

**Center for Digital Democracy | Center for Media Justice  
Common Sense Kids Action | Consumer Action  
Consumer Federation of America | Consumer Federation of California  
Consumer Watchdog | Media Alliance | Privacy Rights Clearinghouse  
U.S. PIRG**

The Honorable John Thune, Chairman  
The Honorable Bill Nelson, Ranking Member  
U.S. Senate Commerce, Science, and Transportation Committee

The Honorable Greg Walden, Chairman  
The Honorable Frank Pallone Jr., Ranking Member  
U.S. House of Representatives Energy and Commerce Committee

June 30, 2017

Dear Sirs,

We the undersigned privacy and consumer rights groups take this opportunity to comment on broadband and internet privacy bills recently introduced in the Senate and House.

We are encouraged by Congress's attention to this important issue. Privacy is a fundamental right of all Americans, including our most vulnerable. Any federal law should constitute a floor, not a ceiling, and allow states to innovate additional protections. Rulemaking authority, enforcement and oversight must be strengthened and multifaceted in order to properly address different situations and contexts. Any new laws should not take authority away from agencies that already have the expertise and enforcement ability. And privacy should not be a luxury good, reserved for only those who can afford to pay.

We appreciate the approach taken by Senator Edward J. Markey in S 878 to restore the Federal Communications Commission's broadband privacy rules and to protect consumers from having their personal, sensitive information used and disclosed for purposes other than providing them with the services that they have requested, without their consent. Without the strong FCC broadband privacy rules that Congress repealed in place, Americans have no real say in what happens with the sensitive information that can be gleaned from their online activities. Sen. Markey's bill would reverse the damage done by the Congressional Resolution of Disapproval and is an important first step in protecting Americans' broadband privacy.

We strongly oppose any effort to remove the FCC's jurisdiction over broadband privacy.

Second, we support the framework of the data protection bills introduced by Senator Richard Blumenthal and Representative Jerry McNerney (S 964 and HR 2356). The

Managing Your Data Against Telecom Abuses (MY DATA) Act of 2017 would prohibit providers of internet broadband services, content, applications or devices from employing unfair or deceptive privacy or data security practices. We approve of MY DATA's approach requiring that the Federal Trade Commission (FTC) consult with the FCC to promulgate rules under the MY DATA Act. That said, we believe such rulemaking should be mandatory, and we believe Congress can give additional guidance to the FTC on protecting consumers' information. We appreciate that under MY DATA the FTC would gain enforcement ability against common carriers regulated by the FCC under the Communications Act of 1934. The MY DATA Act preserves the rights of states to bring civil actions in federal court to enforce its prohibitions and does not preempt the ability of the states to provide stronger protections for their constituents.

Consumers always will be best protected if two strong, independent agencies—the FCC and the FTC—can bring their own different abilities, strengths and expertise to rulemaking, as they already do in the area of telemarketing.

In contrast, the Balancing the Rights Of Web Surfers Equally and Responsibly (BROWSER) Act (HR 2520) introduced by Representative Marsha Blackburn unfortunately does much to undermine the enforcement of internet privacy by preempting state and local laws and removing the FCC's privacy jurisdiction. Furthermore, it gives the FTC absolutely no rulemaking authority to provide detailed guidance about how its requirements would apply to the various entities that it would cover. We appreciate Rep. Blackburn's efforts to propose an opt-in standard requiring providers to obtain customers' approval for the collection of sensitive information—a principle we support. Nevertheless, for the reasons stated above, we cannot support this legislation. No bill that purports to modernize privacy for the digital age should preempt the states from continuing to act in their necessary and traditional role as the first line of protection for consumers, hamstringing the FCC, and give only limited powers to the already limited FTC.

Thank you for your attention. We stand ready to assist Congress in crafting meaningful, principles-based legislation to protect digital privacy.

Sincerely,

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