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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

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.

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 “Terms-of-service La-
5 beling, Design, and Readability Act” or the “TLDR Act”.

1 **SEC. 2. STANDARD TERMS OF SERVICE SUMMARY STATE-**
2 **MENT.**

3 (a) DEADLINE FOR TERMS OF SERVICE SUMMARY
4 STATEMENT.—Not later than 360 days after the date of
5 the enactment of this Act, the Commission shall issue a
6 rule under section 553 of title 5, United States Code—

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

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

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

16 (b) REQUIREMENTS FOR SHORT-FORM TERMS OF
17 SERVICE SUMMARY STATEMENT.—

18 (1) IN GENERAL.—The short-form terms of
19 service summary statement described in subsection

20 (a)—

21 (A) shall be easy to understand, machine
22 readable, and may include tables, graphic icons,
23 hyperlinks, or other means determined by the
24 Commission; and

1 (B) may be established separately depend-
2 ing on the interface or type of device on which
3 the statement is being accessed by the user.

4 (2) LOCATION OF SUMMARY STATEMENT AND
5 GRAPHIC DATA FLOW DIAGRAM.—The summary
6 statement shall be placed at the top of the perma-
7 nent terms of service page of the covered entity and
8 any graphic data flow diagram shall be located im-
9 mediately below the statement.

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

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

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

18 (C) The sensitive information that is re-
19 quired for the basic functioning of the service
20 and what sensitive information is needed for ad-
21 ditional features and future feature develop-
22 ment.

23 (D) A summary of the legal liabilities of a
24 user and any rights transferred from the user
25 to the covered entity, such as mandatory arbi-

1 tration, class action waiver, any licensing by the
2 covered entity of the content of the user, and
3 any waiver of moral rights.

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

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

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

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

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

22 (d) INTERACTIVE DATA FORMAT TERMS OF SERV-
23 ICE.—Not later than 360 days after the date of the enact-
24 ment of this Act, the Commission shall issue a rule under
25 section 553 of title 5, United States Code, that requires

1 a covered entity to tag portions of the terms of services
2 of the entity according to an interactive data format.

3 (e) ENFORCEMENT.—

4 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
5 TICES.—A violation of this section or a regulation
6 promulgated under this section shall be treated as a
7 violation of a regulation under section 18(a)(1)(B)
8 of the Federal Trade Commission Act (15 U.S.C.
9 57a(a)(1)(B)) regarding unfair or deceptive acts or
10 practices.

11 (2) POWERS OF THE COMMISSION.—The Com-
12 mission shall enforce this section and the regulations
13 promulgated under this section in the same manner,
14 by the same means, and with the same jurisdiction,
15 powers, and duties as though all applicable terms
16 and provisions of the Federal Trade Commission Act
17 (15 U.S.C. 41 et seq.) were incorporated into and
18 made a part of this section, and any person who vio-
19 lates this section or a regulation promulgated under
20 this section shall be subject to the penalties and en-
21 titled to the privileges and immunities provided in
22 the Federal Trade Commission Act.

23 (3) ENFORCEMENT BY STATE ATTORNEYS GEN-
24 ERAL.—In any case in which the attorney general of
25 a State has reason to believe that an interest of at

1 least 1,000 residents of that State has been or is
2 threatened or adversely affected by the engagement
3 of any person in a practice that violates this section
4 or a regulation promulgated under this section, the
5 State, as *parens patriae*, may bring a civil action on
6 behalf of the residents of the State in a district
7 court of the United States of appropriate jurisdic-
8 tion to—

9 (A) enjoin that practice;

10 (B) enforce compliance with the regulation;

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

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

16 (4) NOTICE.—

17 (A) IN GENERAL.—Before filing an action
18 under paragraph (3), the attorney general of
19 the State involved shall provide to the Commis-
20 sion—

21 (i) written notice of that action; and

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

24 (B) EXEMPTION.—

1 (i) IN GENERAL.—Subparagraph (A)
2 shall not apply with respect to the filing of
3 an action by an attorney general of a State
4 under this subsection, if the attorney gen-
5 eral determines that it is not feasible to
6 provide the notice described in that sub-
7 paragraph before the filing of the action.

8 (ii) NOTIFICATION.—In an action de-
9 scribed in clause (i), the attorney general
10 of a State shall provide notice and a copy
11 of the complaint to the Commission at the
12 same time as the attorney general files the
13 action.

14 (5) REMOVAL TO FEDERAL COURT.—The Com-
15 mission may intervene in any action brought under
16 paragraph (3) and remove the action to the appro-
17 priate United States district court.

18 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to limit the authority of the Com-
20 mission under any other provision of law.

21 (g) DEFINITIONS.—In this section:

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

24 (2) COVERED ENTITY.—The term “covered en-
25 tity”—

1 (A) means any person that operates a
2 website located on the Internet or an online
3 service, that is operated for commercial pur-
4 poses; and

5 (B) does not include a small business con-
6 cern (as defined in section 3 of the Small Busi-
7 ness Act (15 U.S.C. 632)).

8 (3) INTERACTIVE DATA FORMAT.—The term
9 “interactive data format” means an electronic data
10 format in which pieces of information are identified
11 using an interactive data standard, such as eXten-
12 sible Markup Language (XML), that is a standard-
13 ized list of electronic tags that mark the information
14 described in section 2(b)(3) within the terms of serv-
15 ice of a covered entity.

16 (4) SENSITIVE INFORMATION.—The term “sen-
17 sitive information” means any of the following:

18 (A) Health information.

19 (B) Biometric information.

20 (C) Precise geolocation information.

21 (D) Social security number.

22 (E) Information concerning the race, color,
23 religion, national origin, sex, age, or disability
24 of an individual.

1 (F) The content and parties to a commu-
2 nication.

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

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

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

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

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

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

19 (B) is not—

20 (i) the covered entity;

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

23 (iii) a service provider of the covered
24 entity.