To require the Federal Trade Commission to issue a short-form terms of service summary statement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. Trahan introduced the following bill; which was referred to the Committee on ______________________

A BILL

To require the Federal Trade Commission to issue a short-form terms of service summary statement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Terms-of-service Labeling, Design, and Readability Act” or the “TLDR Act”.
SEC. 2. STANDARD TERMS OF SERVICE SUMMARY STATEMENT.

(a) Deadline for Terms of Service Summary Statement.—Not later than 360 days after the date of the enactment of this Act, the Commission shall issue a rule under section 553 of title 5, United States Code—

(1) that requires a covered entity to include a short-form terms of service summary statement on the website of the entity;

(2) that requires a covered entity to include graphic data flow diagram on the website of the entity and includes guidance for such diagram; and

(3) that requires a covered entity to display the full terms of service of the entity in an interactive data format.

(b) Requirements for Short-form Terms of Service Summary Statement.—

(1) In General.—The short-form terms of service summary statement described in subsection (a)—

(A) shall be easy to understand, machine readable, and may include tables, graphic icons, hyperlinks, or other means determined by the Commission; and
(B) may be established separately depending on the interface or type of device on which the statement is being accessed by the user.

(2) LOCATION OF SUMMARY STATEMENT AND GRAPHIC DATA FLOW DIAGRAM.—The summary statement shall be placed at the top of the permanent terms of service page of the covered entity and any graphic data flow diagram shall be located immediately below the statement.

(3) CONTENTS OF SUMMARY STATEMENT.—The summary statement shall disclose the following:

(A) The effort required by a user to read the entire terms of service text, such as through the total word count and approximate time to read the statement.

(B) The categories of sensitive information that the covered entity processes.

(C) The sensitive information that is required for the basic functioning of the service and what sensitive information is needed for additional features and future feature development.

(D) A summary of the legal liabilities of a user and any rights transferred from the user to the covered entity, such as mandatory arbi-
tration, class action waiver, any licensing by the
covered entity of the content of the user, and
any waiver of moral rights.

(E) Historical versions of the terms of
service and change logs.

(F) If the covered entity provides user de-
letion services, directions for how the user can
delete sensitive information or discontinue the
use of sensitive information.

(G) A list of data breaches from the pre-
vious 3 years reported to consumers under ex-
isting Federal and State laws.

(H) Anything else determined to be nec-
essary by the Commission.

(c) GUIDANCE ON GRAPHIC DATA FLOW DI-
AGRAMS.—Not later than 360 days after the date of the
enactment of this Act, the Commission shall publish guide-
lines on how a covered entity can graphically display how
sensitive information of a user is shared with a subsidiary
or corporate affiliate of such the entity and how sensitive
information is shared with third parties.

(d) INTERACTIVE DATA FORMAT TERMS OF SERV-
ICE.—Not later than 360 days after the date of the enact-
ment of this Act, the Commission shall issue a rule under
section 553 of title 5, United States Code, that requires
a covered entity to tag portions of the terms of services
of the entity according to an interactive data format.

(c) ENFORCEMENT.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this section or a regulation
promulgated under this section shall be treated as a
violation of a regulation under section 18(a)(1)(B)
57a(a)(1)(B)) regarding unfair or deceptive acts or
practices.

(2) POWERS OF THE COMMISSION.—The Com-
mission shall enforce this section and the regulations
promulgated under this section in the same manner,
by the same means, and with the same jurisdiction,
powers, and duties as though all applicable terms
and provisions of the Federal Trade Commission Act
(15 U.S.C. 41 et seq.) were incorporated into and
made a part of this section, and any person who vio-
lates this section or a regulation promulgated under
this section shall be subject to the penalties and ent-
titled to the privileges and immunities provided in

(3) ENFORCEMENT BY STATE ATTORNEYS GEN-
ERAL.—In any case in which the attorney general of
a State has reason to believe that an interest of at
least 1,000 residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates this section or a regulation promulgated under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(4) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (3), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—
(i) **IN GENERAL.**—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) **NOTIFICATION.**—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(5) **REMOVAL TO FEDERAL COURT.**—The Commission may intervene in any action brought under paragraph (3) and remove the action to the appropriate United States district court.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

(g) **DEFINITIONS.**—In this section:

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

(2) **COVERED ENTITY.**—The term “covered entity”—
(A) means any person that operates a website located on the Internet or an online service, that is operated for commercial purposes; and

(B) does not include a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)).

(3) **INTERACTIVE DATA FORMAT.**—The term “interactive data format” means an electronic data format in which pieces of information are identified using an interactive data standard, such as eXtensible Markup Language (XML), that is a standardized list of electronic tags that mark the information described in section 2(b)(3) within the terms of service of a covered entity.

(4) **SENSITIVE INFORMATION.**—The term “sensitive information” means any of the following:

(A) Health information.

(B) Biometric information.

(C) Precise geolocation information.

(D) Social security number.

(E) Information concerning the race, color, religion, national origin, sex, age, or disability of an individual.
(F) The content and parties to a communication.

(G) Audio and video recordings captured through a consumer device.

(H) Financial information, including a bank account number, credit card number, debit card number, or insurance policy number.

(I) Online browsing history related to the information described in subparagraphs (A) through (H).

(5) STATE.—The term “State” means each of the several States, the District of Columbia, each commonwealth, territory, or possession of the United States, and each federally recognized Indian Tribe.

(6) THIRD PARTY.—The term “third party” means, with respect to a covered entity, a person—

(A) to whom the covered entity disclosed sensitive information; and

(B) is not—

(i) the covered entity;

(ii) a subsidiary or corporate affiliate of the covered entity; or

(iii) a service provider of the covered entity.