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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require covered platforms to provide information about their advertising to academic researchers, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. TRAHAN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require covered platforms to provide information about their advertising to academic researchers, 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 “Social Media Dislo-  
5 sure and Transparency of Advertisements Act of 2021”  
6 or the “Social Media DATA Act”.

1 **SEC. 2. REQUIREMENT.**

2 (a) IN GENERAL.—Not later than 180 days after the  
3 date of the enactment of this Act, and every 3 years there-  
4 after as needed, the Commission shall, in accordance with  
5 section 553 of title 5, United States Code, issue regula-  
6 tions that require the following:

7 (1) A covered platform to maintain, and grant  
8 academic researchers and the Commission access to,  
9 an ad library that contains in a searchable, machine-  
10 readable format and that is collected by the covered  
11 platform in the ordinary course of business the fol-  
12 lowing information (which may be updated by the  
13 Commission as the Commission determines to be  
14 necessary) related to any advertiser that purchases  
15 \$500 or more of advertising in a calender year:

16 (A) The legal name and unique identifica-  
17 tion number for each advertiser.

18 (B) A digital copy of the ad content.

19 (C) The method used, as selected either by  
20 the advertiser or by the covered platform, to  
21 target an ad to platform users, including  
22 uploaded lists of platform users, pre-set cat-  
23 egories of platform users, key words, and con-  
24 textual information.

1           (D) The optimization objective chosen by  
2           the advertiser (such as awareness, reach, traf-  
3           fic, and engagement).

4           (E) A description of the targeted audience  
5           for each advertisement, including information  
6           (that may have been collected from the profile  
7           of a user or based on an algorithm) on the de-  
8           mographics of the audience (including age, gen-  
9           der, geographic location, race, ethnicity, and po-  
10          litical affiliation), interests of the audience, and  
11          any other description of the targeted audience  
12          determined to be reasonable by the Commission.

13          (F) A description of the audience of the  
14          advertisement determined by a count of adver-  
15          tiser viewership, including information (that  
16          may have been collected from the profile of a  
17          user or based on an algorithm) on the demo-  
18          graphics of the audience (including age, gender,  
19          geographic location, race, ethnicity, and polit-  
20          ical affiliation), interests of the audience, and  
21          any other description of the targeted audience  
22          determined to be reasonable by the Commission.

23          (G) The number of views generated from  
24          the advertisement.

1 (H) Ad conversion (including how often an  
2 ad was shared, liked, or clicked-through).

3 (I) The date and time that the advertise-  
4 ment was first displayed and last displayed.

5 (J) The amount an advertiser budgeted for  
6 the purchase of the advertisement on the plat-  
7 form and the amount paid for the purchase of  
8 the advertisement on the platform.

9 (K) The category of an ad as defined by  
10 the covered platform (such as politics, employ-  
11 ment opportunity, housing opportunity, or ap-  
12 parel).

13 (L) Each language contained within the  
14 ad.

15 (M) Each advertising policy of the covered  
16 platform that is made available to advertising  
17 customers on the covered platform.

18 (2) The Commission to use the information in  
19 the ad library for law enforcement and studies unre-  
20 lated to this Act.

21 (3) The methodology to calculate the demo-  
22 graphics of the targeted audience described in para-  
23 graph (1)(E) to be the same method as the demo-  
24 graphics calculated for the delivery audience de-  
25 scribed in paragraph (1)(F).

1 (4) Guidelines for the treatment of advertise-  
2 ments that are deleted by the advertiser or blocked  
3 by the terms of service of the covered platform.

4 (5) Guidelines for the time allotted between  
5 when an ad is posted on a covered platform and  
6 when the information about the ad needs to be made  
7 available in the ad library.

8 (6) Guidelines for how long an ad is required  
9 to remain available in the ad library.

10 (b) ENFORCEMENT.—

11 (1) ENFORCEMENT BY THE FEDERAL TRADE  
12 COMMISSION.—

13 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
14 TICES.—A violation of subsection (a) shall be  
15 treated as a violation of a regulation under sec-  
16 tion 18(a)(1)(B) of the Federal Trade Commis-  
17 sion Act (15 U.S.C. 57a(a)(1)(B)) regarding  
18 unfair or deceptive acts or practices.

19 (B) POWERS OF COMMISSION.—The Com-  
20 mission shall enforce subsection (a) in the same  
21 manner, by the same means, and with the same  
22 jurisdiction, powers, and duties as though all  
23 applicable terms and provisions of the Federal  
24 Trade Commission Act (15 U.S.C. 41 et seq.)  
25 were incorporated into and made a part of this

1 Act. Any person who violates such subsection  
2 shall be subject to the penalties and entitled to  
3 the privileges and immunities provided in the  
4 Federal Trade Commission Act.

5 (2) EFFECT ON OTHER LAWS.—Nothing in this  
6 section shall be construed in any way to limit the  
7 authority of the Commission under any other provi-  
8 sion of law or to limit the application of any Federal  
9 or State law.

10 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-  
11 ERAL.—

12 (A) IN GENERAL.—If the chief law en-  
13 forcement officer of a State, or an official or  
14 agency designated by a State, has reason to be-  
15 lieve that any person has violated or is violating  
16 subsection (a), the attorney general, official, or  
17 agency of the State, in addition to any author-  
18 ity it may have to bring an action in State  
19 court under its consumer protection law, may  
20 bring a civil action in any appropriate United  
21 States district court or in any other court of  
22 competent jurisdiction, including a State court,  
23 to—

24 (i) enjoin further such violation by  
25 such person;

1 (ii) enforce compliance with such sub-  
2 section;

3 (iii) obtain civil penalties; and

4 (iv) obtain damages, restitution, or  
5 other compensation on behalf of residents  
6 of the State.

7 (B) NOTICE AND INTERVENTION BY THE  
8 FEDERAL TRADE COMMISSION.—The attorney  
9 general of a State shall provide prior written  
10 notice of any action under subparagraph (A) to  
11 the Commission and provide the Commission  
12 with a copy of the complaint in the action, ex-  
13 cept in any case in which such prior notice is  
14 not feasible, in which case the attorney general  
15 shall serve such notice immediately upon insti-  
16 tuting such action. The Commission shall have  
17 the right—

18 (i) to intervene in the action;

19 (ii) upon so intervening, to be heard  
20 on all matters arising therein; and

21 (iii) to file petitions for appeal.

22 (C) LIMITATION ON STATE ACTION WHILE  
23 FEDERAL ACTION IS PENDING.—If the Commis-  
24 sion has instituted a civil action for violation of  
25 this section, no State attorney general, or offi-

1           cial or agency of a State, may bring an action  
2           under this paragraph during the pendency of  
3           that action against any defendant named in the  
4           complaint of the Commission for any violation  
5           of this section alleged in the complaint.

6           (c) WORKING GROUP FOR SOCIAL MEDIA RESEARCH  
7 ACCESS.—

8           (1) EMPLOYMENT AUTHORITY.—Not later than  
9           60 days after the date of the enactment of this Act,  
10          the Commission shall hire 2 or 3 employees who are  
11          privacy and technology experts to lead a series of  
12          stakeholder engagements, including round tables,  
13          public workshops, and open comment periods. Stake-  
14          holders may include social media researchers, infor-  
15          mation science researchers, privacy and civil rights  
16          advocates, technologists, representatives from social  
17          media companies, representatives from standards or-  
18          ganizations, and representatives from international  
19          data governance bodies.

20          (2) ESTABLISHMENT OF WORKING GROUP.—  
21          Not later than 30 days after the date on which the  
22          employees described in paragraph (1) are hired, the  
23          Commission shall establish a working group for so-  
24          cial media research access (in this subsection the



1 “working group”) composed of the stakeholders de-  
2 scribed in paragraph (1).

3 (3) NO COMPENSATION FOR MEMBERS.—A  
4 member of the working group shall serve without  
5 compensation in addition to any compensation re-  
6 ceived for the service of the member as an officer or  
7 employee of the United States, if applicable.

8 (4) REPORTS REQUIRED.—

9 (A) BEST PRACTICES AND CODE OF CON-  
10 DUCT.—Not later than 1 year after the date on  
11 which the working group is established pursu-  
12 ant to paragraph (2), the Commission, in con-  
13 sultation with the working group, shall make  
14 available to the public on the website of the  
15 Commission a report containing—

16 (i) a description of the best practices  
17 regarding what type of information from  
18 an interactive computer service should be  
19 made available, and under what cir-  
20 cumstances, to academic researchers; and

21 (ii) a recommended code of conduct  
22 for academic researchers working with  
23 such information.

24 (B) POLICY RECOMMENDATIONS.—Not  
25 later than 1 year after the date on which the

1 working group is established pursuant to para-  
2 graph (2), the working group shall submit to  
3 Congress a report with recommendations for  
4 policy changes, which may include any of the  
5 following:

6 (i) The types of information that  
7 should be made available to academic re-  
8 searchers and under what circumstances  
9 interactive computer services should be re-  
10 quired to grant access to academic re-  
11 searchers.

12 (ii) Circumstances in which additional  
13 legal protections for interactive computer  
14 services may be needed related to the shar-  
15 ing of data with researchers.

16 (iii) Recommendation for penalties for  
17 academic researchers who misuse or seek  
18 to inappropriately reidentify information  
19 provided to them by interactive computer  
20 services for research purposes.

21 (C) REQUIREMENTS FOR REPORTS.—In  
22 preparing the reports described under subpara-  
23 graph (A) and (B), the working group may con-  
24 sider the following:

1 (i) The type of information consid-  
2 ered, including the following:

3 (I) Information related to content  
4 moderation decisions including choices  
5 related to the ranking, ordering, pro-  
6 motion, recommendation of content,  
7 and requests for content removals.

8 (II) Information related to en-  
9 gagement (such as sharing and likes)  
10 with public links (such as news arti-  
11 cles and video clips), including the de-  
12 mographic breakdown of users that  
13 interact with content.

14 (III) Information related to expo-  
15 sure (viewership or impressions) with  
16 public links (such as news articles and  
17 video clips), including the demo-  
18 graphic breakdown of users that inter-  
19 act with content.

20 (IV) Classification of public in-  
21 formation sources (such as opinion  
22 and journalism).

23 (V) Archives of formerly public  
24 accounts that were removed, including  
25 any special treatment of accounts that

1 previously belonged to high-profile in-  
2 dividuals.

3 (VI) Archives of fake or bot ac-  
4 counts that have been removed.

5 (VII) Archives of coordinated in-  
6 fluence operation accounts that have  
7 been removed.

8 (VIII) Research conducted by an  
9 interactive computer service internally  
10 related to the online behavior of a  
11 user including A/B studies and other  
12 internal research, including studies on  
13 interventions to slow spread of misin-  
14 formation and disinformation, and to  
15 increase user deliberation, including  
16 warning labels, limits on sharing and  
17 posting, time delay on sharing and  
18 posting, and prompts to confirm.

19 (IX) The most popular content  
20 on a platform.

21 (ii) Storage of information and treat-  
22 ment for each type of information consid-  
23 ered, including the following:

1 (I) Limits on time and amount of  
2 information stored broken down by  
3 the type of information.

4 (II) Under what circumstances  
5 privacy preserving techniques such as  
6 differential privacy and statistical  
7 noise could be used.

8 (III) Required level of aggrega-  
9 tion for demographic information.

10 (IV) Standardized variable names  
11 across platforms for specific types of  
12 information.

13 (V) Under what circumstances  
14 erasure policies (related to who and  
15 how an individual can request to be  
16 removed from a dataset) may be need-  
17 ed, specifically for individuals who are  
18 less than 18 years old.

19 (VI) Adherence to data security  
20 best practices.

21 (iii) A consideration of access for each  
22 type of information considered, including  
23 the following:

1 (I) Designation of secure facili-  
2 ties and computers to analyze infor-  
3 mation.

4 (II) Set criteria for researcher  
5 access.

6 (III) Any limit on the type of re-  
7 search that specific datasets can be  
8 used for.

9 (iv) An analysis of how any of the rec-  
10 ommendations might interact with inter-  
11 national law and jurisdiction.

12 (v) Policies for assuring that open  
13 science principles of reproducibility of re-  
14 sults and replication of analyses can be re-  
15 spected.

16 (vi) Recommendations for the size and  
17 type of interactive computer service, which  
18 may vary.

19 (5) INAPPLICABILITY OF FACA.—The Federal  
20 Advisory Committee Act (5 U.S.C. App.) does not  
21 apply to the working group.

22 (d) DEFINITIONS.—In this section:

23 (1) ACADEMIC RESEARCHER.—

1 (A) IN GENERAL.—The term “academic  
2 researcher” means an individual that conducts  
3 research—

4 (i) in collaboration with an institution  
5 of higher education (as defined in section  
6 101(a) of the Higher Education Act of  
7 1965 (20 U.S.C. 1001(a))); and

8 (ii) that is not for commercial pur-  
9 poses.

10 (B) DEFINITION BY COMMISSION.—The  
11 Commission may update this definition as the  
12 Commission determines to be necessary.

13 (2) COMMISSION.—The term “Commission”  
14 means the Federal Trade Commission.

15 (3) COVERED PLATFORM.—

16 (A) IN GENERAL.—The term “covered  
17 platform” means any website, desktop applica-  
18 tion, or mobile application that is consumer-fac-  
19 ing, sells digital advertising space, and has  
20 more than 100,000,000 monthly active users  
21 for a majority of months during the preceding  
22 12 months. The Commission may update this  
23 definition as the Commission determines to be  
24 necessary.

1 (B) DEFINITION BY COMMISSION.—The  
2 Commission may update this definition as the  
3 Commission determines to be necessary.

4 (4) INTERACTIVE COMPUTER SERVICE.—The  
5 term “interactive computer service” has the meaning  
6 given that term in section 230(f) of the Communica-  
7 tions Act of 1934 (47 U.S.C. 230(f)).

8 (e) AUTHORIZATION OF APPROPRIATIONS.—To assist  
9 the Commission in carrying out this Act, there is author-  
10 ized to be appropriated and to remain available until ex-  
11 pended—

12 (1) for fiscal year 2022, \$2,000,000; and

13 (2) for fiscal year 2023, \$2,000,000.