

July 19, 2022

The Honorable Frank Pallone Jr.
U.S. House of Representatives
Chairman, U.S. House Committee on Energy and Commerce
2107 Rayburn House Office Building
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
U.S. House of Representatives
Ranking Member, U.S. House Committee on Energy and Commerce
1035 Longworth House Office Building
Washington, DC 20515

The Honorable Janice Schakowsky
U.S. House of Representatives
Chair, Subcommittee on Consumer Protection and Commerce
2367 Rayburn House Office Building
Washington, DC 20515

The Honorable Gus Bilirakis
U.S. House of Representatives
Ranking Member, Subcommittee on Consumer Protection and Commerce
2354 Rayburn House Office Building
Washington, DC 20515

Re: The American Data Privacy and Protection Act Will Severely Damage the U.S. Consumer Economy

Dear Representatives Pallone, McMorris Rodgers, Schakowsky, and Bilirakis:

The undersigned trade associations and organizations represent a broad cross-section of the American economy. We support the passage of preemptive, comprehensive, federal privacy legislation when that legislation presents clear and workable standards to benefit both consumers and businesses. The proposed substitute amendment to the American Data Privacy and Protection Act (“ADPPA” or “bill”) expected to be introduced at the markup by the House Energy and Commerce Committee on Wednesday would choke the U.S. economy under unreasonable and unnecessary burdens by creating unworkable standards that are harmful to consumers and businesses. This draft was made available to interested parties only 24 hours before the planned markup, providing nearly no time for stakeholders to review its terms and provide valuable feedback. In addition to the ill-considered scope and nature of the preemption and private right of action provisions, the ADPPA’s overly broad and poorly constructed provisions regarding so called “sensitive covered data” would have a significant negative impact on the U.S. economy’s innovation and competitiveness, drive up consumer prices for goods and services at a time of significant economic uncertainty, and prevent the bread and butter Main Street businesses of the economy from contributing to economic vitality by competing in the marketplace.

Data is the lifeblood of the consumer economy, allowing small and Main Street businesses to compete with the largest companies in the world. The ADPPA would stifle that data-driven economy by prohibiting the collection and use of basic demographic and online activity data for efficient, responsible advertising. The inclusion of online activity data in the definition of “sensitive covered data” moves the bill backwards; this subset of information was reinserted in the bill after it was previously removed in the subcommittee. The ADPPA effectively prohibits the collection and use of the very data that forms the backbone of efficient data-driven advertising and all the downstream benefits for consumers and businesses alike. Additionally,

the bill's first party marketing provisions are too limiting and will impede businesses from communicating effectively with their own customers.

The bill's onerous restrictions would drive dollars and consumers into the arms of a few large platforms due to their size, cutting off competitors and harming consumers. There is simply no justification for subjecting data that is used solely for the purpose of delivering relevant advertisements to groups of consumers to such a burdensome standard. Small businesses will be forced to perform all customer acquisition within the environments of a very few large platforms. The only opportunity for small businesses to reach new customers will be entirely dependent on intermediaries that will control how they can reach target markets. At a time when consumers and businesses are facing rate hikes, inflationary pressures, and a potential recession, industries like advertising that support a healthy, vibrant economy made up of small and Main Street businesses should not face unreasonable limitations on their ability to efficiently connect consumers to the goods and services they desire.

We reiterate our support for a national, preemptive, comprehensive privacy law that works for consumers and businesses. We hope that the iterative legislative process will see the ADPPA improved, not worsened, as your efforts to advance privacy legislation continue. We look forward to working with you and your fellow members of Congress to improve the ADPPA to reach that goal, as exemplified in our constructive suggestions in the letter previously sent to you on July 18, 2022 regarding the version of the ADPPA reported from the subcommittee.

Sincerely,

Privacy for America

American Advertising Federation

American Association of Advertising
Agencies

Association of National Advertisers

Interactive Advertising Bureau

The National Business Coalition on
E-Commerce & Privacy