

December 4, 2019

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science, &
Transportation
United States Senate
Washington, DC 20515

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, &
Transportation
United States Senate
Washington, DC 20515

Dear Chairman Wicker, Ranking Member Cantwell, and Members of the Committee:

The Electronic Transactions Association (“ETA”) appreciates the opportunity to submit this statement for the record before the Committees hearing, “Examining Legislative Proposals to Protect Consumer Data Privacy.”

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include financial institutions, mobile payment service providers, mobile wallet providers, and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives.

ETA and its members support U.S. and international efforts to strengthen privacy laws in ways that help the industry combat fraud and help consumers understand how their data is being used. As lawmakers and regulators explore additional ways to protect consumers, it is critical that the government coordinates with the payments industry to combat fraud and cybercrime so that all consumers have access to safe, convenient, and affordable payment options and other financial services.

A robust financial system is integral to the economy because it enables the fundamental functions of economic activity, including connecting borrowers with savers, facilitating investments, processing payments, and the safekeeping of financial assets. For the U.S. financial system to remain competitive in the global economy, the U.S. must continue to prioritize consumer protection, safety, and reliability, while also continuing to lead in innovation.

ETA looks forward to encouraging a collaborative approach and believes a framework should include the following principles:

- **National Standard**

By providing consumers and businesses with consistent protections through an established, uniformed law, consumers and businesses will benefit. Enacting a federal uniform national standard will provide certainty and consistency to businesses and consumers alike without having to navigate the patchwork of state laws. A uniform national standard – that is the ceiling – would also reduce the complexity and costs

associated with the compliance and enforcement issues resulting from a patchwork of laws.

- **Permissible Uses**

The payment industry has a long commitment and history of fighting fraud and is constantly developing and deploying new technology to detect, deter, and eliminate fraud. New and enhanced technologies have amplified the payments industry's ability to offer new fraud solutions and strengthen our on-going efforts. Any privacy or data protection standard should include provisions for permissible uses of data to prevent fraud and protect consumers.

- **Maximize Transparency**

Businesses must promote transparency with their customers and transparency is also important when engaging with regulators or other appropriate authorities. Regulators and government officials should be appropriately transparent about their objectives.

With respect to personal data, consumers should have reasonable access to clear and understandable statements about businesses practices and policies. Businesses should be transparent about: the types of personal data collected, how the personal data will be used, and if personal data may be disclosed and/or shared. Businesses should also provide clear privacy notices to consumers and provide appropriate procedures for individual control, including the opportunity to control data sharing.

- **Access to Data**

Individuals must have a reasonable right access their personal information that they have provided to a company, and where practical, have that information corrected. Individuals should also have the ability to request the deletion of personally identifiable information provided to companies, unless there is a legitimate or legal obligation to maintain that information.

- **Enforcement**

To protect consumer rights and provide responsibility, enforcement needs to be consistent and coordinate between the federal government and the state's regulatory body. Congress should encourage collaboration between the Federal Trade Commission ("FTC") and state attorneys general to enforce a national consumer privacy law. Strict coordination should be followed to avoid duplicate or conflicting enforcement actions. ETA believes the FTC should be granted targeted rulemaking authority and have civil penalty authority. However, a federal privacy law should not provide monetary relief in the form of a private right of action for privacy enforcement.

- **Maintaining Flexibility**

Technology that is involved in data processing evolves rapidly. A baseline law can provide clarity on achieving specific privacy principles, however, laws and regulations should undergo reviews and be flexible. A government should not mandate a specific technological solution or other instrument to implement consumer protections. Including

a safe harbor within a federal privacy law would promote the development of adaptable, consumer-friendly privacy programs.


- **Global Leadership**

Congress should adopt policies that facilitate international electronic commerce and promote consumer privacy – all which benefit consumers, economic growth, and trade. Burdensome international regulations hamper the growth of new businesses and creates conflict of law between jurisdictions. The U.S. is uniquely positioned to benefit from the experience and regulatory proposals being adopted or considered by its international counterparts. But having the U.S. establish a national privacy framework will facilitate an international data framework and reinforce U.S. leadership worldwide.

The payments industry never rests - working tirelessly to fight fraud and protect consumers, including by developing new tools to prevent or identify fraud through the analyzing data and frequently introducing new fraud fighting solutions. Privacy laws should continue to recognize these goals and the important role the payments industry plays in combatting fraud. By working together, lawmakers, regulators, and industry participants can protect consumers while providing them with access to the safest and most convenient payments system in the world.

ETA would like to thank the Committee for this opportunity to provide this statement for the record on this important topic and we appreciate your leadership on this important issue. If you have any questions, please feel free to contact me directly at stalbott@electran.org.

Sincerely,



Scott Talbott
Senior Vice President of Government Affairs
Electronic Transactions Association