

June 14, 2022

The Honorable Jan Schakowsky
Chair
Subcommittee on Consumer Protection &
Commerce
Washington, DC 20510

The Honorable Gus Bilirakis
Ranking Member
Subcommittee on Consumer Protection &
Commerce
Washington, DC 20510

Dear Chair Schakowsky and Ranking Member Bilirakis:

On behalf of the Electronic Transactions Association (ETA), I appreciate the opportunity to submit this statement for the record before the Subcommittee's hearing, "Protecting America's Consumers: Bipartisan Legislation to Strengthen Data Privacy and Security."

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing more than \$21 trillion in purchases worldwide and deploying payments innovation to merchants and consumers.

ETA and its members support U.S. and international efforts to strengthen privacy laws in ways that help the industry combat fraud and help consumers understand how their data is being used. As lawmakers and regulators explore additional ways to protect consumers, it is critical that the government coordinates with the payments industry to combat fraud and cybercrime so that all consumers have access to safe, convenient, and affordable payment options and other financial services.

A robust financial system is integral to the economy because it enables the fundamental functions of economic activity, including connecting borrowers with savers, facilitating investments, processing payments, and safekeeping financial assets. For the U.S. financial system to remain competitive in the global economy, the U.S. must continue to prioritize consumer protection, safety, and reliability, while also continuing to lead in innovation.

ETA looks forward to encouraging a collaborative approach and believes a framework should include the following principles:

- **National Standard**

By providing consumers and businesses with consistent protections through an established, uniform law, consumers and businesses will benefit. Enacting a federal uniform national standard will provide certainty and consistency to businesses and consumers alike without requiring them to navigate the patchwork of state laws. A uniform national standard — that is the ceiling — would also reduce the complexity and costs associated with the compliance and enforcement issues resulting from a patchwork of laws.

- **Permissible Uses**

The payments industry has a long history of fighting fraud and is constantly developing and deploying new technology to detect, deter, and eliminate fraud. New and enhanced technologies have amplified the payments industry's ability to offer new fraud solutions and strengthen our ongoing efforts. Any privacy or data protection standard should include provisions for permissible uses of data to prevent fraud and protect consumers.

- **Maximize Transparency**

Businesses must promote transparency with their customers as well as when engaging with regulators or other appropriate authorities. Regulators and government officials should be appropriately transparent about their objectives.

With respect to personal data, consumers should have reasonable access to clear and understandable statements about businesses practices and policies. Businesses should be transparent about the types of personal data collected, how the personal data will be used, and whether personal data may be disclosed or shared. Businesses should also provide clear privacy notices to consumers as well as appropriate procedures for individual control, including the opportunity to control data sharing.

- **Access to Data**

Individuals must have a reasonable right to access the personal information they have provided to a company and, where practical, the right to have that information corrected. Individuals should also have the ability to request the deletion of personally identifiable information provided to companies, unless there is a legitimate or legal obligation to retain that information.

- **Enforcement**

To protect consumer rights and provide responsibility, enforcement needs to be consistent and coordinated between the federal government and the state's regulatory body. Congress should encourage collaboration between the Federal Trade Commission (FTC) and state attorneys general to enforce a national consumer privacy law. Strict coordination should be followed to avoid duplicate or conflicting enforcement actions. ETA believes the FTC should be granted targeted rulemaking authority and have civil penalty authority. However, a federal privacy law should not provide monetary relief in the form of a private right of action for privacy enforcement.

- **Maintaining Flexibility**

Technology that is involved in data processing evolves rapidly. A baseline law can provide clarity on achieving specific privacy principles; however, laws and regulations should undergo reviews and be flexible. A government should not mandate a specific technological solution or other instrument to implement consumer protections. Including a safe harbor within a federal privacy law would promote the development of adaptable, consumer-friendly privacy programs.

- **Global Leadership**

Congress should adopt policies that facilitate international electronic commerce and promote consumer privacy — both of which benefit consumers, economic growth, and

trade. Burdensome international regulations hamper the growth of new businesses and create conflict of law between jurisdictions. Although the U.S. is uniquely positioned to benefit from the experience and regulatory proposals being adopted or considered by its international counterparts, having the U.S. establish a national privacy framework will facilitate an international data framework and reinforce U.S. leadership worldwide.

The payments industry never rests — we are working tirelessly to fight fraud and protect consumers by developing new tools to prevent or identify fraud data analysis as well as by frequently introducing new fraud-fighting solutions. Privacy laws should continue to recognize these goals and the important role the payments industry plays in combating fraud. By working together, lawmakers, regulators, and industry participants can protect consumers while providing them with access to the safest and most convenient payments system in the world.

ETA would like to thank the Subcommittee for this opportunity to provide this statement for the record on this important topic. We appreciate your leadership on this important issue. If you have any questions, please feel free to contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott, at stalbott@electran.org.

Sincerely,



Jeff Patchen
Director of Government Affairs
Electronic Transactions Association