

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
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September 22, 2020

The Honorable Roger Wicker
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Chairman Wicker and Ranking Member Cantwell:

The U.S. Chamber of Commerce appreciates your leadership in working to protect consumers with national privacy legislation and appreciates the opportunity to provide feedback in the Senate Committee on Commerce, Science, and Transportation's hearing, "Revisiting the Need for Federal Data Privacy Legislation." The Chamber would like to highlight the importance of a national privacy law that would protect all Americans equally. At the same time, the Chamber welcomes Congressional leadership to advance international data flows, including with the European Union, our largest trade and investment partner.

The Need for National Privacy Legislation

Data is critical to the fight against COVID-19 and promoting economic recovery. Machine learning is assisting to develop treatments for the pandemic, broadband networks are keeping students learning in virtual classrooms, and online platforms are connecting small businesses to customers. A national privacy law that protects all Americans regardless of which state they reside in and that gives certainty to businesses is critical to enabling economic recovery. Federal privacy legislation should give consumers the right to know how data is used, collected, and shared, provide the right to delete and opt out of data sharing, and facilitate balanced redress.

Such legislation should avoid overly broad definitions of sensitive data that could hinder innovation, research, first amendment activities, and the online advertising ecosystem that has enabled the internet to flourish. A new privacy law should encourage cooperative enforcement and not class action litigation that would force companies to focus on frivolous lawsuits instead of compliance. Finally, as companies attempt to return to work, privacy legislation should not hinder the ability of companies to retain employee data or conduct workplace contact tracing.

The Importance of Transatlantic Data Flows

Cross-border data flows between the United States and the European Union are the largest in the world and underpin a \$7.1 trillion bilateral trade and investment partnership. In July, the European Court of Justice invalidated the U.S.-EU Privacy Shield due to concerns about U.S. intelligence agencies' access to EU personal data. The Irish Data Protection Commissioner has signaled its potential need to invalidate U.S. companies' "standard contractual clauses" on the same grounds. Standard contractual clauses are the primary means by which U.S. companies engage in digitally enabled commerce across the Atlantic. An invalidation of these mechanisms by European regulators will have significant ramifications for the U.S. economy's post-pandemic recovery, as a broad range of industry sectors rely on data flows to access the European market. Following the Committee's public support for a renegotiated Privacy Shield, we welcome additional attention by Congress on this critical matter and its impact on transatlantic commerce.

The Chamber looks forward to working with you on these critical issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley

cc: Members of the Senate Committee on Commerce, Science, and Transportation