

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) 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.

## § 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).

### (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) 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.)

## § 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 pre-

scribed 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), 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), 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), 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) 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) 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), 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 Federal Trade Commission Act (15 U.S.C. 41 et seq.).

**(b) Provisions**

Compliance with the requirements imposed under this chapter shall be enforced under—

- (1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a)<sup>1</sup> of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

- (2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are

<sup>1</sup> See References in Text note below.