



March 1, 2023

The Hon. Cathy McMorris Rodgers
Chair
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Hon. Frank Pallone
Ranking Member
House Energy & Commerce Committee
2322 Rayburn House Office Building
Washington, D.C. 20515

The Hon. Gus Bilirakis
Chairman
House Energy & Commerce
Subcommittee on Innovation, Data, and
Commerce
2306 Rayburn House Office Building
Washington, D.C. 20515

The Hon. Jan Schakowsky
Ranking Member
House Energy & Commerce
Subcommittee on Innovation, Data, and
Commerce
2408 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Rodgers, Chairman Bilirakis, Ranking Member Pallone, and Ranking Member Schakowsky:

Privacy for America is a coalition of trade organizations and companies representing a broad cross-section of the American economy. Our membership includes companies and trade associations in the advertising, travel, hospitality, media, financial services, data services, market research, and many other industries. We have long supported the creation of a comprehensive, preemptive national standard for consumer privacy. We are encouraged by the House Energy and Commerce Committee Innovation, Data, And Commerce Subcommittee's ("Subcommittee") decision to hold a hearing and continue to work on the creation of a preemptive national privacy law. We write to highlight several facts that the Subcommittee should consider during this hearing and its work going forward.

- **Responsible data-driven practices deliver over \$30,000 in value to consumers per year.** Studies found that data-driven practices used by companies supplemented consumer incomes to the tune of \$30,000 per year in free and discounted entertainment, information, and other services.¹ Congress should not create a new \$30,000 tax on consumers by disrupting the engine that drives that value.
- **Research proves that data-driven advertising is valued by consumers.** Data-driven advertising allows consumers to access near-endless free and low-cost content and services, such as research, music, news, videos, games, and more. According to a study of consumer attitudes towards data-driven advertising, more than half of consumers desire relevant ads,

¹ J. Howard Beales & Andrew Stivers, *An Information Economy Without Data*, 2 (2022), <https://www.privacyforamerica.com/wp-content/uploads/2022/11/Study-221115-Beales-and-Stivers-Information-Economy-Without-Data-Nov22-final.pdf>.



which are facilitated by such advertising, and a substantial majority (over 85 percent) desire personalized discounts for online products and services.²

- **Data-driven advertising creates opportunities for new, small, and growing businesses to access and thrive in the market.** Data-driven advertising fosters a competitive marketplace where small and mid-size businesses, as well as self-employed individuals, which are overwhelmingly minority-owned businesses, can compete with the economy’s largest players.³ Companies of all sizes use data-driven advertising, but smaller firms and new market entrants depend on it for a significantly greater portion of their revenue.⁴
- **Congress should set a national standard, not the Federal Trade Commission.** The regulation of the modern economy, which is data-driven in every way, should be a matter left to the democratically accountable legislative branch. Agencies like the Federal Trade Commission should act only when directly instructed to do so by Congress through specific authorities contained in legislation. A national standard for data collection and processing should set once, through the clear authority granted by the American people and the Constitution in Congress.
- **Private companies should follow the law, not create their own.** When Congress speaks and sets a national framework for data practices all companies should follow that law. No company, just because of its position in the marketplace as the intermediary between consumers and publishers, should be able to interfere in the legitimate, responsible, data practices of others. This is especially true when those private actors do so to further their own financial goals to the detriment of their competitors. A federal law should prohibit such meddling.
- **The Privacy for America Framework provides model approach for privacy legislation.** The Subcommittee can look to the Privacy for America *Principles of Privacy Legislation* (“Framework”) as an example of how to strike an appropriate balance for national data

² Mark Sableman, Heather Shoenberger & Esther Thorson, *Consumer Attitudes Toward Relevant Online Behavioral Advertising: Crucial Evidence in the Data Privacy Debates* (2013), located at https://www.thompsoncoburn.com/docs/default-source/Blog-documents/consumer-attitudes-toward-relevant-online-behavioral-advertising-crucial-evidence-in-the-data-privacy-debates.pdf?sfvrsn=86d44cea_0.

³ Nora Esposito, *Small Business Facts, Spotlight on Minority-Owned Employer Businesses*, U.S. SMALL BUSINESS ADMINISTRATION (May 2019), <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/05/31131339/Small-Business-Facts-Spotlight-on-Minority-Owned-Employer-Businesses.pdf>.

⁴ Digital Advertising Alliance, *Study: Online Ad Value Spikes When Data Is Used to Boost Relevance* (Feb. 10, 2014), located [here](#); Deloitte, *Dynamic Markets: Unlocking Small Business Innovation And Growth Through The Rise Of The Personalized Economy* at 27 (May 2021), https://scontent-bos5-1.xx.fbcdn.net/v/t39.8562-6/10000000_4303078769743544_7237603050373993547_n.pdf?_nc_cat=109&ccb=1-7&_nc_sid=ad8a9d&_nc_ohc=diYsZTH66PEAX_6cORb&_nc_ht=scontent-bos5-1.xx&oh=00_AfAIdIdtVwNhD6amBfDnljWEW3VTNTzhgjXULbzMJn1mg&oe=63FB1089.



standards.⁵ The Framework would designate certain uses of personal information to be reasonable and others to be *per se* unreasonable and thus prohibited.⁶ The Framework prioritizes consumer protection while also preserving beneficial uses of data and access to a vibrant online ecosystem.

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Thank you for your consideration of this letter on this important topic. We look forward to working with the Congress as it continues to evaluate and develop approaches to preemptive, comprehensive, privacy legislation. Please contact us with any questions.

Sincerely,
Privacy for America

⁵ Privacy for America, *Principles for Privacy Legislation* (2019) <https://www.privacyforamerica.com/overview/principles-for-privacy-legislation/>.

⁶ Framework at Part 1, Sec. 1(Y); Sec. 3: Sec 6(G)(c).