

117TH CONGRESS
2D SESSION

H. R. 7120

To require the Securities and Exchange Commission to promulgate regulations relating to the disclosure of certain commercial data, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2022

Mr. FOSTER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Securities and Exchange Commission to promulgate regulations relating to the disclosure of certain commercial data, 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 “Designing Accounting
5 Safeguards to Help Broaden Oversight And Regulations
6 on Data Act of 2022” or the “DASHBOARD Act of
7 2022”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Securities and Exchange Commission.

5 (2) ISSUER.—The term “issuer” has the mean-
6 ing given the term in section 3(a) of the Securities
7 and Exchange Act of 1934 (15 U.S.C. 78c(a)).

8 (3) OTHER DEFINITIONS.—The terms “com-
9 mercial data operator”, “user”, and “user data”
10 have the meaning given those terms, respectively,
11 under section 13(s)(1) of the Securities Exchange
12 Act of 1934.

13 **SEC. 3. COMMERCIAL DATA OPERATORS.**

14 (a) REQUIREMENTS.—

15 (1) IN GENERAL.—A commercial data operator
16 shall—

17 (A) on a routine basis, and not less fre-
18 quently than once every 90 days—

19 (i) provide each user of the commer-
20 cial data operator with an assessment of
21 the economic value that the commercial
22 data operator places on the data of that
23 user; and

24 (ii) in a clear and conspicuous man-
25 ner, in accordance with paragraph (3),

1 identify to each user of the commercial
2 data operator—

3 (I) the types of data collected
4 from users of the commercial data op-
5 erator, whether by the commercial
6 data operator or another person pur-
7 suant to an agreement with the com-
8 mercial data operator; and

9 (II) the ways that the data of a
10 user of the commercial data operator
11 are used if the use is not directly or
12 exclusively related to the online serv-
13 ice that the commercial data operator
14 provides to the user; and

15 (B) except as provided in paragraph (2),
16 provide a user of the commercial data operator
17 with the ability to delete all data, in the aggre-
18 gate and for an individual field, that the com-
19 mercial data operator possesses, or maintains
20 control or access to with respect to the user,
21 through—

22 (i) a single setting; or

23 (ii) another clear and conspicuous
24 mechanism by which the user may make
25 such a deletion.

1 (2) DELETION EXCEPTIONS.—

2 (A) IN GENERAL.—A commercial data op-
3 erator shall comply with a user directive to de-
4 lete, in whole or in part, the data of the user
5 except—

6 (i) in cases where there is a legal obli-
7 gation of the commercial data operator to
8 maintain the data;

9 (ii) for the establishment, exercise, or
10 defense of legal claims; or

11 (iii) if the data is necessary to detect
12 security incidents, protect against mali-
13 cious, deceptive, fraudulent, or illegal activ-
14 ity, or assist in the prosecution of those re-
15 sponsible for such activity.

16 (B) RETENTION.—A commercial data op-
17 erator may not retain any more user data than
18 is necessary to carry out an activity described
19 in clauses (i) through (iii) of subparagraph (A).

20 (3) AVAILABILITY.—A commercial data oper-
21 ator shall ensure that all disclosures required under
22 paragraph (1) are available to a user of the commer-
23 cial data operator—

1 (A) on and after the date on which the
2 commercial data operator makes the identifica-
3 tion; and

4 (B) through any normal mechanism by
5 which a user may interact with the online serv-
6 ice provided by the commercial data operator.

7 (4) UNFAIR AND DECEPTIVE ACTS OR PRAC-
8 TICES.—

9 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
10 TICES.—A violation of this subsection shall be
11 treated as a violation of a rule defining an un-
12 fair or deceptive act or practice prescribed
13 under section 18(a)(1)(B) of the Federal Trade
14 Commission Act (15 U.S.C. 57a(a)(1)(B)).

15 (B) POWERS OF FEDERAL TRADE COMMIS-
16 SION.—

17 (i) IN GENERAL.—The Federal Trade
18 Commission shall enforce this subsection in
19 the same manner, by the same means, and
20 with the same jurisdiction, powers, and du-
21 ties as though all applicable terms and pro-
22 visions of the Federal Trade Commission
23 Act (15 U.S.C. 41 et seq.) were incor-
24 porated into and made a part of this sub-
25 section.

1 (ii) PRIVILEGES AND IMMUNITIES.—

2 Any person who violates this subsection
 3 shall be subject to the penalties and enti-
 4 tled to the privileges and immunities pro-
 5 vided in the Federal Trade Commission
 6 Act (15 U.S.C. 41 et seq.).

7 (b) REGULATIONS.—Not later than 1 year after the
 8 date of enactment of this Act, the Federal Trade Commis-
 9 sion shall promulgate regulations carrying out subsection
 10 (a).

11 **SEC. 4. SEC DISCLOSURES.**

12 (a) IN GENERAL.—Section 13 of the Securities Ex-
 13 change Act of 1934 (15 U.S.C. 78m) is amended by add-
 14 ing at the end the following:

15 “(s) DISCLOSURE RELATING TO AGGREGATE VALUE
 16 OF USER DATA HELD BY COMMERCIAL DATA OPERA-
 17 TORS.—

18 “(1) DEFINITIONS.—In this subsection:

19 “(A) COMMERCIAL DATA OPERATOR.—The
 20 term ‘commercial data operator’ means an enti-
 21 ty acting in its capacity as a consumer online
 22 services provider or data broker that—

23 “(i) generates a material amount of
 24 revenue directly from the use, collection,

1 processing, sale, or sharing of the user
2 data; and

3 “(ii) has more than 100,000,000
4 unique monthly visitors or users in the
5 United States for a majority of months
6 during the previous 1-year period.

7 “(B) USER.—The term ‘user’ means an in-
8 dividual consumer who uses an online service
9 designed for consumer use by a commercial
10 data operator.

11 “(C) USER DATA.—The term ‘user data’
12 means any information that identifies, relates
13 to, describes, is capable of being associated
14 with, or could reasonably be linked with an in-
15 dividual user, whether directly submitted to the
16 commercial data operator by the user or derived
17 from the observed activity of the user by the
18 commercial data operator.

19 “(2) DISCLOSURE.—Each issuer that is, or is a
20 consolidated subsidiary of, a commercial data oper-
21 ator and is required to file an annual or quarterly
22 report under subsection (a) shall disclose in that re-
23 port the aggregate value, if material, of—

24 “(A) user data that the commercial data
25 operator holds;

1 “(B) contracts with third parties for the
2 collection of user data through the online serv-
3 ice provided by the commercial data operator;
4 and

5 “(C) any other item that the Commission
6 determines, by rule, is necessary or useful for
7 the protection of investors and in the public in-
8 terest.

9 “(3) VALUATION METHODOLOGY.—

10 “(A) IN GENERAL.—The Commission, in
11 consultation with appropriate standards setting
12 organizations, shall develop a method or meth-
13 ods for calculating the value of user data re-
14 quired to be disclosed under paragraph (2).

15 “(B) CONSIDERATIONS.—In developing the
16 method under subparagraph (A), the Commis-
17 sion shall promote comparability in calculating
18 the value of data across commercial data opera-
19 tors that utilize user data in a similar manner
20 while taking into account the potential need to
21 develop distinct methods for calculating the
22 value of data for different uses, sectors, and
23 business models.”.

24 (b) QUALITATIVE DISCLOSURE.—Not later than 1
25 year after the date of enactment of this subsection, the

1 Commission shall amend section 229.306 of title 17, Code
2 of Federal Regulations, to require a commercial data oper-
3 ator that is an issuer subject to section 13 or 15(d) of
4 the Securities Exchange Act of 1934 (15 U.S.C. 78m,
5 78o(d)) to provide quantitative and qualitative disclosures
6 about the value of user data held, including—

7 (1) technical and legal measures in place to
8 protect user data held by the commercial data oper-
9 ator;

10 (2) an assessment of financial and legal risks
11 associated with storing the type and quantity of user
12 data held by the commercial data operator;

13 (3) each source of user data held by the com-
14 mercial data operator, whether by sale, a direct con-
15 sumer relationship, an indirect consumer relation-
16 ship, or other means;

17 (4) each discrete revenue generating operation
18 of the commercial data operator and any subsidiary
19 or affiliate that relies on user data;

20 (5) the entry into any contract valued at more
21 than \$10,000,000 with a third party for the collec-
22 tion, licensing, or sharing by the third party pursu-
23 ant to an agreement with the commercial data oper-
24 ator;

1 (6) the amount of revenue derived from obtain-
2 ing, collecting, processing, selling, using or sharing
3 user data during the reporting period;

4 (7) how changes in the measurement of aggre-
5 gate fair value of user data affect the reported per-
6 formance and cash flows of the issuer; and

7 (8) any acquisition of user data in the pre-
8 ceding reporting period valued at more than
9 \$100,000,000.

10 (c) REPORT.—

11 (1) IN GENERAL.—Not later than 3 years after
12 the date of enactment of this Act, the Commission
13 shall submit to the Committee on Banking, Housing,
14 and Urban Affairs of the Senate and the Committee
15 on Financial Services of the House of Representa-
16 tives a report on—

17 (A) the nature, timing, and extent of the
18 disclosure practices of commercial data opera-
19 tors;

20 (B) an assessment of the valuation meth-
21 odologies and practices employed by commercial
22 data operators in developing and submitting
23 disclosures to the public;

24 (C) an evaluation of the methods of deliv-
25 ery and presentation of the disclosures required

1 by this Act, and the amendments made by this
2 Act; and

3 (D) recommendations for the improvement
4 of the methods described in subparagraph (C),
5 including developing standards to enhance com-
6 parability and utility for investors.

7 (2) RULEMAKING.—Not later than 180 days
8 after the date on which the report required under
9 paragraph (1) is submitted, the Commission shall
10 promulgate a proposed regulation implementing the
11 recommendations described in paragraph (1)(D).

○