

Opening Statements

Chairman Bilirakis (R-FL) called for more transparency into how our data is collected and shared. He said that some may find data collection convenient, and others feel like data collection is invasive which is why we should allow Americans to choose what to do with their personal and sensitive data. Bilirakis emphasized that data privacy legislation needs to work for everyone to ensure a responsible government approach so that there are clear rules so companies can comply. He said that it is essential that the FTC enforce the laws Congress passes and does not go rogue.

Ranking Member Schakowsky (D-IL) discussed how tech companies collect our data and use it to keep us on their platform to sell more targeted ads to us or they sell the data to unknown companies who then build a profile about you. She went on to say that targeted ads on social media can be harmful to the mental health of teenagers and said that it is time for Congress to pass a data privacy law.

Chairwoman McMorris Rodgers (R-WA) said that the Committee must continue on the progress they made last year on comprehensive data privacy legislation. She said that companies are harvesting data and selling it in an unsecure way and emphasized that Americans have no say in what happens to the data being collected on them. She said that AI needs to be developed with our values and said that this requires a comprehensive bill, specifically the ADPPA.

Ranking Member Pallone (D-NJ) said that many of our essential consumer products include the trading of personal data for services and said that we cannot go another Congress without passing comprehensive data privacy legislation and emphasized the ADPPA.

Member Questions

Bilirakis (R-FL) discussed the control of data being in Americans' hands along with certainty for medium and small businesses. He highlighted the FTC rulemaking which would not preempt state laws and discussed the challenges of having patchwork privacy legislation across the states. Bilirakis asked about the negative impact a patchwork of laws would have on the economy and to businesses.

Schakowsky (D-IL) said that the current 'notice and consent' privacy regime doesn't work well for consumers and asked if there is a better approach. She also talked about the burden on the consumer and asked how this works in the ad tech world saying that no one reads the 'Terms of Service'. Schakowsky did not want to see more burdens being placed on the consumer to protect themselves. She also asked how important the FTC is as the privacy regulator.

Rep. Walberg (R-MI) thought an area of agreement is protecting children's privacy and asked how children's privacy protections should be different from adult privacy provisions in the ADPPA. He asked why the FTC has not updated COPPA.

Rep. Soto (D-FL) discussed sensitive data and asked if any additional items should be added to the sensitive data list in the ADPPA. He asked if there is room included in the list included ADPPA to fill in gaps in the future. Soto knew how important enforcement is and was concerned about having a 'toothless tiger' here and asked how critical it is to have federal, AG, and regulator enforcement included in the bill.

Rep. Duncan (R-SC) discussed the preemption clause in the ADPPA and asked about carveouts included in the bill. He thought that some sort of uniformity for states was beneficial.

Pallone (D-NJ) was concerned about data brokers collecting and selling massive amounts of personal data and asked about what types of information data brokers have on consumers and what they do with it. He asked if the ADPPA takes the right approach on data brokers. Pallone also asked about the egregious data practices done by data brokers that the FTC sees.

McMorris Rodgers (R-WA) discussed targeted advertising and asked if e-commerce needs personal data to work or asked if there can be a balance between the two. She asked to speak about the benefits of a right to cure for businesses. McMorris Rodgers went on that private right of action is a hard nut to crack and understood the purpose of it while wanting to make sure private right of action does not become abusive. She thought there could be a balance.

Rep. Trahan (D-MA) discussed the misuse of messaging and geo-location data and discussed student privacy concerns. She asked about FERPA and asked to what extent companies are or are not covered by FERPA. Trahan continued on ed-tech software saying that the data collected on these sites can then be sold to third parties and so she said that the idea of consent gets murky with students. She asked how the duty of loyalty would apply to these websites and apps as FERPA is only applied through to vendors when they process education records which does not include how children are interacting with ed-tech.

Rep. Dunn (R-FL) said that for years the FTC and the industry has been calling on Congress to produce privacy legislation and knew that this topic was very complex. He went on that the CCP poses a huge threat to the free world and asked about the difference between civil liberties and democracy and how the CCP and America see this differently. Dunn discussed data broker profiles and was concerned that the CCP could take advantage of this and asked what the current threat is of the CCP accessing American citizens' data. Dunn asked if we should be fencing our data just within the US and asked if that is possible. Dunn asked about the benefits of greater transparency for data collection to the consumer and asked if this is harmful to businesses.

Rep. Kelly (D-IL) was interested in data practices that sell or collect data is harmful to Americans. She asked if a federal privacy framework to include simple indications to how their data is collected should be included in legislation. Kelly was concerned about discriminatory data practices and asked if there are certain use limitations that could help protect civil rights and minority communities.

Rep. Lesko (R-AZ) discussed in-home connectivity along with voice controlled personal assistance devices. She said that in Google's case, a consumer can use their voice to control smart home products made by third parties. Lesko said that Google is changing a policy in June as to how these products work that will increase the rate of data collected and asked what changes should be made to the ADPPA to put consumers in control of data shared through their smart home systems. Lesko also asked if certain types of smart home data be subject to higher level protections like smart locks and home security. Lesko asked how to strike the right balance between protecting consumer data without creating loopholes for criminals. She asked if it is possible to protect consumer data while allowing businesses, especially small businesses, to digitally advertise.

Rep. Dingell (D-MI) wanted to empower the consumer to be the ultimate arbiter of their data and focused on data and how much is being collected without their knowledge. She asked how many pixels on average are collected on one person. Dingell asked if apps and companies are incentivized to maximize data collection in order to compete in the digital economy. Dingell asked that without a privacy law, the amount of data collected is a danger to consumers and children who use platforms and the internet.

Rep. Pence (R-IN) focused on the money and said that if data collectors are providing a certain amount of dollars to businesses how much are they making beyond that. He asked if a consumer could then be compensated for all the data collection on them. Pence called the massive amount of data being collected on consumers is incomprehensible. Pence said that he has done a lot of digital advertising for business and found that digital advertising for a small business is not very effective.

Rep. Castor (D-FL) focused on online safety for children in the ADPPA and said that COPPA is wholly outdated. She asked about what has happened since the adoption of COPPA and the growing online harm happening to children. Castor asked if the FTC should have more resources to help protect children online.

Rep. Allen (R-GA) asked how companies make their money from digital advertising on platforms like Facebook. He asked what role the data brokers play in online advertising.

Rep. Clarke (D-NY) discussed AI and ADM and how bias is built into the technology inherently and asked why requiring transparency in algorithmic creation is important to include in data privacy legislation. She asked if companies are free to collect and transfer user data that is not necessary for their product, does that increase the risk of a data breach. Clarke also asked how federal legislation would increase the FTC's ability to help protect Americans for data breaches.

Rep. Harshbarger (R-TN) asked what safeguards should be built into to the ADPPA for small and medium size businesses. She discussed the importance of clarity on what is and is not permissible for small and medium sized businesses and asked what can be done to ensure there is clarity under a federal privacy framework. Harshbarger asked for an example of an unintended consequence of federal privacy legislation for businesses or individuals.

Rep. Cammack (R-FL) asked about national security implications for data collection and data breaches. Cammack talked about the implications of AI and ChatGPT.

Rep. Armstrong (R-ND) discussed secondary sourced data versus primary sourced data and said that data brokers say that a federal framework will put them out of business. He said that the ability to analyst the data is increasing at a very rapid rate.

Rep. Fulcher (R-ID) asked if it was possible to have transparency without exposing secrets necessary to operate a business referring to AI assessments. He asked if the FTC is the best regulator for privacy. Fulcher turned to GDPR and believed that it has been helpful to large companies but not small ones and asked if that was the panelists' perception and asked what components of it should be changed in regards to the US.

Rep. Carter (R-GA) discussed how the FTC rulemaking will not be preempting states and agreed that the Committee has the responsibility to pass a national standard. He dug into the FTC rulemaking a bit more saying that there may not be legal authority to have a rule under Magnuson-Moss and asked for the opinion of the panel as to whether or not the FTC has the authority to. Carter asked if overly restrictive rules that would stymie innovation and harm American competitiveness.

Rep. Obernolte (R-CA) discussed preemption and asked if Congress should allow states to create standards more restrictive than the federal government. He agreed that we need to federally preempt

states within privacy legislation to avoid patchwork legislation which creates a lot of challenges for small businesses. Obernolte turned to private right of action and asked who should be responsible for enforcing whatever privacy legislation is put in place. He had concerns about private right of action.