

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 6292
OFFERED BY MRS. TRAHAN OF MASSACHUSETTS**

Page 3, after line 20, insert the following (and redesignate succeeding subsections accordingly):

- 1 (c) DATA BROKER ANNUAL REGISTRATION.—
- 2 (1) IN GENERAL.—
- 3 (A) REGULATIONS.—Not later than 1 year
- 4 after the date of enactment of this subsection,
- 5 the Commission shall promulgate regulations to
- 6 require any data broker to—
 - 7 (i) not later than 18 months after the
 - 8 date of enactment of this subsection, and
 - 9 annually thereafter, register with the Com-
 - 10 mission; and
 - 11 (ii) subject to subparagraph (B), pro-
 - 12 vide with such registration certain informa-
 - 13 tion, including—
 - 14 (I) the name and primary phys-
 - 15 ical, email, and uniform resource loca-
 - 16 tor (URL) addresses of the data
 - 17 broker;

(II) if the data broker permits an individual to opt out of the data broker's collection or use of personal data, certain sales of such information, or its databases—

(aa) the method for requesting an opt-out;

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

(cc) whether the data broker permits an individual to authorize a third party to perform the opt-out on the individual's behalf;

(III) a response to a standardized form (as issued by the Commission) specifying the types of information the data broker collects or obtains and the sources from which the data broker obtains data;

(IV) a statement as to whether the data broker implements a credentialing process and, if so, a description of that process;

1 (V) any additional information or
2 explanation the data broker chooses to
3 provide concerning its data collection
4 practices; and
5 (VI) any other information deter-
6 mined appropriate by the Commission.

7 (B) CONSTRUCTION.—Nothing in this
8 paragraph shall be construed as requiring a
9 data broker to disclose any information that is
10 a trade secret or other kind of confidential in-
11 formation described in section 552(b)(4) of title
12 5, United States Code.

13 (2) PUBLIC AVAILABILITY.—

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

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

22 (ii) provides a justification for such
23 determination.

1 (B) DISCLAIMER.—The Commission shall
2 include on the website of the Commission a dis-
3 claimer that—

4 (i) the Commission cannot confirm
5 the accuracy of the information provided
6 pursuant to paragraph (1)(A)(ii); and

7 (ii) individuals may contact a data
8 broker who provided such information at
9 their own risk.

10 (3) DEFINITIONS.—In this subsection:

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

14 (i) the identity of the entity with
15 whom the data broker has a direct rela-
16 tionship;

21 (iii) that such data will not be used
22 for unlawful purposes.

23 (B) **DELETE**.—The term “delete” means
24 to remove or destroy information such that the
25 information is not maintained in human- or ma-

chine-readable form and cannot be retrieved or utilized in such form in the normal course of business.

4 (C) DIRECT RELATIONSHIP.—

5 (i) IN GENERAL.—The term “direct
6 relationship” means a relationship between
7 an individual and an entity where the indi-
8 vidual—

9 (I) is a current customer;

10 (II) has obtained a good or serv-
11 ice from the entity within the prior 18
12 months; or

13 (III) has made an inquiry about
14 the products or services of the entity
15 within the prior 90 days.

16 (ii) EXCLUSION.—The term “direct
17 relationship” does not include a relation-
18 ship—

19 (I) between an individual and a
20 data broker where the individual's
21 only connection to the data broker is
22 based on the individual's request—

23 (aa) for the data broker to
24 delete the personal data of the
25 individual; or

1 (bb) to opt-out of the data
2 broker's collection or use of per-
3 sonal data, certain sales of such
4 information, or its databases; or
5 (II) required under any State or
6 Federal law related to the use of per-
7 sonal data.

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

12 (d) CENTRALIZED DATA DELETION SYSTEM.—

13 (1) ESTABLISHMENT.—

14 (A) IN GENERAL.—Not later than 1 year
15 after the date of enactment of this subsection,
16 the Commission shall promulgate regulations to
17 establish a centralized system that—

18 (i) implements and maintains reason-
19 able security procedures and practices (in-
20 cluding administrative, physical, and tech-
21 nical safeguards) appropriate to the nature
22 of the information and the purposes for
23 which the personal data will be used, to
24 protect individuals' personal data from un-

1 authorized use, disclosure, access, destruc-
2 tion, or modification;

3 (ii) allows a teen, a parent or legal
4 guardian of a child, or an agent acting at
5 the request of a teen or the parent or legal
6 guardian of a child, through a single sub-
7 mission, to request that every data broker
8 who is registered under subsection (c) and
9 who maintains any persistent identifiers
10 (as described in subparagraph (B)(iii))—

11 (I) delete any personal data re-
12 lated to such child or teen held by
13 such data broker or affiliated legal en-
14 tity of the data broker; and

15 (II) unless otherwise specified by
16 the teen, parent or legal guardian of
17 a child, or agent acting at the request
18 of a teen or the parent or legal guard-
19 ian of a child, discontinue any present
20 or future collection of personal data
21 related to such child or teen; and

22 (iii) allows a registered data broker,
23 prior to the collection of any personal data
24 that is tied to a persistent identifier for
25 which a registry exists, to submit a query

1 to the centralized system to confirm that
2 the persistent identifier is not subject to a
3 deletion request described in clause (ii).

4 (B) REQUIREMENTS.—The centralized sys-
5 tem established in subparagraph (A) shall meet
6 the following requirements:

7 (i) The centralized system shall allow
8 a teen, a parent or legal guardian of a
9 child, or an agent acting at the request of
10 a teen or the parent or legal guardian of
11 a child to request the deletion of all per-
12 sonal data related to such child or teen
13 and the discontinuation of any collection of
14 such personal data related to such child or
15 teen through a single deletion request.

1 the deletion request of the teen, parent or
2 legal guardian of a child, or agent acting
3 at the request of a teen or the parent or
4 legal guardian of a child.

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

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

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

23 (vii) The centralized system shall
24 allow the teen, parent or legal guardian of
25 a child, or agent acting at the request of

1 a teen or the parent or legal guardian of
2 a child to make such request using an
3 internet website operated by the Commis-
4 sion.

5 (viii) The centralized system shall not
6 charge the teen, parent or legal guardian
7 of a child, or agent acting at the request
8 of a teen or the parent or legal guardian
9 of a child to make such request.

10 (C) TRANSITION.—

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

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

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

23 (ii) FTC GUIDANCE.—Not later than
24 6 months after the effective date of the
25 regulations promulgated under subparagraph

1 graph (A), the Commission shall publish
2 guidance on the process and standards to
3 which a data broker must adhere in car-
4 rying out clause (i).

5 (2) DELETION.—

6 (A) INFORMATION DELETION.—

7 (i) IN GENERAL.—Subject to clause
8 (ii), not later than 31 days after accessing
9 the hashed registries described in para-
10 graph (1)(B)(iv), a data broker and any
11 associated legal entity shall delete all per-
12 sonal data in its possession related to the
13 child or teen that is the subject of a re-
14 quest and discontinue the collection of per-
15 sonal data related to such child or teen.
16 Immediately following the deletion, the
17 data broker shall send an affirmative rep-
18 resentation to the Commission with the
19 number of records deleted pursuant to
20 each match with a value in the hashed reg-
21 istries.

22 (ii) EXCLUSIONS.—In carrying out
23 clause (i), a data broker may retain, where
24 required, the following information:

1 (I) Any personal data that is
2 processed or maintained solely as part
3 of human subjects research conducted
4 in compliance with any legal require-
5 ments for the protection of human
6 subjects.

7 (II) Any personal data necessary
8 to comply with a warrant, subpoena,
9 court order, rule, or other applicable
10 law.

11 (III) Any information necessary
12 for the data broker to act as described
13 in subsection (i)(3)(B).

14 (iii) USE OF INFORMATION.—Any per-
15 sonal data excluded under clause (ii) may
16 only be used for the purpose described in
17 the applicable subclause of clause (ii), and
18 may not be used for any other purpose, in-
19 cluding marketing purposes.

20 (B) ANNUAL REPORT.—Each data broker
21 registered under subsection (c) shall submit to
22 the Commission, on an annual basis, a report
23 on the completion rate with respect to the com-
24 pletion of deletion requests under subparagraph
25 (A).

1 (C) AUDIT.—

2 (i) IN GENERAL.—Not later than 3
3 years after the date of enactment of this
4 subsection, and every 3 years thereafter,
5 each data broker registered under sub-
6 section (c) shall undergo an independent
7 third party audit to determine compliance
8 with this subsection.

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

15 (iii) MAINTAIN RECORDS.—Each such
16 data broker shall maintain the materials
17 described in clause (ii) for a period of not
18 less than 6 years.

19 (3) ANNUAL FEE.—

20 (A) IN GENERAL.—Subject to subparagraph
21 (B), each data broker registered under
22 subsection (c) and who maintains any persistent
23 identifiers (as described in paragraph
24 (1)(B)(iii)) shall pay to the Commission, on an

1 annual basis, a subscription fee determined by
2 the Commission to access the database.

3 (B) LIMIT.—The amount of the subscription
4 fee under subparagraph (A) may not exceed 1 percent of the expected annual cost of
5 operating the centralized system and hashed
6 registries described in paragraph (1), as determined by the Commission.

7 (C) AVAILABILITY.—Any amounts collected by the Commission pursuant to this
8 paragraph shall be available without further appropriation to the Commission for the exclusive
9 purpose of enforcing and administering this
10 subsection, including the implementation and
11 maintenance of such centralized system and
12 hashed registries and the promotion of public
13 awareness of the centralized system.

14 (4) DEFINITIONS.—In this subsection:

15 (A) DELETE.—The term “delete” means
16 to remove or destroy information such that the
17 information is not maintained in human- or machine-readable form and cannot be retrieved or
18 utilized in such form in the normal course of
19 business.

1 (B) HASH.—The term “hash” means to
2 input data to a cryptographic, one-way, collision
3 resistant function that maps a bit string of ar-
4 bitrary length to a fixed-length bit string to
5 produce a cryptographically secure value.

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

8 (D) HUMAN SUBJECTS RESEARCH.—The
9 term “human subjects research” means re-
10 search that—

11 (i) an investigator (whether profes-
12 sional or student) conducts on a living in-
13 dividual; and

14 (ii) either—

15 (I) obtains information or bio-
16 specimens through intervention or
17 interaction with the individual, and
18 uses, studies, or analyzes the informa-
19 tion or biospecimens; or

20 (II) obtains, uses, studies, ana-
21 lyzes, or generates personal data or
22 identifiable biospecimens.

23 (E) PROCESS.—The term “process” means
24 to perform or direct the performance of an op-
25 eration on personal data, including the collec-

1 tion, transmission, use, disclosure, analysis, pre-
2 diction, or modification of such personal data,
3 whether or not by automated means.

4 (F) SALT.—The term “salt” means to add
5 a random string of data to the input of a hash
6 function.

