



The Take It Down Act and the Future of Online Safety

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Abstract— This brief will analyze the new development surrounding AI-generated media from the White House, a change that has criminalized the distribution and use of deepfakes. It will consider the history as well as the tried policy of the issue.

Keywords— Take It Down Act, deepfakes, media, criminalization, NCII (non-consensual sharing of intimate imagery)

I. EXECUTIVE SUMMARY

As of May 19, 2026, the Take It Down Act (TIDA) is officially in effect. This new policy criminalizes the distribution and publication of non-consensual imagery online, including that generated through AI [1]. Regarded as a major victory for victims of online abuse, the Act provides protection and power to law enforcement to hold perpetrators accountable. This brief will examine the ongoing issue of non-consensual sharing of intimate imagery and its growing prevalence amidst increased AI usage. It will detail the legislation's history and the precedent it will set.

OVERVIEW

This section provides a brief look at the evolution of the Take It Down Act throughout the years and its current implications.

A. Pointed Summary

- Historically, victims of online abuse lacked secure platforms that respond effectively to harassment. Specifically, social media platforms have cut down on trust and safety teams, and online abuse is at an all-time high [2]
- As part of the enforcement, the Federal Trade Commission (FTC) launched a new website created specifically for addressing complaints from victims and processing the removals of intimate images [3].

Relevance

As AI usage increases, tech experts, policymakers, and victims have advocated for increased measures against online media sharing. Anyone could become a target of AI-generated deepfakes, with minors being the most vulnerable. Major social media platforms such as Instagram, Reddit, Apple, Microsoft, and their respective apps are required to comply with FTC enforcement of TIDA. Because TIDA is the first federal law specifically targeting AI-generated intimate deepfakes, advocates hope it will deter future abuse and close legal loopholes that previously allowed perpetrators to avoid prosecution. [4]

HISTORY

A. Current Stances

Although the Take It Down Act was passed in a 409–2 vote by the House of Representatives and later a unanimous vote in the Senate, there are still detractors of the bill. Supporters argue that the Act is the most effective way the government can regulate and combat the abuse of AI to generate deepfakes, as it is the first federal framework to criminalize the publication of digital content without consent. The Act simultaneously protects minors, the group most affected by deepfakes, from extreme online bullying and extortion [5]. While in general, the legislation gathered widespread bipartisan support – along with tech companies, advocacy groups, and law enforcement – some critics believe that the Take It Down Act may threaten the First Amendment of free speech. A civil liberty group called the Electronic Frontier Foundation stated that 48 hours is a time frame too short to accurately determine whether the speech or media is actually illegal [13]. The Foundation additionally argues that there is a risk of over-censorship, warning that digital services may rely on faulty automatic filters that accidentally remove legitimate news.

B. Tried Policy

Before the Take It Down Act was passed, the government relied on consumer protection laws, state legislation, and some executive orders to regulate the usage of AI. Many regulators used laws such as the Civil Rights Act and the Fair Credit Reporting Act to punish any companies that use biased or discriminatory AI in areas such as housing, healthcare, or employment [14]. In terms of state-level legislation, states such as California and Colorado introduced various laws requiring developers of AI to disclose their training data and penalizing algorithmic discrimination [15]. At the federal level, victims typically had to rely on copyright claims or civil lawsuits, which were slow and unreliable. The

passage of the Take It Down Act has now closed this gap.

II. POLICY PROBLEM

A. Stakeholders

Notable stakeholders of TIDA include members of the U.S. Congress from both the Republican and Democratic parties; major tech companies such as Google and TikTok; and advocacy and law enforcement groups. The bill was initially introduced by Senators Ted Cruz (R-TX) and Amy Klobuchar (D-MN), with the House companion bill being spearheaded by Representatives María Elvira Salazar (R-FL), Madeleine Dean (D-PA), Debbie Dingell (D-MI), and Brian Fitzpatrick (R-PA). Private organizations such as SAG-AFTRA and the U.S. Chamber of Commerce also endorsed the bill. In total, TIDA was supported by a consortium of 120 organizations from a variety of sectors (10). The act received bipartisan support, passing with a vote of 409–2 (5).

As artificial intelligence has advanced, it has become easier for consumers to become victims of non-consensual intimate imagery (NCII). Children are particularly vulnerable, and the Take it Down Act outlines particularly harsh punishment for those who target minors (6). Under the law, “covered platforms” must implement a process for individuals to request the removal of NCII, which must be completed within 48 hours of the request. Major tech companies were given a deadline of May 19, 2026, to enforce TIDA, including major websites, social media, and other image- and video-sharing platforms (7).

B. Risks of Indifference

The accessibility of AI, compounded with social media, makes it easier than ever to produce intimate imagery without consent. As one victim noted, once these images are shared, it is

impossible to erase them or know who has seen them (8). AI has developed rapidly since the release of ChatGPT in 2022, with big tech companies engaged in a race to join the market. The federal government's regulation has failed to keep pace (9).

C. Nonpartisan Reasoning

TIDA builds on previous legislation that criminalizes publishing NCII while accounting for the advent of AI. However, while TIDA received bipartisan support, many are concerned that it will lead to censorship. No process is outlined in the case of false requests for the removal of NCII, and companies face FTC investigations or sanctions if they fail to comply. Companies are likely to over-remove to avoid these outcomes (10). The act also does not address whether the law applies to end-to-end encrypted services, which cannot see their users' content. Thus, user privacy may also be compromised (11).

III. POLICY OPTIONS

In light of concerns related to AI-generated deepfakes and non-consensual intimate imagery, three main policies can be identified. First, it would entail making it mandatory for companies to remove deepfake images after obtaining a court order. On the one hand, such a policy ensures free speech and the proper legal process, but on the other hand, victims could endure long-term emotional distress as the removal of offensive images might take a long time. Second, the policy involves letting online companies regulate deepfakes by themselves according to their policies. Although it allows firms to handle emerging technological issues flexibly, opponents criticize this approach as the enforcement will differ greatly from case to case, leaving many individuals unprotected. Third, federal regulation requires online companies to remove any non-consensual intimate deepfakes within a particular time frame after victims' requests. Such a policy was chosen as the solution in the Take It

Down Act since it enables a much faster removal of harmful materials for victims. Supporters claim that the bill can help victims avoid harassment, abuse, and violations of privacy.

As technology progresses, and especially as artificial intelligence continues to advance, there is increasing awareness that current laws and industry practices will have difficulty keeping up with these developments. AI-generated "deepfake" versions of images can be created and shared at a much faster rate than other types of image-based abuse—and often go viral before victims can access any type of legal recourse. For this reason, policymakers are recognizing that requiring a timely response to requests for removal is essential if we wish to minimize harm to victims and safeguard their privacy. The purpose of this law is to create a consistent process across the country for victims to request the removal of their non-consensually created intimate images and to encourage online entities to respond more quickly to reports of such abuse.

IV. CONCLUSIONS

In conclusion, the Take It Down Act serves to show how the federal government is approaching non-consensual intimate imagery and AI-generated deepfakes. As stated in the brief, the Take it Down Act was developed due to the increase in AI availability, usage, and the harm it poses to those online. This Act expands upon previous efforts to mitigate AI usage through its national framework for the removal of non-consensual intimate imagery. Those who support the Take It Down Act claim that it protects all online, especially minors, from graphic and non-consensual images. However, critics have responded to this act by stating that it may limit free speech as well as privacy. As AI continues to expand in the future, policymakers, technology companies, advocacy organizations,

and law enforcement agencies will continue to work towards ensuring AI is used in a safe manner.

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