H. R. 3451

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

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Mrs. TRAHAN (for herself and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

SEC. 2. REQUIREMENT.

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

(1) A covered platform to maintain, and grant academic researchers and the Commission access to, an ad library that contains in a searchable, machine-readable format and that is collected by the covered platform in the ordinary course of business the following information (which may be updated by the Commission as the Commission determines to be necessary) related to any advertiser that purchases $500 or more of advertising in a calendar year:

(A) The legal name and unique identification number for each advertiser.

(B) A digital copy of the ad content.

(C) The method used, as selected either by the advertiser or by the covered platform, to target an ad to platform users, including uploaded lists of platform users, pre-set categories of platform users, key words, and contextual information.

(D) The optimization objective chosen by the advertiser (such as awareness, reach, traffic, and engagement).

(E) A description of the targeted audience for each advertisement, including information
(that may have been collected from the profile of a user or based on an algorithm) on the demographics of the audience (including age, gender, geographic location, race, ethnicity, and political affiliation), interests of the audience, and any other description of the targeted audience determined to be reasonable by the Commission.

(F) A description of the audience of the advertisement determined by a count of advertiser viewership, including information (that may have been collected from the profile of a user or based on an algorithm) on the demographics of the audience (including age, gender, geographic location, race, ethnicity, and political affiliation), interests of the audience, and any other description of the targeted audience determined to be reasonable by the Commission.

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

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

(I) The date and time that the advertisement was first displayed and last displayed.

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

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

(L) Each language contained within the
ad.

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

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

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

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

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

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

(b) ENFORCEMENT.—

(1) ENFORCEMENT BY THE FEDERAL TRADE
COMMISSION.—

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

(B) POWERS OF COMMISSION.—The Com-
mission shall enforce subsection (a) 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
were incorporated into and made a part of this
Act. Any person who violates such subsection
shall be subject to the penalties and entitled to
the privileges and immunities provided in the
(2) Effect on other laws.—Nothing in this section shall be construed in any way to limit the authority of the Commission under any other provision of law or to limit the application of any Federal or State law.

(3) Enforcement by state attorneys general.—

(A) In general.—If the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating subsection (a), the attorney general, official, or agency of the State, in addition to any authority it may have to bring an action in State court under its consumer protection law, may bring a civil action in any appropriate United States district court or in any other court of competent jurisdiction, including a State court, to—

(i) enjoin further such violation by such person;

(ii) enforce compliance with such subsection;

(iii) obtain civil penalties; and
(iv) obtain damages, restitution, or
other compensation on behalf of residents
of the State.

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

(i) to intervene in the action;

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

(iii) to file petitions for appeal.

(C) LIMITATION ON STATE ACTION WHILE
FEDERAL ACTION IS PENDING.—If the Commis-
sion has instituted a civil action for violation of
this section, no State attorney general, or offi-
cial or agency of a State, may bring an action
under this paragraph during the pendency of
that action against any defendant named in the
complaint of the Commission for any violation of this section alleged in the complaint.

(c) **Working Group for Social Media Research Access.**—

(1) **Employment Authority.**—Not later than 60 days after the date of the enactment of this Act, the Commission shall hire 2 or 3 employees who are privacy and technology experts to lead a series of stakeholder engagements, including round tables, public workshops, and open comment periods. Stakeholders may include social media researchers, information science researchers, privacy and civil rights advocates, technologists, representatives from social media companies, representatives from standards organizations, and representatives from international data governance bodies.

(2) **Establishment of Working Group.**—Not later than 30 days after the date on which the employees described in paragraph (1) are hired, the Commission shall establish a working group for social media research access (in this subsection the “working group”) composed of the stakeholders described in paragraph (1).

(3) **No Compensation for Members.**—A member of the working group shall serve without
compensation in addition to any compensation re-
ceived for the service of the member as an officer or
employee of the United States, if applicable.

(4) REPORTS REQUIRED.—

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

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

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

(B) POLICY RECOMMENDATIONS.—Not
later than 1 year after the date on which the
working group is established pursuant to para-
graph (2), the working group shall submit to
Congress a report with recommendations for
policy changes, which may include any of the following:

(i) The types of information that should be made available to academic researchers and under what circumstances interactive computer services should be required to grant access to academic researchers.

(ii) Circumstances in which additional legal protections for interactive computer services may be needed related to the sharing of data with researchers.

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

(C) REQUIREMENTS FOR REPORTS.—In preparing the reports described under subparagraph (A) and (B), the working group may consider the following:

(i) The type of information considered, including the following:

(I) Information related to content moderation decisions including choices
related to the ranking, ordering, promotion, recommendation of content, and requests for content removals.

(II) Information related to engagement (such as sharing and likes) with public links (such as news articles and video clips), including the demographic breakdown of users that interact with content.

(III) Information related to exposure (viewership or impressions) with public links (such as news articles and video clips), including the demographic breakdown of users that interact with content.

(IV) Classification of public information sources (such as opinion and journalism).

(V) Archives of formerly public accounts that were removed, including any special treatment of accounts that previously belonged to high-profile individuals.

(VI) Archives of fake or bot accounts that have been removed.
(VII) Archives of coordinated influence operation accounts that have been removed.

(VIII) Research conducted by an interactive computer service internally related to the online behavior of a user including A/B studies and other internal research, including studies on interventions to slow spread of misinformation and disinformation, and to increase user deliberation, including warning labels, limits on sharing and posting, time delay on sharing and posting, and prompts to confirm.

(IX) The most popular content on a platform.

(ii) Storage of information and treatment for each type of information considered, including the following:

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

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

(III) Required level of aggregation for demographic information.

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

(V) Under what circumstances erasure policies (related to who and how an individual can request to be removed from a dataset) may be needed, specifically for individuals who are less than 18 years old.

(VI) Adherence to data security best practices.

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

(I) Designation of secure facilities and computers to analyze information.

(II) Set criteria for researcher access.
(III) Any limit on the type of research that specific datasets can be used for.

(iv) An analysis of how any of the recommendations might interact with international law and jurisdiction.

(v) Policies for assuring that open science principles of reproducibility of results and replication of analyses can be respected.

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

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

(d) DEFINITIONS.—In this section:

(1) ACADEMIC RESEARCHER.—

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

(i) in collaboration with an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))); and
(ii) that is not for commercial purposes.

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

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

(3) COVERED PLATFORM.—

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

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

(4) INTERACTIVE COMPUTER SERVICE.—The term “interactive computer service” has the meaning given that term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).
(c) Authorization of Appropriations.—To assist the Commission in carrying out this Act, there is authorized to be appropriated and to remain available until expended—

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

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