 10. International online communication research activities pilot program.

Sec. 11. Definitions.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) substantial and deliberate investments
4 across languages are essential to protect the safety
5 of users online and ensure equitable access to digital
6 spaces;

7 (2) online platforms have historically under-in-
8 vested in ensuring non-English content moderation
9 and automated content detection and filtering proc-
10 esses keep pace with their English counterparts, pro-
11 viding little transparency into the efficacy of efforts
12 to detect, review, and remove content that violates
13 laws or platform policies across languages;

14 (3) this difference in enforcement for platforms'
15 existing policies and uneven moderation practices
16 across both manual and automated processes has in-
17 creased the proliferation of illegal and harmful con-
18 tent across many languages and the deliberate tar-
19 geting of non-English-speaking communities for
20 fraud and harassment; and

21 (4) any reform effort for online platform safety
22 must ensure equitable investment across languages

1 in order to promote economic opportunity, public
2 health, and civil rights.

3 **SEC. 3. DUTY TO ENSURE CONSISTENT ENFORCEMENT.**

4 (a) IN GENERAL.—The operator of a covered plat-
5 form shall provide that processes used by the platform for
6 detecting, suppressing, and removing illegal content, or
7 content that otherwise violates platform policies, are rea-
8 sonably consistent for languages in which the covered plat-
9 form engages in monetization practices.

10 (b) CONSIDERATIONS.—Any entity enforcing or pro-
11 mulgating rules under subsection (a) shall take into con-
12 sideration factors that may impact the covered platform’s
13 ability to enforce its policies with respect to content in a
14 given language, including staffing levels and language pro-
15 ficiency, or the effectiveness of automated systems de-
16 signed to filter or flag content for additional review.

17 (c) RULE OF CONSTRUCTION; LIMITATION ON REGU-
18 LATION.—Nothing in this section shall be construed to re-
19 quire, and no regulation issued by the Commission to
20 carry out this section may require, that a covered platform
21 take any particular action on a specific piece of content
22 or class of content.

1 **SEC. 4. DISCLOSURES ON STAFFING AND AUTOMATED**
2 **PROCESSES.**

3 (a) IN GENERAL.—The operator of a covered plat-
4 form shall, not less than annually, submit to the Commis-
5 sion and make available to the public, in a machine-read-
6 able format, a clear and easily comprehensible report on
7 any manual and algorithmic content moderation that the
8 covered platform engaged in during the relevant period.
9 Each such report shall be in compliance with the rules
10 established under subsection (b).

11 (b) RULES.—The Commission shall, in accordance
12 with section 8, establish rules for reports under subsection
13 (a). Such rules shall require that a report include the fol-
14 lowing information:

15 (1) CONTENT MODERATION STAFFING.—

16 (A) IN GENERAL.—The number of staff
17 employed by the covered platform (whether di-
18 rectly employed by the platform or contracted
19 through a third party) for the purposes of
20 manually reviewing content for removal or other
21 interventions, in aggregate and broken down
22 by—

23 (i) the countries in which the employ-
24 ees are located;

25 (ii) the geographic or regional area to
26 which the employees are assigned; and

1 (iii) languages spoken by the employ-
2 ees relevant to their employment and their
3 levels of language proficiency.

4 (B) STAFF SUPPORT.—A description of the
5 training and support provided to content mod-
6 eration staff, including—

7 (i) the training processes and guide-
8 lines provided;

9 (ii) the support services, such as men-
10 tal health services, available to the em-
11 ployee; and

12 (iii) if training or support services dif-
13 fer by factors such as geographic region,
14 languages spoken, or direct-hire versus
15 contracted employees, descriptions and
16 breakdowns of such differences.

17 (2) AUTOMATED CONTENT DETECTION AND DE-
18 CISION-MAKING PROCESSES.—If the covered plat-
19 form elects to use algorithmic processes to detect
20 content for additional manual review or automated
21 decision-making for content moderation, information
22 on such processes, including—

23 (A) performance metrics that are mon-
24 itored to ensure consistent behavior for such

1 processes across languages and the languages
2 that are monitored; and

3 (B) other safeguards in place to ensure
4 consistent behavior of such systems across lan-
5 guages.

6 (3) MONETIZATION ACROSS LANGUAGES.—The
7 list of languages in which the covered platform en-
8 gages in monetization practices and the percentage
9 breakdown by language of the covered platform’s
10 revenue throughout the duration of the relevant re-
11 porting period.

12 (4) IN-LANGUAGE REVIEW.—Of all content that
13 is manually reviewed by staff, provide information
14 on content that is reviewed in the original language
15 used to create the content rather than being subject
16 to automated translation before review, including—

17 (A) the percentage of content reviewed in
18 the original language for each language in
19 which the covered platform engages in mone-
20 tization practices; and

21 (B) a description of the policies governing
22 whether and to what extent content will be
23 manually reviewed in the original language or
24 automatically translated prior to manual review.

1 (5) TRANSLATION AND REVIEW PROCESSES.—

2 With respect to the content review practices of the
3 covered platform—

4 (A) the list of languages in which content
5 is reviewed without translation; and

6 (B) for languages in which automated
7 translation is applied prior to manual review, a
8 description of—

9 (i) the process by which content is
10 translated; and

11 (ii) the process by which that content
12 is reviewed and how, if at all, that process
13 differs from the process used to review
14 content in the original language.

15 (6) CONTENT MODERATION OUTCOME MEAS-
16 URES.—

17 (A) NUMBER OF CONTENT TAKEDOWNS.—

18 The number of content takedowns over the rel-
19 evant reporting period for each language in
20 which the covered platform engages in mone-
21 tization practices.

22 (B) RESPONSE TIME.—The average re-
23 sponse time to user-initiated takedown or con-
24 tent review requests over the relevant reporting

1 (1) IN GENERAL.—The Advisory Group shall
2 provide consensus advice and guidance to the Com-
3 mission on best practices for private enterprises or
4 public entities using covered technology that may
5 have different performance outcomes depending on
6 the underlying language of the content being ana-
7 lyzed in order to ensure the nondiscriminatory appli-
8 cation of such technology.

9 (2) COVERED TECHNOLOGY.—For purposes of
10 paragraph (1), the term “covered technology” means
11 technology used to—

12 (A) detect and process input language
13 from sources, such as analog text and audio,
14 into a machine-readable format, such as speech
15 and optical character recognition;

16 (B) process or generate language stored in
17 a machine-readable format, such as natural lan-
18 guage processing, including large language
19 models;

20 (C) detect and process images and videos
21 into a machine-readable format, or process im-
22 ages or videos stored in a machine-readable for-
23 mat; and

1 (D) make automated decisions related to
2 content removal, ranking, or presentation to a
3 user of an online platform.

4 (3) MEMBERSHIP.—The Commission shall ap-
5 point the members of the Advisory Group. In mak-
6 ing such appointments, the Commission shall provide
7 that the membership of the Advisory Group—

8 (A) includes different points of view and
9 background experience; and

10 (B) includes both Federal employees and
11 non-Federal employee stakeholders, including
12 representatives of communities most impacted
13 by the systemic risks of harmful non-English
14 language content and current or former content
15 moderators and employees of covered platforms.

16 (4) REPORT.—The Commission shall make
17 available on its website the findings of the Advisory
18 Group with recommendations and best practices as
19 reported by the Advisory Group concerning the use
20 of covered technology.

21 (c) NON-APPLICABILITY OF THE FEDERAL ADVI-
22 SORY COMMITTEE ACT.—Chapter 10 of title 5, United
23 States Code, shall not apply to the Advisory Group.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to the Advisory Group such

1 sums as are necessary to carry out the requirements of
2 this section.

3 **SEC. 7. ENFORCEMENT.**

4 (a) ENFORCEMENT BY THE FEDERAL TRADE COM-
5 MISSION.—

6 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
7 TICES.—A violation of section 3, 4, or 5 shall be
8 treated as a violation of a rule defining an unfair or
9 a deceptive act or practice under section 18(a)(1)(B)
10 of the Federal Trade Commission Act (15 U.S.C.
11 57a(a)(1)(B)).

12 (2) POWERS OF COMMISSION.—

13 (A) IN GENERAL.—The Commission shall
14 enforce this Act in the same manner, by the
15 same means, and with the same jurisdiction,
16 powers, and duties as though all applicable
17 terms and provisions of the Federal Trade
18 Commission Act (15 U.S.C. 41 et seq.) were in-
19 corporated into and made a part of this Act.

20 (B) PRIVILEGES AND IMMUNITIES.—Any
21 person who violates section 3, 4, or 5 shall be
22 subject to the penalties and entitled to the
23 privileges and immunities provided in the Fed-
24 eral Trade Commission Act (15 U.S.C. 41 et
25 seq.).

1 (C) AUTHORITY PRESERVED.—Nothing in
2 this Act shall be construed to limit the author-
3 ity of the Federal Trade Commission under any
4 other provision of law.

5 (b) ENFORCEMENT BY STATES.—

6 (1) IN GENERAL.—In any case in which the at-
7 torney general of a State has reason to believe that
8 an interest of the residents of the State has been or
9 is threatened or adversely affected by the engage-
10 ment of any person subject to section 3 or 5 in a
11 practice that violates such section, the attorney gen-
12 eral of the State may, as *parens patriae*, bring a
13 civil action on behalf of the residents of the State in
14 an appropriate district court of the United States—

15 (A) to enjoin further violation of such sec-
16 tion by such person;

17 (B) to compel compliance with such sec-
18 tion; and

19 (C) to obtain damages, restitution, or other
20 compensation on behalf of such residents.

21 (2) SCOPE OF JURISDICTION.—The attorney
22 general of a State may not bring a civil action under
23 this subsection against a person for a violation of
24 section 3 or 5 if the Commission would not be able
25 to bring an enforcement action against the person

1 for such violation under subsection (a) because the
2 person is exempt from coverage under the Federal
3 Trade Commission Act (15 U.S.C. 41 et seq.).

4 (3) RIGHTS OF FEDERAL TRADE COMMIS-
5 SION.—

6 (A) NOTICE TO FEDERAL TRADE COMMIS-
7 SION.—

8 (i) IN GENERAL.—Except as provided
9 in clause (iii), the attorney general of a
10 State shall notify the Commission in writ-
11 ing that the attorney general intends to
12 bring a civil action under paragraph (1)
13 before initiating the civil action.

14 (ii) CONTENTS.—The notification re-
15 quired by clause (i) with respect to a civil
16 action shall include a copy of the complaint
17 to be filed to initiate the civil action.

18 (iii) EXCEPTION.—If it is not feasible
19 for the attorney general of a State to pro-
20 vide the notification required by clause (i)
21 before initiating a civil action under para-
22 graph (1), the attorney general shall notify
23 the Commission immediately upon insti-
24 tuting the civil action.

1 (B) INTERVENTION BY FEDERAL TRADE
2 COMMISSION.—The Commission may—

3 (i) intervene in any civil action
4 brought by the attorney general of a State
5 under paragraph (1); and

6 (ii) upon intervening—

7 (I) be heard on all matters arising
8 in the civil action; and

9 (II) file petitions for appeal.

10 (4) INVESTIGATORY POWERS.—Nothing in this
11 subsection may be construed to prevent the attorney
12 general of a State from exercising the powers conferred
13 on the attorney general by the laws of the
14 State to conduct investigations, to administer oaths
15 or affirmations, or to compel the attendance of witnesses
16 or the production of documentary or other
17 evidence.

18 (5) PREEMPTIVE ACTION BY FEDERAL TRADE
19 COMMISSION.—If the Commission institutes a civil
20 action or an administrative action with respect to a
21 violation of section 3 or 5, the attorney general of
22 a State may not, during the pendency of such action,
23 bring a civil action under paragraph (1)
24 against any defendant named in the complaint of the

1 Commission for the violation with respect to which
2 the Commission instituted such action.

3 (6) VENUE; SERVICE OF PROCESS.—

4 (A) VENUE.—Any action brought under
5 paragraph (1) may be brought in—

6 (i) the district court of the United
7 States that meets applicable requirements
8 relating to venue under section 1391 of
9 title 28, United States Code; or

10 (ii) another court of competent juris-
11 diction.

12 (B) SERVICE OF PROCESS.—In an action
13 brought under paragraph (1), process may be
14 served in any district in which the defendant—

15 (i) is an inhabitant; or

16 (ii) may be found.

17 (7) ACTIONS BY OTHER STATE OFFICIALS.—

18 (A) IN GENERAL.—In addition to civil ac-
19 tions brought by attorneys general under para-
20 graph (1), any other consumer protection offi-
21 cer of a State who is authorized by the State
22 to do so may bring a civil action under para-
23 graph (1), subject to the same requirements
24 and limitations that apply under this subsection
25 to civil actions brought by attorneys general.

1 (B) SAVINGS PROVISION.—Nothing in this
2 subsection may be construed to prohibit an au-
3 thorized official of a State from initiating or
4 continuing any proceeding in a court of the
5 State for a violation of any civil or criminal law
6 of the State.

7 **SEC. 8. REGULATIONS.**

8 (a) IN GENERAL.—The Commission shall, pursuant
9 to section 553 of title 5, United States Code promulgate—

10 (1) regulations to carry out the provisions of
11 sections 3 and 4; and

12 (2) such other regulations as the Commission
13 determines necessary to carry out the provisions of
14 this Act.

15 (b) TIMING.—The Commission shall begin the rule-
16 making process for promulgating regulations to carry out
17 the provisions of sections 3 and 4 not later than 120 days
18 after the date of enactment of this Act.

19 **SEC. 9. EFFECTIVE DATES.**

20 The requirements of sections 3 and 4 shall take effect
21 120 days after the promulgation by the Commission of
22 regulations to carry out such sections, and the require-
23 ments of section 5 shall take effect 120 days after the
24 date of enactment of this Act.

1 **SEC. 10. INTERNATIONAL ONLINE COMMUNICATION RE-**
2 **SEARCH ACTIVITIES PILOT PROGRAM.**

3 (a) IN GENERAL.—The Administrator of the United
4 States Agency for International Development (referred to
5 in this section as “USAID”) shall, in coordination with
6 the Secretary of State, evaluate and prioritize support to
7 select countries, from among the countries eligible for as-
8 sistance from USAID, for research and programming,
9 such as tool development, civil society capacity building,
10 and other activities, aimed at addressing the prevalence
11 and impacts of non-English online communication that—

12 (1) promotes hate, harassment, or abuse of ra-
13 cial, ethnic, gender, religious, or sexual minorities;

14 (2) incites violence; or

15 (3) is false, misleading, or intended to harm—

16 (A) targeted individuals;

17 (B) public health;

18 (C) democratic integrity;

19 (D) civil rights;

20 (E) humanitarian response;

21 (F) economic integrity; or

22 (G) public safety.

23 (b) AUTHORIZED ACTIVITIES.—

24 (1) IN GENERAL.—In carrying out subsection

25 (a), the Administrator may—

1 (A) build lexicons of terms and phrases
2 commonly used in communications described in
3 subsection (a);

4 (B) identify and improve the under-
5 standing of how real or falsified text, videos, or
6 imagery are being used to spread hate, abuse,
7 scams, fraud, and false or misleading informa-
8 tion in non-English languages;

9 (C) strengthen the capacities of civil soci-
10 ety, local private sector, academia, and govern-
11 ments to develop and implement activities fo-
12 cused on preventing, mitigating, or responding
13 to non-English online communication that is
14 hateful, abusive, fraudulent, false, or mis-
15 leading; and

16 (D) improve awareness and the abilities of
17 the civil society and governments of countries
18 that receive support under subsection (a) to dis-
19 cover and interpret non-English online commu-
20 nication that is hateful, abusive, fraudulent,
21 false, or misleading that—

22 (i) is perpetuated or sponsored by ma-
23 lign actors or extremist organizations;

1 (ii) is influenced, regulated, or mod-
 2 erated by governments, social media com-
 3 panies, and internet service providers;

4 (iii) is perceived by, or impacts the
 5 target or other consumers of online com-
 6 munications or specific communities; and

7 (iv) leads to economic, mental, phys-
 8 ical, or other harms at the individual,
 9 household, organization, or community lev-
 10 els.

11 (2) **LOCALLY LED REQUIREMENT.**—Recipients
 12 of not less than 50 percent of the amounts appro-
 13 priated pursuant to subsection (d) shall substantially
 14 engage with organizations led by individuals who—

15 (A) are living in a place from which com-
 16 munication described in subsection (a) origi-
 17 nates or to which such communication is tar-
 18 geted;

19 (B) are familiar with the cultural context
 20 in such a place; and

21 (C) have experience researching or working
 22 to address such digital or online communica-
 23 tion.

24 (3) **INTERSECTIONALITY REQUIREMENT.**—Re-
 25 search funded by amounts appropriated pursuant to

1 subsection (d) shall focus on better understanding
2 how online communication that is hateful or abusive,
3 incites violence, violates relevant data privacy laws,
4 divulges personal information, or involves false or
5 misleading information has a disparate impact on
6 people who are members of racial, ethnic, gender, re-
7 ligious, or sexual minorities in their communities, in-
8 cluding women, indigenous populations, and people
9 who identify as lesbian, gay, bisexual, transgender,
10 queer, intersex, or as another sexual minority.

11 (c) REPORTING REQUIREMENT.—

12 (1) IN GENERAL.—Not later than 120 days
13 after all of the programs receiving funding appro-
14 priated pursuant to subsection (d) are terminated,
15 the Administrator of the United States Agency for
16 International Development shall provide a briefing,
17 and submit a report, to the Committee on Foreign
18 Relations of the Senate, the Committee on Com-
19 merce, Science, and Transportation of the Senate,
20 the Committee on Foreign Affairs of the House of
21 Representatives, and the Committee on Energy and
22 Commerce of the House of Representatives describ-
23 ing the findings of the research conducted by such
24 programs and the outcomes of the activities carried
25 out by such programs.

1 (2) PUBLIC AVAILABILITY.—The report re-
2 quired under paragraph (1) shall be made publicly
3 available on a text-based and searchable internet
4 website.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated \$3,000,000 in each of the
7 fiscal years 2024 and 2025 to carry out this section.

8 **SEC. 11. DEFINITIONS.**

9 In this Act:

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

12 (2) COVERED PLATFORM.—The term “covered
13 platform” means a website, internet application, or
14 mobile internet application that—

15 (A) allows users to create, share, view, or
16 search for and access user-generated or third-
17 party content, including a social media plat-
18 form, online search engine, and a service with
19 direct or group messaging capabilities; and

20 (B) has had at least 10,000,000 monthly
21 active users for 3 or more of the past 12
22 months within the United States.

23 (3) MONETIZATION PRACTICES.—The term
24 “monetization practices” means any avenues
25 through which a covered platform might garner rev-

1 enue, including accepting monetary, in-kind, or other
2 compensation—

3 (A) in exchange for displaying or ampli-
4 fying specific content; or

5 (B) from businesses or other entities to
6 utilize the covered platform as a means to find,
7 charge, or communicate with customers.

8 (4) PLATFORM POLICIES.—The term “platform
9 policies” means any terms, conditions, and clauses,
10 regardless of their name or form, which govern the
11 contractual relationship between a covered platform
12 and a user, or any community guidelines that a cov-
13 ered platform maintains that govern conduct on the
14 covered platform.

○