

## **WHAT IS PRIVACY FOR AMERICA?**

In December of 2019 [Privacy for America](#) released its draft “Principles For Privacy Legislation” - a first of its kind cross-industry effort to put together comprehensive federal privacy legislation.

The effort has been spearheaded by the 4A's, the ANA, the IAB, the NAI and many private companies. Privacy for America has developed a new framework for nationwide privacy legislation, one that fundamentally changes the way personal data is protected and secured. The framework was drafted to provide a new option for policy makers for their consideration as they move closer to putting together comprehensive federal privacy legislation.

Privacy for America's framework represents a significant departure from past privacy regulation efforts in key ways, including: it would apply to virtually all personal information collected and used in the United States and virtually all companies doing business in the United States; it would give the FTC expanded authority over non-profits and common carriers for purposes of the new framework (jurisdiction the FTC does not currently have); it would include new prohibitions on data misuse; it would put new requirements on companies to ensure accountability and transparency; and it would allow the FTC to engage in new rulemaking to identify additional prohibitions and requirements.

For more information on Privacy for America, and some thoughts on why it's more important now than ever, please [click here](#) to see a quick Q&A video the 4A's recently recorded with Privacy for America's lead organizer Stu Ingis, Chairman, Venable LLP.

## **WHERE DOES PRIVACY FOR AMERICA STAND?**

Since the Privacy for America framework was released in December of 2019, advocates for the framework (including the 4A's) have been meeting with key stakeholders in Congress to present the framework for socialization and input. Key committees for any privacy legislation include the Senate Commerce Committee and the House Energy & Commerce Committee, while key offices include Senator Roger Wicker (R-MS), Senator Maria Cantwell (D-WA), as well as many other key offices on the House side.

Not surprisingly, come March, Congress along with the rest of the world became hyper-focused on dealing with the health and economic repercussions resulting from COVID-19. In-person meetings on Capitol Hill have been limited since March, and Congress's attention has been elsewhere. But the winds are starting to shift back to a renewed focus on privacy.

In fact, COVID-19 itself has brought about a renewed focus on consumer privacy. The emergence of contact tracing apps has brought a flurry of new

privacy. The emergence of contact tracing apps has brought a flurry of new legislation in Congress to deal with the privacy implications of contact tracing, and with it, a broader conversation about the need for comprehensive federal privacy legislation. Privacy for America has been very active in submitting comments and redlines to the various contact tracing bills.

In addition to new legislation around the privacy implications of COVID-19 and contact tracing apps, Congress has also begun to shift its attention back to the need for comprehensive federal privacy legislation. The Senate Commerce Committee held a hearing in September to discuss the need for comprehensive federal privacy legislation with former FTC Commissioners.

While two of the biggest sticking points in moving any privacy legislation include differences between Republicans and Democrats regarding a private right of action and federal preemption of state laws, there is likely some room to negotiate on these points in 2021 (i.e. Republicans could be amenable to a private right of action if it were very narrow in scope and reserved most enforcement to the FTC, etc.).

## **WHAT WILL 2021 MEAN FOR PRIVACY FOR AMERICA?**

Since Privacy for America first released its draft Principles in December of 2019, the need for comprehensive federal privacy regulation has only grown. While many of the planned advocacy efforts for Privacy for America were not possible in 2020 (i.e. Fly-Ins, etc.), there were still plenty of opportunities to engage with key Committees and Members of Congress via other channels.










The goals of Privacy for America for 2021 will be the same as 2020, with some accommodations for the new realities around COVID-19 privacy concerns, and possibly the outcomes of any antitrust activities emanating from the FTC, the DOJ, state AG's and Congress around the big tech platforms.

The goal of Privacy for America has always been to propose a new framework for comprehensive federal privacy that moves away from the old paradigms on notice and choice, and instead seeks to create a baseline of stronger protections with more enforcement.

To that end, Privacy for America is already starting to be recognized as an innovative approach, as several key provisions of the framework are being incorporated into draft legislation. While any legislation ultimately passed will be the product of compromise on many sides, the hard work that Privacy for America has already done to bring together a broad-based diverse group of stakeholders to agree on some core provisions is already showing promise.

For more information please contact 4A's Executive Vice President of Government Relations [Alison Pepper](#).



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