

January 21, 2020

The Honorable Frank Pallone  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden:

On behalf of the American Financial Services Association (AFSA)<sup>1</sup>, I am writing to thank you for the opportunity to comment on your draft privacy legislation. We commend your efforts to achieve meaningful reform in this area and look forward to working with you as this legislation moves forward.

First, the current draft legislation does not preempt individual states' laws. Any final version of privacy legislation should be one national standard so that businesses do not have the burden of complying with fifty separate state laws. Inconsistent state laws regarding data security and the lack of a national standard for businesses have resulted in uneven consumer protection, as well as higher compliance costs for financial institutions. The bill currently has a placeholder for preemption, so please ensure that adequate preemption language is added to any legislation moving forward.

Secondly, the legislation contains very broad requirements for businesses to respond to consumer requests. There is currently no requirement for a preexisting relation between the consumer and the company, nor is the scope limited to material requests. The bill should be more narrowly tailored to distinguish between material and superficial requests. Similarly, while we strongly agree that safeguarding consumer information should be a top priority, some of the bill's security protections are unrealistic and problematic for businesses.

Next, the draft bill contains language requiring the Federal Trade Commission (FTC) to issue regulations on privacy policies. Some of the text indicates that companies would be required to reveal proprietary information about business processes and methods. Furthermore, the logistics and process of gathering such information from business partners and third parties may prove very difficult. This section should be modified to ensure that businesses are not forced to reveal proprietary information or to gather said information from third parties. The bill also has provisions for the FTC to write implementing regulations only in certain sections of the text. Instead, the FTC should be given the authority to promulgate rules on all provisions of the bill.

---

<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA) is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

We applaud your work on this important issue and appreciate your providing the opportunity to comment on this legislation. We look forward to continuing to work with you.

Sincerely,

A handwritten signature in cursive script that reads "Ann Harter".

Ann Harter  
Vice President, Congressional Affairs  
American Financial Services Association