



AI AGENT Act Section-by-Section

Section 1 – Short Title (Page 1)

The Artificial Intelligence Access, Gatekeeper Exchange, and Nondiscriminatory Transfer Act.

Section 2 – Definitions (Pages 1 – 2)

This section defines the following terms used in the legislation, including definitions created for this bill. Key terms include “artificial intelligence”, “[Federal Trade] Commission”, “custodial user agent”, “custodial user agent provider”, “electronic commerce”, “interoperability interface”, “large online platform” and “large online platform provider”, “online provider”, “open protocol”, “social graph data”, “social media service”, and “user data”.

Section 3 – Delegability (Pages 2 – 6)

This section establishes a framework for individuals to designate custodial user agents (CUAs) to act on their behalf – and in their best interests – in online activities and requires large online platform providers to provide access to third-party CUAs. The Federal Trade Commission (FTC) is charged with a number of responsibilities related to creating a safe and secure environment for CUAs to operate in, in a manner that prioritizes users’ interests, while protecting the security and safety of large online platforms.

(Sec. 3(a))

This section establishes a right for individuals to authorize a CUA to carry out certain online (such as e-commerce, managing social media accounts, online banking, travel booking) interactions to, or on behalf of, the designating individual.

(Sec. 3(b))

Once an individual designates a CUA, that CUA can manage the individual’s online interactions, electronic commerce decisions, user-generated content, and account settings on large online platforms. Large online platform providers have a duty to maintain a set of third-party-accessible interfaces that enable CUA to access a large online platform’s covered interactions on the same terms as a user.

(Sec. 3(c))

The FTC will (within 180 days following enactment) ensure that process through which a CUA gains access to large online platform is secure, properly authenticated, and allows for an individual to revoke CUA authorization and to communicate that revocation to a large online platform provider.

(Sec. 3(d))

The FTC shall establish a registration process for CUA providers and evaluate registered CUAs within 180 days of a CUA submitting. Only CUAs registered with the FTC shall be able to access large online platforms to carry out actions as authorized by an individual – ensuring against malicious apps masquerading as user-empowering software (like Cambridge Analytica’s notorious “This Is Your Digital Life” app).

To foster common standards and accelerate pre-vetting, the FTC can authorize independent certification bodies.

The FTC may establish specialized terms of service for CUAs to authorize CUAs’ scope of access for specific commercial settings and that take into account the privacy, financial security, and personal safety implications of that access.

To ensure that large platforms aren’t providing preferential treatment to their own consumer agents, the FTC may establish terms of service that require a large platform provider with CUAs to offer functionally equivalent access to third-party CUAs if that large online platform provider has a CUA that competes in service with a third-party.

(Sec. 3(e))

The FTC shall establish rules to deregister CUA providers that violate the duties of a CUA provider established under this Act.

(Sec. 3(f))

Large online platform providers may revoke or deny a given third-party CUA or CUA provider access to their platform if a given third-party CUA provider fails to register with the FTC, repeatedly conducts fraudulent or malicious activity, or if a customer has revoked consent (in a manner specified by the FTC) for that CUA to act on the customers behalf.

(Sec. 3(g))

CUAs will reasonably protect the privacy and security of user data that a user provides to it or that it accesses on behalf of the user – with fiduciary-like legal obligations:

- CUAs cannot take actions that benefit the CUA to the detriment of the user, that will result in reasonably foreseeable harm to the user, that are inconsistent with the directions provided by the user, or that are inconsistent with the reasonable expectations of the user.
- CUAs must act with the care, skill, and diligence that an ordinarily prudent person would reasonably be expected to exercise in a like position and under similar circumstances.
- CUAs must maintain real-time records of actions it undertakes on a user’s behalf and shall provide those records to the user, unless the user has previously directed the agent to delete such records.
- CUAs may not delegate or transfer any authority granted to the CUA by a user without the express, specific, and revocable consent of the user.

A CUA provider must take reasonable measures to ensure that its CUAs comply with the duties above, and the FTC may deregister CUA providers that have repeat violations.

(Sec. 3(h))

None of the duties established for CUAs or CUA providers under this Act may be waived or limited in any way or by any mechanism.

(Sec. 3(i))

This section ensures a level playing field – preventing large online platforms from engaging in anticompetitive behavior against CUAs. A large online platform provider shall allow third-party CUAs access on fair, reasonable, and non-discriminatory terms and maintain an interface that facilitates that access.

- At the same time, the bill ensures that CUAs are not creating undue access costs – like generating unreasonable amounts of traffic by checking a product price thousands of times an hour. A large online platform provider may establish reasonable thresholds related to the frequency, nature, and volume of requests by a CUA or the fair, reasonable, and nondiscriminatory usage expectations.
- The large online platform provider may assess fees of the CUA provider or impose usage limitations on the CUA if the CUA exceeds that reasonable request threshold or usage threshold.
- To ensure that companies building agents have a fair and predictable playing field, a large online platform provider must provide public notice of any fees, usage limitations, or usage expectations, as well as provide reasonable advance notice if the large online platform provider makes any changes. A large online platform provider may not utilize an interface or terms of use in a manner that unreasonably denies or undermines a CUA's access.

The bill also establishes a framework that recognizes the nuanced balance between ensuring access and legitimate privacy and security concerns that large online platforms may have with that access:

- A large online platform provider shall set privacy and security standards for CUA access that are reasonably necessary to address a threat to user data or the large online platform, and file those standards with the FTC, where those standards will be publicly available. A large online platform provider shall report any suspected privacy and security violations to the FTC.
- A large online platform provider may deny a CUA access for privacy or security reasons; if the large online platform provider denies a CUA access, then the large online platform provider shall allow the CUA provider [14 days] to take steps to meet the privacy and security standard, and the CUA provider may appeal the denial to the FTC.
- If a large online platform provider denies a CUA access for privacy or security reasons, the large online platform provider shall submit a report to the FTC (that shall be publicly available) and a notification to the CUA provider describing why the large online platform provider denied the CUA access.

A large online platform provider that operates its own CUA that is interoperable with its large online platform shall offer functionally equivalent access to third-party CUAs.

(Sec. 3(j))

Third-party CUA providers may charge users a fee for providing products and services. Other potential business models include contextual advertising (e.g, *not* predicated on behavioral surveillance or targeting of users), or even potentially affiliate links (so long as a CUA has not subordinated a consumer's interests to its own).

(Sec. 3(k))

Nothing in this section shall be construed to confer greater rights of access for a CUA to a large online platform than are accessible to a user.

Section 4 – Implementation and Enforcement (Pages 7 – 8)

This section directs the FTC to promulgate regulations to implement this Act and to work with stakeholders to ensure security and safety on large online platforms. It directs the FTC to establish a process to collect complaints of violations rules, and to regularly assess compliance with those rules, as well as take enforcement actions for violations of the rules or this Act. This section also preempts states laws only to the extent such laws are inconsistent with this Act. It directs NIST to develop technical specifications to allow CUAs to access certain online services.

(Sec.4(a))

The FTC shall promulgate regulations to implement this Act. In doing so, the FTC shall coordinate with the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(Sec.4(b))

The FTC shall consult with relevant industry stakeholders to establish a process to verify CUA requests to obtain user data on behalf of a user

(Sec.4(c))

The National Institute of Standards and Technology shall identify open protocols (or develop and publish model technical standards if such protocols do not exist) to make certain popular online services more accessible to CUAs.

(Sec.4(d))

The FTC shall regularly assess compliance with this Act by large online platform providers and CUA and CUA providers.

(Sec.4(e))

The FTC shall establish a process for users, CUA providers, or large online platform providers to submit complaints for CUAs or large online platform providers violating this Act

(Sec.4(f))

The FTC shall consider a violation of this Act as an unfair or deceptive act or practice and consider each individual user affected by a violation as an individual violation. The FTC shall enforce this Act over common carriers.

(Sec.4(g))

The FTC shall develop proposals to prevent harms to businesses and the Government resulting from CUAs undertaking actions on behalf of an individual arising from fraud, misuse, or genuine mistake. In developing such proposals, the FTC shall establish an interagency working group with the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Treasury, the Department of Homeland Security, the Department of Commerce, the Justice Department, and the Securities and Exchange Commission

(Sec.4(h))

This Act shall preempt state laws only to the extent that state laws are inconsistent with the provisions of this Act.

(Sec.4(i))

This Act shall take effect on the sooner of: one year following enactment or the date on which the FTC promulgates regulations to implement this Act.

Section 5 – Relation To Other Laws (Page 8)

This section contains a disclaimer that this bill shall not modify, limit or supersede any privacy or security provisions within the following:

1. Privacy Act of 1974
2. Right to Financial Privacy Act of 1978
3. Fair Credit Reporting Act
4. Fair Debt Collection Practices Act
5. Children’s Online Privacy Protection Act of 1998
6. title V of the Gramm-Leach-Bliley Act
7. chapters 119, 123, and 206 of title 18, United States Code
8. Family Educational Rights and Privacy Act of 1974
9. section 445 of the General Education Provisions Act
10. Privacy Protection Act of 1980
11. Certain elements of the Health Insurance Portability and Accountability Act
12. Communications Assistance for Law Enforcement Act (47 U.S.C. 1001 et seq.)
13. sections 222 and 227 of the Communications Act of 1934 (47 U.S.C. 222, 227)
14. any other privacy or security provision of Federal law

This section contains a disclaimer that this bill shall not modify, limit or supersede the operation of any of the antitrust laws.