

**Opening Statement of the Honorable Michael C. Burgess  
Subcommittee on Commerce, Manufacturing, and Trade  
Hearing on “Discussion Draft of H.R. \_\_, Data Security and Breach  
Notification Act of 2015”  
March 18, 2015**

*(As Prepared for Delivery)*

Today’s legislative hearing is the first concrete step for this subcommittee toward the goal of a single, federal standard on data security and breach notification.

In January, we heard testimony about the key elements of sound data security and breach notification legislation. I am pleased to see so many of the elements discussed at that hearing incorporated into the draft legislation.

I know we just had another healthcare data breach. And I hope that the committee looks at healthcare data. Healthcare data has its own set of policy issues – where sharing data if done properly – could have tremendous public benefits and save lives. But there is law in this area – HIPPA – and taking on healthcare privacy and data in this bill would delay the consumer benefits that we can provide under this draft.

I am very encouraged by the bipartisan approach and commitment shown by my colleagues, Vice Chairman of the full committee Congressman Blackburn and Congressman Welch announcing this draft legislation. This subcommittee has a history of bipartisan cooperation with the work Congressman Barton and Congressman Rush have also put into this issue over the years. I am encouraged that this is the year we can find a path forward.

The issue of data breach has been before this subcommittee for many years and all the while, cyber criminals continued their operations to steal and monetize individual’s personal information. All in the absence of any national data security requirement. Even today, the great majority of states do not have a data security requirement.

Ten years in – we do have greater insight into what cyber criminals are doing and on their impact. Conservative estimates put cyber crime costs to consumers at \$100 billion annually. And cyber crime is estimated to cost the U.S. economy 508,000 jobs each year.

The Secret Service tells us that data breaches are primarily monetized through financial fraud. On average 1/3 of data breach notification recipients became victims of identity fraud in 2013 compared with 1/4 in 2012.

On a more personal level, individuals are hit twice when there is a data breach. First, they need to understand which of their accounts they need to reset, if they need new bank cards, or if they need to place a freeze on their credit report. Luckily, there are many laws to help navigate that process.

Second, the costs across the ecosystem, that \$100 billion annually, are eventually passed to the consumer in the form of higher fees and prices.

The existing patchwork of State laws on data security and breach notification have not been effective.

The noted security blogger, Brian Krebs, posted an article this week about new criminal tools to steal customer’s payment information that ended with a simple question: “Are online merchants ready for the coming e-commerce fraud wave?”

The draft legislation addresses this question with both the security requirement for personal information that leads to identity theft and payment fraud, and the breach notification for consumers so that they can protect themselves.

Some folks will complain about what is not in the bill. If we want to actually pass legislation we cannot future proof this bill. We cannot shade into areas such as privacy. This Administration and our minority colleagues have had six years and they still can't agree on how to address privacy.

On the topic of privacy – let me be very clear – while we don't tackle privacy we don't preempt privacy either. This bill is focused on unauthorized access that leads to identity theft and financial fraud. It has nothing to do with permitted access, or when that permission can be given, or what data can be collected. I will also say that Congress must continue to address privacy of all kinds, but not at the price of delaying consumer protections for data security and breach notification.

Another complaint will be around moving telecommunications, cable, and satellite providers from the Federal Communications Commission to the Federal Trade Commission. I look forward to hearing which agency has been the more active consumer watch dog regarding data security and breach notification in the last ten years.

I look forward to continuing the bipartisan and good faith negotiations with all interested stakeholders. Negotiations remain ongoing and our doors are always open.

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