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H. R. 4311

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2023

Mrs. TRAHAN (for herself and Mr. EDWARDS) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To establish a centralized system to allow individuals to request the simultaneous deletion of their personal information across all 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.—

9 (1) IN GENERAL.—

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

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

9 (ii) subject to subparagraph (B), pro-
10 vide with such registration certain informa-
11 tion, including—

12 (I) the name and primary phys-
13 ical, email, and uniform resource loca-
14 tor (URL) addresses of the data
15 broker;

16 (II) if the data broker permits an
17 individual to opt out of the data bro-
18 ker’s collection or use of personal in-
19 formation, certain sales of such infor-
20 mation, or its databases—

21 (aa) the method for request-
22 ing an opt-out;

23 (bb) any limitations on the
24 type of data collection, uses, or

1 sales for which an individual may
2 opt-out; and

3 (cc) whether the data broker
4 permits an individual to author-
5 ize a third party to perform the
6 opt-out on the individual's behalf;

7 (III) a response to a standard-
8 ized form (as issued by the Commis-
9 sion) specifying the types of informa-
10 tion the data broker collects or ob-
11 tains and the sources from which the
12 data broker obtains data;

13 (IV) a statement as to whether
14 the data broker implements a
15 credentialing process and, if so, a de-
16 scription of that process;

17 (V) any additional information or
18 explanation the data broker chooses to
19 provide concerning its data collection
20 practices; and

21 (VI) any other information deter-
22 mined appropriate by the Commission.

23 (B) CONSTRUCTION.—Nothing in this
24 paragraph shall be construed as requiring a
25 data broker to disclose any information that is

1 a trade secret or other kind of confidential in-
2 formation described in section 552(b)(4) of title
3 5, United States Code.

4 (2) PUBLIC AVAILABILITY.—

5 (A) IN GENERAL.—The Commission shall
6 make the information provided pursuant to
7 paragraph (1)(A)(ii) publicly available in a
8 downloadable and machine-readable format, ex-
9 cept in the event that the Commission—

10 (i) determines that the risk of making
11 such information available is not in the in-
12 terest of public safety or welfare; and

13 (ii) provides a justification for such
14 determination.

15 (B) DISCLAIMER.—The Commission shall
16 include on the website of the Commission a dis-
17 claimer that—

18 (i) the Commission cannot confirm
19 the accuracy of the information provided
20 pursuant to paragraph (1)(A)(ii); and

21 (ii) individuals may contact a data
22 broker who provided such information at
23 their own risk.

24 (b) CENTRALIZED DATA DELETION SYSTEM.—

25 (1) ESTABLISHMENT.—

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

5 (i) implements and maintains reason-
6 able security procedures and practices (in-
7 cluding administrative, physical, and tech-
8 nical safeguards) appropriate to the nature
9 of the information and the purposes for
10 which the personal information will be
11 used, to protect individuals' personal infor-
12 mation from unauthorized use, disclosure,
13 access, destruction, or modification;

14 (ii) allows an individual, through a
15 single submission, to request that every
16 data broker who is registered under sub-
17 section (a) and who maintains any per-
18 sistent identifiers (as described in subpara-
19 graph (B)(iii))—

20 (I) delete any personal informa-
21 tion related to such individual held by
22 such data broker or affiliated legal en-
23 tity of the data broker; and

24 (II) unless otherwise specified by
25 the individual, discontinue any present

1 or future collection of personal infor-
2 mation related to such individual; and
3 (iii) allows a registered data broker,
4 prior to the collection of any personal in-
5 formation that is tied to a persistent iden-
6 tifier for which a registry exists, to submit
7 a query to the centralized system to con-
8 firm that the persistent identifier is not
9 subject to a deletion request described in
10 clause (ii).

11 (B) REQUIREMENTS.—The centralized sys-
12 tem established in subparagraph (A) shall meet
13 the following requirements:

14 (i) The centralized system shall allow
15 an individual to request the deletion of all
16 personal information related to such indi-
17 vidual and the discontinuation of any col-
18 lection of such personal information related
19 to such individual through a single deletion
20 request.

21 (ii) The centralized system shall pro-
22 vide a standardized form to allow an indi-
23 vidual to make such request.

24 (iii) Such standardized form shall in-
25 clude the individual's email, phone number,

1 physical address, and any other persistent
2 identifier determined by the Commission to
3 aid in the deletion request.

4 (iv) The centralized system shall auto-
5 matically salt and hash all submitted infor-
6 mation and allow the Commission to main-
7 tain independent hashed registries of each
8 type of information obtained through such
9 form.

10 (v) The centralized system shall only
11 permit data brokers who are registered
12 with the Commission to submit hashed
13 queries to the independent hashed reg-
14 istries described in clause (iv).

15 (vi) With respect to the independent
16 hashed registries described in clause (iv),
17 the salt shall be different for each such
18 registry and shall be made available to all
19 registered data brokers for the purposes of
20 submitting hashed queries, as described in
21 clause (v).

22 (vii) The centralized system shall
23 allow an individual to make such request
24 using an internet website operated by the
25 Commission.

1 (viii) The centralized system shall not
2 charge the individual to make such re-
3 quest.

4 (C) TRANSITION.—

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

9 (I) not less than once every 31
10 days, access the hashed registries
11 maintained by the Commission as de-
12 scribed in subparagraph (B)(iv); and

13 (II) process any deletion request
14 associated with a match between such
15 hashed registries and the records of
16 the data broker.

17 (ii) FTC GUIDANCE.—Not later than
18 6 months after the effective date of the
19 regulations promulgated under subpara-
20 graph (A), the Commission shall publish
21 guidance on the process and standards to
22 which a data broker must adhere in car-
23 rying out clause (i).

24 (2) DELETION.—

25 (A) INFORMATION DELETION.—

1 (i) IN GENERAL.—Subject to clause
2 (ii), not later than 31 days after accessing
3 the hashed registries described in para-
4 graph (1)(B)(iv), a data broker and any
5 associated legal entity shall delete all per-
6 sonal information in its possession related
7 to the individual making the request and
8 discontinue the collection of personal infor-
9 mation related to such individual. Imme-
10 diately following the deletion, the data
11 broker shall send an affirmative represen-
12 tation to the Commission with the number
13 of records deleted pursuant to each match
14 with a value in the hashed registries.

15 (ii) EXCLUSIONS.—In carrying out
16 clause (i), a data broker may retain, where
17 required, the following information:

18 (I) Any personal information that
19 is processed or maintained solely as
20 part of human subjects research con-
21 ducted in compliance with any legal
22 requirements for the protection of
23 human subjects.

24 (II) Any personal information
25 necessary to comply with a warrant,

1 subpoena, court order, rule, or other
2 applicable law.

3 (III) Any information necessary
4 for an activity described in subsection
5 (f)(3)(B), provided that the retained
6 information is used solely for any
7 such activity.

8 (iii) USE OF INFORMATION.—Any per-
9 sonal information excluded under clause
10 (ii) may only be used for the purpose de-
11 scribed in the applicable subclause of
12 clause (ii), and may not be used for any
13 other purpose, including marketing pur-
14 poses.

15 (B) ANNUAL REPORT.—Each data broker
16 registered under subsection (a) shall submit to
17 the Commission, on an annual basis, a report
18 on the completion rate with respect to the com-
19 pletion of deletion requests under subparagraph
20 (A).

21 (C) AUDIT.—

22 (i) IN GENERAL.—Not later than 3
23 years after the date of enactment of this
24 section, and every 3 years thereafter, each
25 data broker registered under subsection (a)

1 shall undergo an independent third party
2 audit to determine compliance with this
3 subsection.

4 (ii) AUDIT REPORT.—Not later than 6
5 months after the completion of any audit
6 under clause (i), each such data broker
7 shall submit to the Commission any report
8 produced as a result of the audit, along
9 with any related materials.

10 (iii) MAINTAIN RECORDS.—Each such
11 data broker shall maintain the materials
12 described in clause (ii) for a period of not
13 less than 6 years.

14 (3) ANNUAL FEE.—

15 (A) IN GENERAL.—Subject to subpara-
16 graph (B), each data broker registered under
17 subsection (a) and who maintains any per-
18 sistent identifiers (as described in paragraph
19 (1)(B)(iii)) shall pay to the Commission, on an
20 annual basis, a subscription fee determined by
21 the Commission to access the database.

22 (B) LIMIT.—The amount of the subscrip-
23 tion fee under subparagraph (A) may not ex-
24 ceed 1 percent of the expected annual cost of
25 operating the centralized system and hashed

1 registries described in paragraph (1), as deter-
2 mined by the Commission.

3 (C) AVAILABILITY.—Any amounts col-
4 lected by the Commission pursuant to this
5 paragraph shall be available without further ap-
6 propriation to the Commission for the exclusive
7 purpose of enforcing and administering this sec-
8 tion, including the implementation and mainte-
9 nance of such centralized system and hashed
10 registries and the promotion of public aware-
11 ness of the centralized system.

12 (c) ENFORCEMENT BY THE COMMISSION.—

13 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
14 TICES.—A violation of subsection (a) or (b) or a reg-
15 ulation promulgated under this section shall be
16 treated as a violation of a rule defining an unfair or
17 deceptive act or practice under section 18(a)(1)(B)
18 of the Federal Trade Commission Act (15 U.S.C.
19 57a(a)(1)(B)).

20 (2) POWERS OF THE COMMISSION.—

21 (A) IN GENERAL.—The Commission shall
22 enforce this section in the same manner, by the
23 same means, and with the same jurisdiction,
24 powers, and duties as though all applicable
25 terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were in-
2 corporated into and made a part of this section.

3 (B) PRIVILEGES AND IMMUNITIES.—Any
4 person who violates subsection (a) or (b) or a
5 regulation promulgated under this section shall
6 be subject to the penalties and entitled to the
7 privileges and immunities provided in the Fed-
8 eral Trade Commission Act (15 U.S.C. 41 et
9 seq.).

10 (C) AUTHORITY PRESERVED.—Nothing in
11 this section shall be construed to limit the au-
12 thority of the Commission under any other pro-
13 vision of law.

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

18 (d) STUDY AND REPORT.—

19 (1) STUDY.—The Commission shall conduct a
20 study on the implementation and enforcement of this
21 section. Such study shall include—

22 (A) an analysis of the effectiveness of the
23 centralized system established in subsection
24 (b)(1)(A);

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

3 (C) an analysis of the progress of coordi-
4 nating the operation and enforcement of such
5 requests with similar systems established and
6 maintained by the various States; and

7 (D) any other area determined appropriate
8 by the Commission.

9 (2) REPORT.—Not later than 3 years after the
10 date of enactment of this section, and annually
11 thereafter for each of the next 4 years, the Commis-
12 sion shall submit to the Committee on Commerce,
13 Science, and Transportation of the Senate and the
14 Committee on Energy and Commerce of the House
15 of Representatives a report containing—

16 (A) the results of the study conducted pur-
17 suant to paragraph (1);

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

20 (C) recommendations for any legislation
21 and administrative action as the Commission
22 determines appropriate.

23 (e) PREEMPTION.—

24 (1) IN GENERAL.—The provisions of this Act
25 shall preempt any State privacy law only to the ex-

1 tent that such State law is inconsistent with the pro-
2 visions of this Act.

3 (2) GREATER PROTECTION UNDER STATE
4 LAW.—For purposes of paragraph (1), a State pri-
5 vacy law is not inconsistent with the provisions of
6 this Act if the protection such law affords any per-
7 son is greater than the protection provided under
8 this Act, as determined by the Commission.

9 (f) DEFINITIONS.—In this section:

10 (1) COMMISSION.—The term “Commission”
11 means the Federal Trade Commission.

12 (2) CREDENTIALING PROCESS.—The term
13 “credentialing process” means the practice of taking
14 reasonable steps to confirm—

15 (A) the identity of the entity with whom
16 the data broker has a direct relationship;

17 (B) that any data disclosed to the entity
18 by such data broker will be used for the de-
19 scribed purpose of such disclosure; and

20 (C) that such data will not be used for un-
21 lawful purposes.

22 (3) DATA BROKER.—

23 (A) IN GENERAL.—The term “data
24 broker” means an entity that knowingly collects
25 or obtains the personal information of an indi-

1 individual with whom the entity does not have a di-
2 rect relationship and then—

3 (i) uses the personal information to
4 perform a service for a third party; or

5 (ii) sells, licenses, trades, provides for
6 consideration, or is otherwise compensated
7 for disclosing personal information to a
8 third party.

9 (B) EXCLUSION.—The term “data broker”
10 does not include an entity who solely uses, sells,
11 licenses, trades, provides for consideration, or is
12 otherwise compensated for disclosing personal
13 information for 1 or more of the following ac-
14 tivities:

15 (i) Providing 411 directory assistance
16 or directory information services, including
17 name, address, and telephone number, on
18 behalf of or as a function of a tele-
19 communications carrier.

20 (ii) Providing an individual’s publicly
21 available information if the information is
22 being used by the recipient as it relates to
23 that individual’s business or profession.

24 (iii) Providing personal information to
25 a third party at the express direction of

1 the individual for a clearly disclosed single-
2 use purpose.

3 (iv) Providing or using personal infor-
4 mation for assessing, verifying, or authen-
5 ticating an individual's identity, or for in-
6 vestigating or preventing actual or poten-
7 tial fraud.

8 (v) Gathering, preparing, collecting,
9 photographing, recording, writing, editing,
10 reporting, or publishing news or informa-
11 tion that concerns local, national, or inter-
12 national events or other matters of public
13 interest (as determined by the Commis-
14 sion) for dissemination to the public.

15 (vi) Acting as a consumer reporting
16 agency (as defined in section 603(f) of the
17 Fair Credit Reporting Act (15 U.S.C.
18 1681a(f))).

19 (C) EXCLUSION FROM SALE.—

20 (i) IN GENERAL.—For purposes of
21 this paragraph, the term “sells” does not
22 include a one-time or occasional sale of as-
23 sets of an entity as part of a transfer of
24 control of those assets that is not part of
25 the ordinary conduct of the entity.

1 (ii) NOTICE REQUIRED.—To meet the
2 exclusion criteria described in clause (i), an
3 entity must provide notice to the Commis-
4 sion, in the manner determined appro-
5 priate by the Commission, of any such one-
6 time or occasional sale of assets.

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

12 (5) DIRECT RELATIONSHIP.—

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

16 (i) is a current customer;

17 (ii) has obtained a good or service
18 from the entity within the prior 18
19 months; or

20 (iii) has made an inquiry about the
21 products or services of the entity within
22 the prior 90 days.

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

1 (i) between an individual and a data
2 broker where the individual’s only connec-
3 tion to the data broker is based on the in-
4 dividual’s request—

5 (I) for the data broker to delete
6 the personal information of the indi-
7 vidual; or

8 (II) to opt-out of the data bro-
9 ker’s collection or use of personal in-
10 formation, certain sales of such infor-
11 mation, or its databases; or

12 (ii) required under any State or Fed-
13 eral law related to the use of personal in-
14 formation.

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

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

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

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

1 (B) either—

2 (i) obtains information or biospeci-
3 mens through intervention or interaction
4 with the individual, and uses, studies, or
5 analyzes the information or biospecimens;

6 or

7 (ii) obtains, uses, studies, analyzes, or
8 generates personal information or identifi-
9 able biospecimens.

10 (9) PERSONAL INFORMATION.—

11 (A) IN GENERAL.—The term “personal in-
12 formation” means any information held by a
13 data broker, regardless of how the information
14 is collected, inferred, created, or obtained, that
15 is linked or reasonably linkable by the data
16 broker to a particular individual or consumer
17 device, including the following:

18 (i) Financial information, including
19 any bank account number, credit card
20 number, debit card number, or insurance
21 policy number.

22 (ii) A name, alias, home or other
23 physical address, online identifier, Internet
24 Protocol address, email address, phone
25 number, account name, State identification

1 card number, driver's license number,
2 passport number, or an identifying number
3 on a government-issued identification.

4 (iii) Geolocation information.

5 (iv) Biometric information.

6 (v) The contents of, attachments to,
7 or parties to information, including with
8 respect to email, text messages, picture
9 messages, voicemails, audio conversations,
10 or video conversations.

11 (vi) Web browsing history, including
12 any search query.

13 (vii) Genetic sequencing information.

14 (viii) A device identifier, online identi-
15 fier, persistent identifier, or digital
16 fingerprinting information.

17 (ix) Any inference drawn from any of
18 the information described in this para-
19 graph that is used to create a profile about
20 an individual that reflects such individual's
21 preferences, characteristics, psychological
22 trends, predispositions, behavior, attitudes,
23 intelligence, abilities, or aptitudes.

24 (x) Any other information determined
25 appropriate by the Commission.

1 (B) LINKED OR REASONABLY LINKABLE.—

2 For purposes of subparagraph (A), information
3 is “linked or reasonably linkable” to a par-
4 ticular individual or consumer device if the in-
5 formation can be used on its own or in com-
6 bination with other information held by or read-
7 ily accessible to a data broker to identify a par-
8 ticular individual or consumer device.

9 (10) PROCESS.—The term “process” means to
10 perform or direct the performance of an operation
11 on personal information, including the collection,
12 transmission, use, disclosure, analysis, prediction, or
13 modification of such personal information, whether
14 or not by automated means.

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

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

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