117TH CONGRESS
1ST SESSION

S. 1477

To impose notice and consent requirements on internet platforms that use algorithms to manipulate the availability of content on the platform.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2021

Mr. SCOTT of Florida introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To impose notice and consent requirements on internet platforms that use algorithms to manipulate the availability of content on the platform.

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 "Data and Algorithm

5   Transparency Agreement Act" or the "DATA Act".

SEC. 2. NOTICE AND CONSENT REQUIREMENTS FOR INTER-
NET PLATFORMS THAT USE ALGORITHMS TO
MANIPULATE THE AVAILABILITY OF PLAT-
FORM CONTENT.

(a) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, any covered platform shall comply with the requirements of subsection (c).

(b) DEFINITIONS.—In this Act:

(1) COVERED DATA.—The term "covered data" means, with respect to an individual, data regarding the habits, traits, preferences, beliefs, or location of the individual.

(2) COVERED PLATFORM.—the term "covered platform" means a public-facing website, internet application, or mobile internet application, including a social network, video sharing service, ad network, mobile operating system, search engine, email service, or internet access service that—

(A) has not less than 30,000,000 active monthly users in the United States; and

(B) uses an algorithm to increase or decrease the availability of content on the website or application.

(c) REQUIREMENTS.—

(1) NO COLLECTION OF COVERED DATA WITH-OUT CONSENT.—

1   (A) IN GENERAL.—A covered platform

2   shall not collect any covered data of an indi-

3   vidual without obtaining the individual's express

4   consent for such data collection.

5   (B) REVOCATION OF CONSENT; RIGHT TO

6   DELETE.—A covered platform shall—

7   (i) allow any individual to revoke or

8   withdraw the individual's prior consent to

9   the covered platform collecting the individ-

10   ual's covered data; and

11   (ii) at the request of an individual, de-

12   lete any covered data of the individual col-

13   lected or held by the platform.

14   (2) NO SALE, SHARING, OR CONVEYANCE OF

15 DATA WITHOUT CONSENT.—

16   (A) IN GENERAL.—A covered platform

17   shall not sell, share, or otherwise convey to a

18   third party entity any covered data of an indi-

19   vidual without obtaining the individual's express

20   consent.

21   (B) REVOCATION OF CONSENT.—A covered

22   platform shall allow any individual to revoke or

23   withdraw the individual's prior consent to any

24   sale, sharing, or conveyance of the individual's

25   covered data.

1 (3) NOTICE OF REQUIREMENTS.—

2 (A) IN GENERAL.—A covered platform

3 shall provide notice to users of the platform of

4 the requirements described in paragraphs (1)

5 and (2).

6 (B) MANNER OF NOTIFICATION.—The no-

7 tice required under subparagraph (A) shall con-

8 tain the information described in subparagraph

9 (C) and shall be provided by a covered platform

10 to a user—

11 (i) in plain language and in a con-

12 spicuous manner;

13 (ii) in addition to any notice relating

14 to the terms of service of the platform;

15 (iii) each time the user logs in to the

16 platform unless the user affirmatively

17 waives receiving the notice; and

18 (iv) each time the platform modifies

19 its terms of service.

20 (C) CONTENTS OF NOTIFICATION.—A no-

21 tice required under this paragraph shall include

22 the following:

23 (i) With respect to the collection of

24 covered data by a covered platform—

1   (I) the type of data to be col-

2   lected;

3   (II) whether the collection of

4   data will continue beyond the user's

5   immediate use of the covered plat-

6   form; and

7   (III) how the data will be used by

8   the covered platform.

9   (ii) With respect to the sale, sharing,

10   or conveyance of covered data by a covered

11   platform—

12   (I) the specific data that will be

13   sold, shared, or otherwise conveyed to

14   a third party entity;

15   (II) the name of any third party

16   entity to which data will be sold,

17   shared, or otherwise conveyed; and

18   (III) the country of origin of the

19   third party entity to which the data

20   will be sold, shared, or conveyed.

21 **SEC. 3. ENFORCEMENT.**

22   (a) ENFORCEMENT BY THE FEDERAL TRADE COM-

23 MISSION.—

24   (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-

25   TICES.—A violation of this Act or a regulation pro-

1 mulgated under this Act shall be treated as an un-

2 fair or deceptive act or practice in violation of a rule

3 promulgated under section 18(a)(1)(B) of the Fed-

4 eral Trade Commission Act (15 U.S.C.

5 57a(a)(1)(B)).

6 (2) POWERS OF THE COMMISSION.—

7 (A) IN GENERAL.—The Federal Trade

8 Commission shall enforce this Act and any reg-

9 ulation promulgated under this Act in the same

10 manner, by the same means, and with the same

11 jurisdiction, powers, and duties as though all

12 applicable terms and provisions of the Federal

13 Trade Commission Act (15 U.S.C. 41 et seq.)

14 were incorporated into and made a part of this

15 Act.

16 (B) PRIVILEGES AND IMMUNITIES.—Any

17 covered entity who violates this Act or a regula-

18 tion promulgated under this Act shall be sub-

19 ject to the penalties and entitled to the privi-

20 leges and immunities provided in the Federal

21 Trade Commission Act (15 U.S.C. 41 et seq.).

22 (b) PRIVATE RIGHT OF ACTION.—

23 (1) IN GENERAL.—An individual alleging a vio-

24 lation of this Act may bring a civil action in any

25 court of competent jurisdiction, State or Federal.

1   (2) INJURY IN FACT.—A violation of this Act

2   with respect to the requirements to notify and obtain

3   the express consent of the user before the user's

4   data may be collected, sold, shared, or otherwise

5   conveyed to a third-party entity constitutes a con-

6   crete and particularized injury in fact to that indi-

7   vidual.

8   (3) RELIEF.—In a civil action brought under

9   paragraph (1) in which the plaintiff prevails, the

10   court shall award—

11   (A) the greater of—

12   (i) not less than $5,000; and

13   (ii) actual damages; and

14   (B) reasonable attorney's fees and litiga-

15   tion costs.

16   (c) RULEMAKING.—The Federal Trade Commission

17 shall promulgate in accordance with section 553 of title

18 5, United States Code, such rules as may be necessary

19 to carry out this Act.

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