

June 13, 2022

Chair Pallone and Ranking Member McMorris Rodgers,

The Center for Democracy & Technology (CDT) commends you and Senator Wicker on arriving at a bipartisan agreement on privacy legislation in the *American Data Privacy and Protection Act*. Americans have long needed enhanced privacy protections to, for instance, increase trust in the online ecosystem.¹ We welcome your bipartisan efforts to find a path forward to provide those protections.

Enacting strong privacy protections has never been more important. For decades, our privacy regime has placed the burden on people to read and understand the privacy practices of every entity they come into contact with and to make decisions about whether to engage with those companies. This approach is simply not realistic,² and as a result, companies have had nearly free rein to set their own privacy practices so long as their privacy policies do not mislead people.

Legislation is essential to ensure peoples' rights and interests are protected. Meaningful protections would place more affirmative requirements on the companies that are in charge of and control their data practices, including minimizing the data companies collect, limiting certain particularly harmful uses of data, and protecting against data-driven discrimination. With such obligations, companies would need to be more thoughtful with their data practices.

The discussion draft includes minimization, use limits, and civil rights provisions, but they should be made clearer and stronger. It is also essential to ensure the bill's protections can be adequately enforced. The discussion draft includes enforcement by the Federal Trade Commission, state Attorneys General, and individuals, all of which are necessary elements to ensure the bill's protections are fully realized. However, the individual enforcement section is limited such that few cases would ever meet its onerous requirements. Further work is required to address those gaps.

The *American Data Privacy and Protection Act* is a good start and represents the best public, bipartisan vehicle for providing real privacy protections to all Americans. We commend you for your leadership, and look forward to working with you, other Committee members, and the Senate to support passage of a meaningful privacy law this year.

Sincerely,
Center for Democracy & Technology

¹ In a 2021 study by KPMG of adult consumers in the United States, 86% considered data privacy a growing concern, and 68% were concerned about the level of businesses' data collection. Orson Lucas et al., KPMG, *Corporate Data Responsibility: Bridging the Consumer Trust Gap (2021)*, <https://advisory.kpmg.us/articles/2021/bridging-the-trust-chasm.html>.

² Geoffrey A. Fowler, *I Tried to Read All My App Privacy Policies. It Was 1 Million Words*, Wash. Post (May 31, 2022), <https://www.washingtonpost.com/technology/2022/05/31/abolish-privacy-policies>.