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H. R. 6752

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal identifiers across certain data brokers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2022

Mrs. TRAHAN introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal identifiers across certain data brokers, and for other purposes.

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.**

4   This Act may be cited as the "Data Elimination and

5 Limiting Extensive Tracking and Exchange Act" or the

6 "DELETE Act".

7 **SEC. 2. DATA DELETION REQUIREMENTS.**

8   (a) DATA BROKER ANNUAL REGISTRATION.—

1   (1) IN GENERAL.—Not later than 1 year after

2   the date of enactment of this section, the Commis-

3   sion shall promulgate regulations to require any data

4   broker to—

5   (A) not later than 18 months after the

6   date of enactment of this section, and annually

7   thereafter, register with the Commission; and

8   (B) provide the following information with

9   such registration:

10   (i) The name and primary physical,

11   email, and uniform resource locator (URL)

12   addresses of the data broker.

13   (ii) If the data broker permits an indi-

14   vidual to opt out of the data broker's col-

15   lection or use of personal information, cer-

16   tain sales of such information, or its data-

17   bases—

18   (I) the method for requesting an

19   opt-out;

20   (II) any limitations on the type

21   of data collection, uses, or sales for

22   which an individual may opt out; and

23   (III) whether the data broker

24   permits an individual to authorize a

1   third party to perform the opt-out on

2   the individual's behalf.

3   (iii) A response to a standardized

4   form (as issued by the Commission) speci-

5   fying the types of information the data

6   broker collects or obtains and the sources

7   from which the data broker obtains data.

8   (iv) A statement as to whether the

9   data broker implements a credentialing

10   process and, if so, a description of that

11   process.

12   (v) Any additional information or ex-

13   planation the data broker chooses to pro-

14   vide concerning its data collection prac-

15   tices.

16   (vi) Any other information determined

17   appropriate by the Commission.

18   (2) PUBLIC AVAILABILITY.—

19   (A) IN GENERAL.—The Commission shall

20   make the information described in paragraph

21   (1) publicly available in a downloadable and

22   machine-readable format, except in the event

23   that the Commission—

1   (i) determines that the risk of making

2   such information available is not in the in-

3   terest of public safety or welfare; and

4   (ii) provides a justification for such

5   determination.

6   (B) DISCLAIMER.—The Commission shall

7   include on the website of the Commission a dis-

8   claimer that—

9   (i) the Commission cannot confirm

10   the accuracy of the responses provided by

11   the data brokers in the registration de-

12   scribed in paragraph (1); and

13   (ii) individuals may contact such data

14   brokers at their own risk.

15   (b) CENTRALIZED DATA DELETION SYSTEM.—

16   (1) ESTABLISHMENT.—

17   (A) IN GENERAL.—Not later than 1 year

18   after the date of enactment of this section, the

19   Commission shall promulgate regulations to es-

20   tablish a centralized system that—

21   (i) implements and maintains reason-

22   able security procedures and practices (in-

23   cluding administrative, physical, and tech-

24   nical safeguards) appropriate to the nature

25   of the information and the purposes for

1 which the personal information will be
2 used, to protect individuals' personal infor-
3 mation from unauthorized use, disclosure,
4 access, destruction, or modification; and

5 (ii) allows an individual, through a
6 single submission, to request that every
7 data broker who is registered under sub-
8 section (a) and who maintains any per-
9 sistent identifiers (as described in subpara-
10 graph (B)(iii)) delete any personal infor-
11 mation related to such individual held by
12 such data broker or affiliated legal entity
13 of the data broker.

14 (B) REQUIREMENTS.—The centralized sys-
15 tem established in subparagraph (A) shall meet
16 the following requirements:

17 (i) Subject to the regulations promul-
18 gated in accordance with paragraph
19 (2)(B)(ii), the centralized system shall
20 allow an individual to request the deletion
21 of all personal information related to such
22 individual through a single deletion re-
23 quest.

1   (ii) The centralized system shall pro-

2   vide a standardized form to allow an indi-

3   vidual to make such request.

4   (iii) Such standardized form shall in-

5   clude the individual's email, phone number,

6   physical address, and any other persistent

7   identifier determined by the Commission to

8   aid in the deletion request.

9   (iv) The centralized system shall auto-

10   matically hash all submitted information

11   and allow the Commission to maintain

12   independent hashed registries of each type

13   of information obtained through such form.

14   (v) The centralized system shall only

15   permit data brokers who are registered

16   with the Commission to submit hashed

17   queries to the independent hashed reg-

18   istries described in clause (iv).

19   (vi) The centralized system shall allow

20   an individual to make such request using

21   an internet website operated by the Com-

22   mission.

23   (vii) The centralized system shall not

24   charge the individual to make such re-

25   quest.

1   (viii) The centralized system shall

2   automatically delete any individual data

3   field stored in the system once such data

4   field has been stored in the centralized sys-

5   tem for 2 years. The Commission shall in-

6   form the individual of this automatic dele-

7   tion period when the individual makes a

8   deletion request. Beginning 4 years after

9   the date of enactment of this Act, the

10   Commission may promulgate rules to ad-

11   just such retention period or enable auto-

12   matic renewal of requests if it determines

13   that such adjustment or automatic renewal

14   would better protect individual privacy or

15   the public interest.

16   (C) TRANSITION.—

17   (i) IN GENERAL.—Not later than 8

18   months after the effective date of the regu-

19   lations promulgated under subparagraph

20   (A), each data broker shall—

21   (I) not less than once every 31

22   days, access the hashed registries

23   maintained by the Commission as de-

24   scribed in subparagraph (B)(iv); and

1   (II) process any deletion request

2   associated with a match between such

3   hashed registries and the records of

4   the data broker.

5   (ii) FTC GUIDANCE.—Not later than

6   6 months after the effective date of the

7   regulations promulgated under subpara-

8   graph (A), the Commission shall publish

9   guidance on the process and standards to

10   which a data broker must adhere in car-

11   rying out clause (i).

12   (2) DELETION.—

13   (A) INFORMATION DELETION.—

14   (i) IN GENERAL.—Subject to clause

15   (ii), not later than 31 days after accessing

16   the hashed registries described in para-

17   graph (1)(B)(iv), a data broker and any

18   associated legal entity shall delete all per-

19   sonal information in its possession related

20   to the individual making the request. Im-

21   mediately following the deletion, the data

22   broker shall send an affirmative represen-

23   tation to the Commission with the number

24   of records deleted pursuant to each match

25   with a value in the hashed registries.

1   (ii) EXCLUSIONS.—In carrying out
2   clause (i), a data broker may retain, where
3   required, the following information:

4   (I) Any personal information that
5   is processed or maintained solely as
6   part of human subjects research con-
7   ducted in compliance with any legal
8   requirements for the protection of
9   human subjects.

10   (II) Any personal information
11   necessary to comply with a warrant,
12   subpoena, court order, rule, or other
13   applicable law.

14   (III) Any personal information
15   related to the suppression list de-
16   scribed in subparagraph (B)(ii).

17   (IV) Any information necessary
18   for an activity described in subsection
19   (e)(3)(B), provided that the retained
20   information is used solely for any
21   such activity.

22   (iii) USE OF INFORMATION.—Any per-
23   sonal information excluded under clause
24   (ii) may only be used for the purpose de-
25   scribed in the applicable subclause of

1 clause (ii), and may not be used for any
2 other purpose, including marketing pur-
3 poses.

4 (B) DO NOT TRACK LIST; SUPPRESSION
5 LIST.—

6 (i) DO NOT TRACK LIST.—Not later
7 than 18 months after the date of enact-
8 ment of this section, the Commission shall
9 promulgate regulations to prohibit any
10 data broker registered under subsection (a)
11 from collecting or retaining personal infor-
12 mation on any individual who has sub-
13 mitted a deletion request through the cen-
14 tralized system established in paragraph
15 (1)(A), unless such data collection is re-
16 quested by the individual.

17 (ii) SUPPRESSION LIST.—Not later
18 than 18 months after the date of enact-
19 ment of this section, the Commission shall
20 promulgate regulations to ensure that—

21 (I) any individual who submits a
22 deletion request through the central-
23 ized system established in paragraph
24 (1) shall be included on the Do Not
25 Track list described in clause (i); and

1   (II) each data broker registered

2   under subsection (a)—

3   (aa) may not collect or re-

4   tain more personal information

5   than is necessary to identify an

6   individual who is included on the

7   Do Not Track list; and

8   (bb) in the case that unnec-

9   essary personal information is

10   collected or retained, shall imme-

11   diately delete any personal infor-

12   mation not required to comply

13   with the regulations promulgated

14   under this subparagraph.

15   (C) ANNUAL REPORT.—Each data broker

16 registered under subsection (a) shall submit to

17 the Commission, on an annual basis, a report

18 on—

19   (i) the completion rate with respect to

20   the completion of deletion requests under

21   subparagraph (A); and

22   (ii) the effectiveness of the suppres-

23   sion list under subparagraph (B)(ii), in-

24   cluding—

1 　　　　　　(I) the number of times the data

2 　　　　　broker collected personal information

3 　　　　　related to an individual included on

4 　　　　　the suppression list;

5 　　　　　　(II) the number of times the data

6 　　　　　broker collected data resulting in a

7 　　　　　match with the hashed registries

8 　　　　　maintained by the Commission as de-

9 　　　　　scribed in paragraph (1)(B)(iv); and

10 　　　　　　(III) whether the regulations pro-

11 　　　　　mulgated under subparagraph (B)

12 　　　　　and the structure or format of the

13 　　　　　hashed registries promote efficient

14 　　　　　comparison of the suppression list

15 　　　　　with information collected or retained

16 　　　　　by the data broker.

17 　　　(D) AUDIT.—

18 　　　　　(i) IN GENERAL.—Not later than 3

19 　　　years after the date of enactment of this

20 　　　section, and every 3 years thereafter, each

21 　　　data broker registered under subsection (a)

22 　　　shall undergo an independent third party

23 　　　audit to determine compliance with this

24 　　　subsection.

1   (ii) AUDIT REPORT.—Not later than 6

2   months after the completion of any audit

3   under clause (i), each such data broker

4   shall submit to the Commission any report

5   produced as a result of the audit, along

6   with any related materials.

7   (iii) MAINTAIN RECORDS.—Each such

8   data broker shall maintain the materials

9   described in clause (ii) for a period of not

10   less than 6 years.

11   (3) ANNUAL FEE.—

12   (A) IN GENERAL.—Subject to subpara-

13   graph (B), each data broker registered under

14   subsection (a) and who maintains any per-

15   sistent identifiers (as described in paragraph

16   (1)(B)(iii)) shall pay to the Commission, on an

17   annual basis, a subscription fee determined by

18   the Commission to access the database.

19   (B) LIMIT.—The amount of the subscrip-

20   tion fee under subparagraph (A) may not ex-

21   ceed 1 percent of the expected annual cost of

22   operating the centralized system and hashed

23   registries described in paragraph (1), as deter-

24   mined by the Commission.

1   (C) AVAILABILITY.—Any amounts col-
2   lected by the Commission pursuant to this
3   paragraph shall be available without further ap-
4   propriation to the Commission for the purpose
5   of enforcing and administering this Act, includ-
6   ing the implementation and maintenance of
7   such centralized system and hashed registries
8   and the promotion of public awareness of the
9   centralized system.

10 (c) ENFORCEMENT BY THE COMMISSION.—

11 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
12 TICES.—A violation of subsection (a) or (b) or a reg-
13 ulation promulgated under this Act shall be treated
14 as a violation of a rule defining an unfair or decep-
15 tive act or practice under section 18(a)(1)(B) of the
16 Federal Trade Commission Act (15 U.S.C.
17 57a(a)(1)(B)).

18 (2) POWERS OF THE COMMISSION.—

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

1   (B) PRIVILEGES AND IMMUNITIES.—Any

2   person who violates subsection (a) or (b) or a

3   regulation promulgated under this Act shall be

4   subject to the penalties and entitled to the

5   privileges and immunities provided in the Fed-

6   eral Trade Commission Act (15 U.S.C. 41 et

7   seq.).

8   (C) AUTHORITY PRESERVED.—Nothing in

9   this section shall be construed to limit the au-

10   thority of the Commission under any other pro-

11   vision of law.

12   (D) RULEMAKING.—The Commission shall

13   promulgate in accordance with section 553 of

14   title 5, United States Code, such rules as may

15   be necessary to carry out this section.

16 (d) STUDY AND REPORT.—

17   (1) STUDY.—The Commission shall conduct a

18 study on the implementation and enforcement of this

19 section. Such study shall include—

20   (A) an analysis of the effectiveness of the

21   centralized system established in subsection

22   (b)(1)(A);

23   (B) the number deletion requests sub-

24   mitted annually using such centralized system;

1 　　　　(C) an analysis of the progress of coordi-

2 　　nating the operation and enforcement of such

3 　　requests with similar systems established and

4 　　maintained by the various States; and

5 　　　　(D) any other area determined appropriate

6 　　by the Commission.

7 　　(2) REPORT.—Not later than 3 years after the

8 date of enactment of this section, and annually

9 thereafter for each of the next 4 years, the Commis-

10 sion shall submit to the Committee on Commerce,

11 Science, and Transportation of the Senate and the

12 Committee on Energy and Commerce of the House

13 of Representatives a report containing—

14 　　　　(A) the results of the study conducted

15 　　under paragraph (1);

16 　　　　(B) a summary of any enforcement actions

17 　　taken pursuant to this Act; and

18 　　　　(C) recommendations for such legislation

19 　　and administrative action as the Commission

20 　　determines appropriate.

21 　(e) DEFINITIONS.—In this section:

22 　　(1) COMMISSION.—The term ''Commission''

23 means the Federal Trade Commission.

1   (2) CREDENTIALING PROCESS.—The term

2   ''credentialing process'' means the practice of taking

3   reasonable steps to confirm—

4   (A) the identity of the entity with whom

5   the data broker has a direct relationship;

6   (B) that any data disclosed to the entity

7   by such data broker will be used for the de-

8   scribed purpose of such disclosure; and

9   (C) that such data will not be used for un-

10   lawful purposes.

11   (3) DATA BROKER.—

12   (A) IN GENERAL.—The term ''data

13   broker'' means an entity that knowingly collects

14   or obtains the personal information of an indi-

15   vidual with whom the entity does not have a di-

16   rect relationship and then—

17   (i) uses the personal information to

18   perform a service for a third party; or

19   (ii) sells, licenses, trades, provides for

20   consideration, or is otherwise compensated

21   for disclosing personal information to a

22   third party.

23   (B) EXCLUSION.—The term ''data broker''

24   does not include an entity who solely uses, sells,

25   licenses, trades, provides for consideration, or is

1　　　　otherwise compensated for disclosing personal

2　　　　information for one or more of the following ac-

3　　　　tivities:

4　　　　　　　　(i) Providing 411 directory assistance

5　　　　　　　　or directory information services, including

6　　　　　　　　name, address, and telephone number, on

7　　　　　　　　behalf of or as a function of a tele-

8　　　　　　　　communications carrier.

9　　　　　　　　(ii) Providing an individual's publicly

10　　　　　　　available information if the information is

11　　　　　　　being used by the recipient as it relates to

12　　　　　　　that individual's business or profession.

13　　　　　　　(iii) Providing or using personal infor-

14　　　　　　　mation in a manner that is regulated

15　　　　　　　under another Federal or State law, in-

16　　　　　　　cluding the Fair Credit Reporting Act, the

17　　　　　　　Gramm-Leach-Bliley Act, or the Health

18　　　　　　　Insurance Portability and Accountability

19　　　　　　　Act.

20　　　　　　　(iv) Providing personal information to

21　　　　　　　a third party at the express direction of

22　　　　　　　the individual for a clearly disclosed single-

23　　　　　　　use purpose.

24　　　　　　　(v) Providing or using personal infor-

25　　　　　　　mation for assessing, verifying, or authen-

1 ticating an individual's identity, or for in-

2 vestigating or preventing actual or poten-

3 tial fraud.

4 (vi) Gathering, preparing, collecting,

5 photographing, recording, writing, editing,

6 reporting, or publishing news or informa-

7 tion that concerns local, national, or inter-

8 national events or other matters of public

9 interest for dissemination to the public.

10 (C) EXCLUSION FROM SALE.—

11 (i) IN GENERAL.—For purposes of

12 this paragraph, the term "sells" does not

13 include a one-time or occasional sale of as-

14 sets of an entity as part of a transfer of

15 control of those assets that is not part of

16 the ordinary conduct of the entity.

17 (ii) NOTICE REQUIRED.—To meet the

18 exclusion criteria described in clause (i), an

19 entity must provide notice to the Commis-

20 sion, in the manner determined appro-

21 priate by the Commission, of any such one-

22 time or occasional sale of assets.

23 (4) DELETE.—The term "delete" means to re-

24 move or destroy information such that the informa-

25 tion is not maintained in human- or machine-read-

1   able form and cannot be retrieved or utilized in such

2   form in the normal course of business.

3   (5) DIRECT RELATIONSHIP.—

4   (A) IN GENERAL.—The term ''direct rela-

5   tionship'' means a relationship between an indi-

6   vidual and an entity where the individual—

7   (i) is a current customer;

8   (ii) has obtained a good or service

9   from the entity within the prior 18

10   months; or

11   (iii) has made an inquiry about the

12   products or services of the entity within

13   the prior 90 days.

14   (B) EXCLUSION.—The term ''direct rela-

15   tionship'' does not include a relationship be-

16   tween an individual and a data broker where

17   the individual's only connection to the data

18   broker is based on the individual's request—

19   (i) for the data broker to delete the

20   personal information of the individual; or

21   (ii) to opt out of the data broker's col-

22   lection or use of personal information, cer-

23   tain sales of such information, or its data-

24   bases.

1   (6) HASH.—The term "hash" means to input

2 data to a cryptographic, one-way, collision resistant

3 function that maps a bit string of arbitrary length

4 to a fixed-length bit string to produce a cryp-

5 tographically secure value.

6   (7) HASHED.—The term "hashed" means the

7 type of value produced by hashing data.

8   (8) HUMAN SUBJECTS RESEARCH.—The term

9 "human subjects research" means research that—

10   (A) an investigator (whether professional

11   or student) conducts on a living individual; and

12   (B) either—

13   (i) obtains information or biospeci-

14   mens through intervention or interaction

15   with the individual, and uses, studies, or

16   analyzes the information or biospecimens;

17   or

18   (ii) obtains, uses, studies, analyzes, or

19   generates personal information or identifi-

20   able biospecimens.

21   (9) PERSONAL INFORMATION.—

22   (A) IN GENERAL.—The term "personal in-

23   formation" means any information held by a

24   data broker, regardless of how the information

25   is collected, inferred, created, or obtained, that

1 is linked or reasonably linkable by the data

2 broker to a particular individual or consumer

3 device, including the following information:

4   (i) Financial information, including

5   any bank account number, credit card

6   number, debit card number, or insurance

7   policy number.

8   (ii) A name, alias, home or other

9   physical address, online identifier, Internet

10   Protocol address, email address, account

11   name, State identification card number,

12   driver's license number, passport number,

13   or an identifying number on a government-

14   issued identification.

15   (iii) Geolocation information.

16   (iv) Biometric information.

17   (v) The contents of, attachments to,

18   or parties to information, including with

19   respect to email, text messages, picture

20   messages, voicemails, audio conversations,

21   or video conversations.

22   (vi) Web browsing history, including

23   any search query.

24   (vii) Genetic sequencing information.

1   (viii) A device identifier, online identi-

2   fier, persistent identifier, or digital

3   fingerprinting information.

4   (ix) Any inference drawn from any of

5   the information described in this para-

6   graph that is used to create a profile about

7   an individual that reflects such individual's

8   preferences, characteristics, psychological

9   trends, predispositions, behavior, attitudes,

10   intelligence, abilities, or aptitudes.

11   (x) Any other information determined

12   appropriate by the Commission.

13   (B) LINKED OR REASONABLY LINKABLE.—

14   For purposes of subparagraph (A), information

15   is ''linked or reasonably linkable'' to a par-

16   ticular individual or consumer device if the in-

17   formation can be used on its own or in com-

18   bination with other information held by or read-

19   ily accessible to a data broker to identify a par-

20   ticular individual or consumer device.

21   (10) PROCESS.—The term ''process'' means to

22   perform or direct the performance of an operation

23   on personal information, including the collection,

24   transmission, use, disclosure, analysis, prediction, or

1 modification of such personal information, whether

2 or not by automated means.

3 (11) UNIFORM RESOURCE LOCATOR; URL.—The

4 term "uniform resource locator" or "URL" means a

5 short string containing an address that refers to an

6 object on the web.

○