

AMENDMENT TO H.R. _____
OFFERED BY MRS. TRAHAN OF MASSACHUSETTS

Add, at the end of the bill, the following:

1 SEC. 22. DATA DELETION REQUIREMENTS.

2 (a) DATA BROKER ANNUAL REGISTRATION.—

3 (1) IN GENERAL.—

4 (A) REGULATIONS.—Not later than 1 year
5 after the date of enactment of this section, the
6 Commission shall promulgate regulations to re-
7 quire any data broker to—

8 (i) not later than 18 months after the
9 date of enactment of this section, and an-
10 nually thereafter, register with the Com-
11 mission; and

12 (ii) subject to subparagraph (B), pro-
13 vide with such registration certain informa-
14 tion, including—

15 (I) the name and primary phys-
16 ical, email, and uniform resource loca-
17 tor (URL) addresses of the data
18 broker;

19 (II) if the data broker permits an
20 individual to opt out of the data bro-

1 ker's collection or use of personal in-
2 formation, certain sales of such infor-
3 mation, or its databases—

4 (aa) the method for request-
5 ing an opt-out;

6 (bb) any limitations on the
7 type of data collection, uses, or
8 sales for which an individual may
9 opt-out; and

10 (cc) whether the data broker
11 permits an individual to author-
12 ize a third party to perform the
13 opt-out on the individual's behalf;

14 (III) a response to a standard-
15 ized form (as issued by the Commis-
16 sion) specifying the types of informa-
17 tion the data broker collects or ob-
18 tains and the sources from which the
19 data broker obtains data;

20 (IV) a statement as to whether
21 the data broker implements a
22 credentialing process and, if so, a de-
23 scription of that process;

24 (V) any additional information or
25 explanation the data broker chooses to

1 provide concerning its data collection
2 practices; and

3 (VI) any other information deter-
4 mined appropriate by the Commission.

5 (B) CONSTRUCTION.—Nothing in this
6 paragraph shall be construed as requiring a
7 data broker to disclose any information that is
8 a trade secret or other kind of confidential in-
9 formation described in section 552(b)(4) of title
10 5, United States Code.

11 (2) PUBLIC AVAILABILITY.—

12 (A) IN GENERAL.—The Commission shall
13 make the information provided pursuant to
14 paragraph (1)(A)(ii) publicly available in a
15 downloadable and machine-readable format, ex-
16 cept in the event that the Commission—

17 (i) determines that the risk of making
18 such information available is not in the in-
19 terest of public safety or welfare; and

20 (ii) provides a justification for such
21 determination.

22 (B) DISCLAIMER.—The Commission shall
23 include on the website of the Commission a dis-
24 claimer that—

1 (i) the Commission cannot confirm
2 the accuracy of the information provided
3 pursuant to paragraph (1)(A)(ii); and

4 (ii) individuals may contact a data
5 broker who provided such information at
6 their own risk.

7 (b) CENTRALIZED DATA DELETION SYSTEM.—

8 (1) ESTABLISHMENT.—

9 (A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this section, the
11 Commission shall promulgate regulations to es-
12 tablish a centralized system that—

13 (i) implements and maintains reason-
14 able security procedures and practices (in-
15 cluding administrative, physical, and tech-
16 nical safeguards) appropriate to the nature
17 of the information and the purposes for
18 which the personal information will be
19 used, to protect individuals' personal infor-
20 mation from unauthorized use, disclosure,
21 access, destruction, or modification;

22 (ii) allows an individual, through a
23 single submission, to request that every
24 data broker who is registered under sub-
25 section (a) and who maintains any per-

1 sistent identifiers (as described in subpara-
2 graph (B)(iii))—

3 (I) delete any personal informa-
4 tion related to such individual held by
5 such data broker or affiliated legal en-
6 tity of the data broker; and

7 (II) unless otherwise specified by
8 the individual, discontinue any present
9 or future collection of personal infor-
10 mation related to such individual; and

11 (iii) allows a registered data broker,
12 prior to the collection of any personal in-
13 formation that is tied to a persistent iden-
14 tifier for which a registry exists, to submit
15 a query to the centralized system to con-
16 firm that the persistent identifier is not
17 subject to a deletion request described in
18 clause (ii).

19 (B) REQUIREMENTS.—The centralized sys-
20 tem established in subparagraph (A) shall meet
21 the following requirements:

22 (i) The centralized system shall allow
23 an individual to request the deletion of all
24 personal information related to such indi-
25 vidual and the discontinuation of any col-

1 lection of such personal information related
2 to such individual through a single deletion
3 request.

4 (ii) The centralized system shall pro-
5 vide a standardized form to allow an indi-
6 vidual to make such request.

7 (iii) Such standardized form shall in-
8 clude the individual's email, phone number,
9 physical address, and any other persistent
10 identifier determined by the Commission to
11 aid in the deletion request.

12 (iv) The centralized system shall auto-
13 matically salt and hash all submitted infor-
14 mation and allow the Commission to main-
15 tain independent hashed registries of each
16 type of information obtained through such
17 form.

18 (v) The centralized system shall only
19 permit data brokers who are registered
20 with the Commission to submit hashed
21 queries to the independent hashed reg-
22 istries described in clause (iv).

23 (vi) With respect to the independent
24 hashed registries described in clause (iv),
25 the salt shall be different for each such

1 registry and shall be made available to all
2 registered data brokers for the purposes of
3 submitting hashed queries, as described in
4 clause (v).

5 (vii) The centralized system shall
6 allow an individual to make such request
7 using an internet website operated by the
8 Commission.

9 (viii) The centralized system shall not
10 charge the individual to make such re-
11 quest.

12 (C) TRANSITION.—

13 (i) IN GENERAL.—Not later than 8
14 months after the effective date of the regu-
15 lations promulgated under subparagraph
16 (A), each data broker shall—

17 (I) not less than once every 31
18 days, access the hashed registries
19 maintained by the Commission as de-
20 scribed in subparagraph (B)(iv); and

21 (II) process any deletion request
22 associated with a match between such
23 hashed registries and the records of
24 the data broker.

1 (ii) FTC GUIDANCE.—Not later than
2 6 months after the effective date of the
3 regulations promulgated under subpara-
4 graph (A), the Commission shall publish
5 guidance on the process and standards to
6 which a data broker must adhere in car-
7 rying out clause (i).

8 (2) DELETION.—

9 (A) INFORMATION DELETION.—

10 (i) IN GENERAL.—Subject to clause
11 (ii), not later than 31 days after accessing
12 the hashed registries described in para-
13 graph (1)(B)(iv), a data broker and any
14 associated legal entity shall delete all per-
15 sonal information in its possession related
16 to the individual making the request and
17 discontinue the collection of personal infor-
18 mation related to such individual. Imme-
19 diately following the deletion, the data
20 broker shall send an affirmative represen-
21 tation to the Commission with the number
22 of records deleted pursuant to each match
23 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 information necessary
15 for an activity described in subsection
16 (f)(3)(B), provided that the retained
17 information is used solely for any
18 such activity.

19 (iii) USE OF INFORMATION.—Any per-
20 sonal information excluded under clause
21 (ii) may only be used for the purpose de-
22 scribed in the applicable subclause of
23 clause (ii), and may not be used for any
24 other purpose, including marketing pur-
25 poses.

1 (B) ANNUAL REPORT.—Each data broker
2 registered under subsection (a) shall submit to
3 the Commission, on an annual basis, a report
4 on the completion rate with respect to the com-
5 pletion of deletion requests under subparagraph
6 (A).

7 (C) AUDIT.—

8 (i) IN GENERAL.—Not later than 3
9 years after the date of enactment of this
10 section, and every 3 years thereafter, each
11 data broker registered under subsection (a)
12 shall undergo an independent third party
13 audit to determine compliance with this
14 subsection.

15 (ii) AUDIT REPORT.—Not later than 6
16 months after the completion of any audit
17 under clause (i), each such data broker
18 shall submit to the Commission any report
19 produced as a result of the audit, along
20 with any related materials.

21 (iii) MAINTAIN RECORDS.—Each such
22 data broker shall maintain the materials
23 described in clause (ii) for a period of not
24 less than 6 years.

25 (3) ANNUAL FEE.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), each data broker registered under
3 subsection (a) and who maintains any per-
4 sistent identifiers (as described in paragraph
5 (1)(B)(iii)) shall pay to the Commission, on an
6 annual basis, a subscription fee determined by
7 the Commission to access the database.

8 (B) LIMIT.—The amount of the subscrip-
9 tion fee under subparagraph (A) may not ex-
10 ceed 1 percent of the expected annual cost of
11 operating the centralized system and hashed
12 registries described in paragraph (1), as deter-
13 mined by the Commission.

14 (C) AVAILABILITY.—Any amounts col-
15 lected by the Commission pursuant to this
16 paragraph shall be available without further ap-
17 propriation to the Commission for the exclusive
18 purpose of enforcing and administering this sec-
19 tion, including the implementation and mainte-
20 nance of such centralized system and hashed
21 registries and the promotion of public aware-
22 ness of the centralized system.

23 (c) ENFORCEMENT BY THE COMMISSION.—

24 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
25 TICES.—A violation of subsection (a) or (b) or a reg-

1 ulation promulgated under this section shall be
2 treated as a violation of a rule defining an unfair or
3 deceptive act or practice under section 18(a)(1)(B)
4 of the Federal Trade Commission Act (15 U.S.C.
5 57a(a)(1)(B)).

6 (2) POWERS OF THE COMMISSION.—

7 (A) IN GENERAL.—The Commission shall
8 enforce this section in the same manner, by the
9 same means, and with the same jurisdiction,
10 powers, and duties as though all applicable
11 terms and provisions of the Federal Trade
12 Commission Act (15 U.S.C. 41 et seq.) were in-
13 corporated into and made a part of this section.

14 (B) PRIVILEGES AND IMMUNITIES.—Any
15 person who violates subsection (a) or (b) or a
16 regulation promulgated under this section shall
17 be subject to the penalties and entitled to the
18 privileges and immunities provided in the Fed-
19 eral Trade Commission Act (15 U.S.C. 41 et
20 seq.).

21 (C) AUTHORITY PRESERVED.—Nothing in
22 this section shall be construed to limit the au-
23 thority of the Commission under any other pro-
24 vision of law.

1 (D) RULEMAKING.—The Commission shall
2 promulgate in accordance with section 553 of
3 title 5, United States Code, such rules as may
4 be necessary to carry out this section.

5 (d) STUDY AND REPORT.—

6 (1) STUDY.—The Commission shall conduct a
7 study on the implementation and enforcement of this
8 section. Such study shall include—

9 (A) an analysis of the effectiveness of the
10 centralized system established in subsection
11 (b)(1)(A);

12 (B) the number deletion requests sub-
13 mitted annually using such centralized system;

14 (C) an analysis of the progress of coordi-
15 nating the operation and enforcement of such
16 requests with similar systems established and
17 maintained by the various States; and

18 (D) any other area determined appropriate
19 by the Commission.

20 (2) REPORT.—Not later than 3 years after the
21 date of enactment of this section, and annually
22 thereafter for each of the next 4 years, the Commis-
23 sion shall submit to the Committee on Commerce,
24 Science, and Transportation of the Senate and the

1 Committee on Energy and Commerce of the House
2 of Representatives a report containing—

3 (A) the results of the study conducted pur-
4 suant to paragraph (1);

5 (B) a summary of any enforcement actions
6 taken pursuant to this Act; and

7 (C) recommendations for any legislation
8 and administrative action as the Commission
9 determines appropriate.

10 (e) PREEMPTION.—

11 (1) IN GENERAL.—The provisions of this Act
12 shall preempt any State privacy law only to the ex-
13 tent that such State law is inconsistent with the pro-
14 visions of this Act.

15 (2) GREATER PROTECTION UNDER STATE
16 LAW.—For purposes of paragraph (1), a State pri-
17 vacy law is not inconsistent with the provisions of
18 this Act if the protection such law affords any per-
19 son is greater than the protection provided under
20 this Act, as determined by the Commission.

21 (f) 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 1 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 personal information to
14 a third party at the express direction of
15 the individual for a clearly disclosed single-
16 use purpose.

17 (iv) Providing or using personal infor-
18 mation for assessing, verifying, or authen-
19 ticating an individual's identity, or for in-
20 vestigating or preventing actual or poten-
21 tial fraud.

22 (v) Gathering, preparing, collecting,
23 photographing, recording, writing, editing,
24 reporting, or publishing news or informa-
25 tion that concerns local, national, or inter-

1 national events or other matters of public
2 interest (as determined by the Commis-
3 sion) for dissemination to the public.

4 (vi) Acting as a consumer reporting
5 agency (as defined in section 603(f) of the
6 Fair Credit Reporting Act (15 U.S.C.
7 1681a(f))).

8 (C) EXCLUSION FROM SALE.—

9 (i) IN GENERAL.—For purposes of
10 this paragraph, the term “sells” does not
11 include a one-time or occasional sale of as-
12 sets of an entity as part of a transfer of
13 control of those assets that is not part of
14 the ordinary conduct of the entity.

15 (ii) NOTICE REQUIRED.—To meet the
16 exclusion criteria described in clause (i), an
17 entity must provide notice to the Commis-
18 sion, in the manner determined appro-
19 priate by the Commission, of any such one-
20 time or occasional sale of assets.

21 (4) DELETE.—The term “delete” means to re-
22 move or destroy information such that the informa-
23 tion is not maintained in human- or machine-read-
24 able form and cannot be retrieved or utilized in such
25 form in the normal course of business.

1 (5) DIRECT RELATIONSHIP.—

2 (A) IN GENERAL.—The term “direct rela-
3 tionship” means a relationship between an indi-
4 vidual and an entity where the individual—

5 (i) is a current customer;

6 (ii) has obtained a good or service
7 from the entity within the prior 18
8 months; or

9 (iii) has made an inquiry about the
10 products or services of the entity within
11 the prior 90 days.

12 (B) EXCLUSION.—The term “direct rela-
13 tionship” does not include a relationship—

14 (i) between an individual and a data
15 broker where the individual’s only connec-
16 tion to the data broker is based on the in-
17 dividual’s request—

18 (I) for the data broker to delete
19 the personal information of the indi-
20 vidual; or

21 (II) to opt-out of the data bro-
22 ker’s collection or use of personal in-
23 formation, certain sales of such infor-
24 mation, or its databases; or

1 (ii) required under any State or Fed-
2 eral law related to the use of personal in-
3 formation.

4 (6) HASH.—The term “hash” means to input
5 data to a cryptographic, one-way, collision resistant
6 function that maps a bit string of arbitrary length
7 to a fixed-length bit string to produce a cryp-
8 tographically secure value.

9 (7) HASHED.—The term “hashed” means the
10 type of value produced by hashing data.

11 (8) HUMAN SUBJECTS RESEARCH.—The term
12 “human subjects research” means research that—

13 (A) an investigator (whether professional
14 or student) conducts on a living individual; and

15 (B) either—

16 (i) obtains information or biospeci-
17 mens through intervention or interaction
18 with the individual, and uses, studies, or
19 analyzes the information or biospecimens;
20 or

21 (ii) obtains, uses, studies, analyzes, or
22 generates personal information or identifi-
23 able biospecimens.

24 (9) PERSONAL INFORMATION.—

1 (A) IN GENERAL.—The term “personal in-
2 formation” means any information held by a
3 data broker, regardless of how the information
4 is collected, inferred, created, or obtained, that
5 is linked or reasonably linkable by the data
6 broker to a particular individual or consumer
7 device, including the following:

8 (i) Financial information, including
9 any bank account number, credit card
10 number, debit card number, or insurance
11 policy number.

12 (ii) A name, alias, home or other
13 physical address, online identifier, Internet
14 Protocol address, email address, phone
15 number, account name, State identification
16 card number, driver’s license number,
17 passport number, or an identifying number
18 on a government-issued identification.

19 (iii) Geolocation information.

20 (iv) Biometric information.

21 (v) The contents of, attachments to,
22 or parties to information, including with
23 respect to email, text messages, picture
24 messages, voicemails, audio conversations,
25 or video conversations.

1 (vi) Web browsing history, including
2 any search query.

3 (vii) Genetic sequencing information.

4 (viii) A device identifier, online identi-
5 fier, persistent identifier, or digital
6 fingerprinting information.

7 (ix) Any inference drawn from any of
8 the information described in this para-
9 graph that is used to create a profile about
10 an individual that reflects such individual's
11 preferences, characteristics, psychological
12 trends, predispositions, behavior, attitudes,
13 intelligence, abilities, or aptitudes.

14 (x) Any other information determined
15 appropriate by the Commission.

16 (B) LINKED OR REASONABLY LINKABLE.—
17 For purposes of subparagraph (A), information
18 is “linked or reasonably linkable” to a par-
19 ticular individual or consumer device if the in-
20 formation can be used on its own or in com-
21 bination with other information held by or read-
22 ily accessible to a data broker to identify a par-
23 ticular individual or consumer device.

24 (10) PROCESS.—The term “process” means to
25 perform or direct the performance of an operation

1 on personal information, including the collection,
2 transmission, use, disclosure, analysis, prediction, or
3 modification of such personal information, whether
4 or not by automated means.

5 (11) SALT.—The term “salt” means to add a
6 random string of data to the input of a hash func-
7 tion.

8 (12) UNIFORM RESOURCE LOCATOR; URL.—The
9 term “uniform resource locator” or “URL” means a
10 short string containing an address that refers to an
11 object on the web.

