

AMENDMENT TO DISCUSSION DRAFT
OFFERED BY MRS. TRAHAN OF MASSACHUSETTS

Page 152, after line 19, insert the following:

1 **SEC. 127. ESTABLISHING A SAFE HARBOR FOR RESEARCH**
2 **ON SOCIAL MEDIA PLATFORMS.**

3 (a) IN GENERAL.—No cause of action shall be
4 brought in any court against any person for collecting
5 publicly available information, or information about tar-
6 geted, contextual, first-party, or other advertisements, as
7 part of a news-gathering or research project on an online
8 platform, notwithstanding that such collection may violate
9 the terms of service of the online platform, if—

10 (1) the information is collected through a cov-
11 ered method of digital investigation;

12 (2) the purpose of the project is to inform the
13 general public about matters of public concern; and

14 (3) with respect to any such information col-
15 lected—

16 (A) the information is not used for any
17 purpose other than the purpose described in
18 paragraph (2); and

1 (B) the person who collects the informa-
2 tion takes reasonable measures to protect indi-
3 vidual privacy.

4 (b) DEFINITIONS.—For purposes of this section:

5 (1) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (2) COVERED METHOD OF DIGITAL INVESTIGA-
8 TION.—The term “covered method of digital inves-
9 tigation” includes—

10 (A) the collection of information from an
11 online platform’s user-facing interface, includ-
12 ing by navigating the interface, through auto-
13 mated means;

14 (B) the collection of information donated
15 by an individual, including through a browser
16 extension or plug-in, if the donation is explicitly
17 and clearly in connection with the project and
18 donated with the affirmative express consent of
19 the individual; and

20 (C) the creation or use of research ac-
21 counts.

22 (3) ONLINE PLATFORM.—The term “online
23 platform” means any public-facing website, online
24 service, online application, or mobile application that
25 predominantly provides a community forum for user

1 generated content, such as sharing videos, images,
2 games, audio files, or other content, including a so-
3 cial media service, social network, or virtual reality
4 environment.

5 (4) REASONABLE MEASURES TO PROTECT INDI-
6 VIDUAL PRIVACY.—The term “reasonable measures
7 to protect individual privacy” includes reasonable
8 measures to—

9 (A) avoid the collection and retention of
10 covered data that would readily identify an indi-
11 vidual without the affirmative express consent
12 of the individual;

13 (B) prevent the theft and accidental disclo-
14 sure of any information collected;

15 (C) ensure that the relevant information is
16 not used for any purpose other than the pur-
17 pose of informing the general public about mat-
18 ters of public concern; and

19 (D) restrict the publication or other disclo-
20 sure of any information that would readily iden-
21 tify a individual without the affirmative express
22 consent of the individual, except if such indi-
23 vidual is—

24 (i) an advertiser and the information
25 concerns an advertisement; or

1 (ii) a public official, candidate for
2 public office, or public figure.

3 (5) RESEARCH ACCOUNT.—The term “research
4 account” means an account on an online platform
5 that is created and used solely—

6 (A) for the purpose of a news-gathering or
7 research project on the online platform; and

8 (B) for no longer than is necessary to com-
9 plete such project.

10 (c) REGULATIONS.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of the enactment of this section, the
13 Commission shall promulgate regulations, in accord-
14 ance with section 553 of title 5, United States Code,
15 to provide further guidance regarding the terms de-
16 fined in subsection (b).

17 (2) QUALIFICATIONS.—The Commission may
18 specify requirements that a person is required to
19 meet to qualify for the safe harbor described in sub-
20 section (a), to ensure that—

21 (A) with respect to the use of research ac-
22 counts, reasonable measures have been taken to
23 avoid misleading individuals on an online plat-
24 form; and

1 (B) reasonable measures have been taken
2 to avoid materially burdening the technical op-
3 eration of the online platform.

4 (3) AMENDING REGULATIONS.—The Commis-
5 sion may, as necessary and in consultation with rel-
6 evant stakeholders, amend regulations promulgated
7 under this subsection, to the extent that such
8 amendment shall accomplish the purposes of this
9 section.

10 (4) ANNUAL REPORT.—Beginning in December
11 of calendar year 2025, and in December of each cal-
12 endar year thereafter, the Commission shall require
13 each operator of a covered high-impact social media
14 company that operates an online platform subject to
15 this section to submit a report to the Commission
16 that addresses whether the regulations promulgated
17 under this subsection adequately protect individual
18 privacy.

