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ADDENDUM TO DRAFT AUTOMATED DECISIONMAKING TECHNOLOGY REGULATIONS: NEW RULES SUBCOMMITTEE FORMAT PROPOSAL

DECEMBER 2023

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Consumers’ Right to Opt-Out of [NAME OF THE RIGHT – e.g., Use of Automated Decisionmaking Technology for a Decision that Produces Legal or Similarly Significant Effects Concerning a Consumer/for Intrusive Surveillance/Use of Personal Information to Train Automated Decisionmaking Technology]

(a) A consumer shall have the right, at any time, to direct a business that collects, uses, retains, or sells personal information about the consumer [IDENTIFY ACTIVITY – e.g., uses it in automated decisionmaking technology for a decision that produces legal or similarly significant effects concerning a consumer/for intrusive surveillance/and uses it to train automated decisionmaking technology] to opt-out of the [IDENTIFY ACTIVITY]. This right may be referred to as the right to [NAME OF THE RIGHT - e.g., opt-out of automated decisionmaking technology/opt-out of intrusive surveillance/opt-out of the use of personal information to train artificial intelligence].

(b) A business that collects, uses, retains, sells, or shares consumers’ personal information [IDENTIFY ACTIVITY – e.g., uses it in automated decisionmaking technology for a decision that produces legal or similarly significant effects concerning a consumer/for intrusive surveillance/and uses it to train automated decisionmaking technology] must provide notice to consumers, pursuant to [INSERT NOTICE AT COLLECTION SECTION OF RULES], that the consumer is being subject [NAME OF THE RIGHT] and that consumers have the “right to opt-out” of the [NAME OF THE RIGHT].

(c) Notwithstanding subdivision (a), a business shall not collect, use, retain, sell, or share personal information about the consumer for profiling purposes in relation to [NAME OF THE RIGHT] if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, in the case of consumers at least 13 years of age and less than 16 years of age, or the consumer’s parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized the intrusive surveillance. A business that willfully disregards the consumer’s age shall be deemed to have had actual knowledge of the consumer’s age.

(d) A business that has received direction from a consumer to not [NAME OF THE RIGHT] or, in the case of a minor consumer’s personal information, has not received consent to profile the minor for [NAME OF THE RIGHT], shall be prohibited, pursuant to [INSERT SECTION OF RULES], from collecting, using, retaining, selling, or sharing personal information about the consumer for [NAME OF THE RIGHT] after its receipt of the consumer’s direction, unless the consumer subsequently provides consent, for the collection, use, sale, retention, or sharing of personal information about the consumer for intrusive surveillance.