



June 24, 2024

The Honorable Cathy McMorris Rodgers  
Chair  
House Energy and Commerce Committee  
2188 Rayburn House Office Bldg.  
Washington, DC 20515

The Honorable Frank Pallone  
Ranking Member  
House Energy and Commerce Committee  
2107 Rayburn House Office Bldg.  
Washington, DC 20515

Dear Chair McMorris Rodgers and Ranking Member Pallone:

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, and market research industries, as well as many others. For the past five years, we have been and remain committed to working with Congress toward the enactment of responsible and preemptive federal privacy legislation having proposed our model legislative approach, the *Principles for Privacy Legislation* in 2019.<sup>1</sup>

At this point we regretfully find ourselves needing to go on record in strong opposition to the discussion draft of the American Privacy Rights Act (“APRA” or “Discussion Draft”) released on June 20, 2024. We have consistently reiterated reasonable approaches to data privacy legislation that would increase consumer protection while allowing for responsible business practices to continue to form the bedrock of the modern data-driven economy, including through advertising. The revised Discussion Draft, as discussed below, would significantly hamper everyday engagement between companies and individuals, cut individuals off from the products, services, information, and resources they enjoy and rely on today, and stifle the innovative American economy. The latest version would also severely damage small, mid-size, and start-up businesses that rely on data-driven advertising, and would also limit the ability of those businesses to obtain the credit required to grow and operate their business. The scope of the Discussion Draft extends far beyond what is necessary or prudent to protect consumers from harmful data practices. Ironically, the draft would severely impact and harm consumers by banning long-standing and responsible data practices that benefit consumers, businesses, and nonprofit organizations that drive innovation and economic growth.

- **APRA would prohibit standard targeted advertising practices.** The Discussion Draft bans the use of the very data that has powered the modern ad-supported Internet. The draft APRA would depart from every state data privacy law, which all acknowledge that data-driven advertising is permitted subject to an opt-out for “targeted advertising.” The Discussion Draft would decimate the ability of small and mid-sized companies to compete, effectively choosing winners and losers across the marketplace.

---

<sup>1</sup> Privacy for America, *Principles for Privacy Legislation* (2019), located [here](#).



In short, advertising is not the problem that Congress needs to solve for in the enactment of federal privacy legislation. Each draft has taken a different inconsistent approach to advertising, sometimes recognizing this reality and other times going so far as to ban various forms of advertising. Such a result would fail First Amendment challenges. In certain drafts, including this newly revised Discussion Draft, conflicting provisions seem to call into question what form of advertising is, or whether any advertising is in fact, permitted.

Advertising responsibly provides consumers with offers for products and services at the time they are interested in them. The latest Discussion Draft would eliminate the most efficient form of this building block of commerce. Data-driven advertising is in large part responsible for the benefits and efficiencies cherished by consumers for more than two decades, including free and low-cost access to any number of online resources, products, and services. The practice is also vital to many government outreach and benefits programs, from public health advisories, to political campaigns, to the armed forces. The advertising industry, for more than a decade and a half, has provided comprehensive and effective privacy choices to consumers, which when launched by the advertising industry were embraced by the Federal Trade Commission and White House.<sup>2</sup> A national privacy standard should recognize these facts and build on these benefits. Unfortunately, the latest version of the draft APRA fails fulfill this goal.

- **APRA would obstruct mission-driven organizations from finding donors, volunteers, and beneficiaries for their causes.** The Discussion Draft would make it markedly more challenging for a church to find a new pastor or attract new parishioners, a local food bank to solicit donations, a veterans' health organization to reach out to retired military personnel to offer critical assistance and support, and businesses to offer special discounts and promotions to the members and veterans of our Armed Services. These and other mission-driven organizations, including political campaigns, rely on data-driven tools and third-party data to understand, identify, and reach those interested in their messages and that need their services the most.
- **APRA would cripple decision-making for most businesses and nonprofits.** The Discussion Draft would significantly impair, and dramatically drive up the cost of, accurate market research for any for-profit company or non-profit institution in the United States. The Discussion Draft would undermine the ability of such entities to make intelligent decisions and investments, depriving individuals of new or improved products, services, and ideas suited to their wants and needs. Under the Discussion Draft, express prior consent would be required for collection, use, and sharing of data for market research purposes, and the most basic of demographic data used to study the population would be restricted.

---

<sup>2</sup> Digital Advertising Alliance, *White House, DOC and FTC Commend DAA's Self-regulatory Program to Protect Consumer Online Privacy* (Feb 23, 2012), located [here](#); "FTC staff commends these self-regulatory efforts to improve transparency and choice in the cross-device tracking space. Both the NAI and DAA have taken steps to keep up with evolving technologies and provide important guidance to their members and the public. Their work has improved the level of consumer protection in the marketplace." FED. TRADE COMM., CROSS-DEVICE TRACKING: AN FTC STAFF REPORT, 11 (Jan. 2017).



- **APRA would clear the way for fraudsters and criminals to engage in illegal activity.** The Discussion Draft would allow a fraudster or criminal to delete and stop all collection of data about them, even from the responsible information service providers that work with law enforcement to prevent criminal activities and terrorism. The Discussion Draft would make it considerably more difficult for law enforcement and other entities to root out malicious activities and hold those responsible accountable.
- **APRA would create blanket bans on most advertising to individuals under 17.** Critical opportunities would no longer be made available to individuals under 17. For example, the military, colleges, trade schools, and other organizations would simply be unable to find these individuals. Under this Discussion Draft, 16-year-olds would be able to drive vehicles and engage in the work force based on their state's laws, but would be cut off from receiving advertising about options for their futures due to the federal law that would be ushered in by the Discussion Draft.

Various entities, from companies, non-profits, law enforcement, and civil rights groups have been raising similar fundamental concerns with this draft bill and its previous iterations for years. These concerns have not been fixed despite good faith engagement by entities from all parts of society. Therefore, we reiterate our opposition to the Discussion Draft APRA, as well as our commitment to engage in constructive efforts to pass a reasonable preemptive national privacy standard. Unfortunately the Discussion Draft is not that vehicle, and we hope that a new approach can be found through our collective efforts to achieve a bill that is best for the United States.

\* \* \*

Thank you for your consideration of this letter. We look forward to continuing to work with Congress to develop a new approach for effective, preemptive, and comprehensive national privacy law.

Sincerely,  
Privacy for America

cc: Speaker Mike Johnson  
Minority Leader Hakeem Jeffries  
Members and Staff of the House Energy and Commerce Committee  
Members and Staff of the Senate Commerce Committee