Federal Privacy Legislation in the 117th Congress

ANA Data Privacy Conference

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117th Congress

- In the U.S. House of Representatives, Democrats retained control of the chamber.

- In the U.S. Senate, Democrats saw a net gain of 3 seats after the 2020 election, creating a Senate with a 50-50 split. Vice President Harris, as the President of the Senate, will be the tiebreaking vote, giving Democrats a one-vote majority in the Senate.

U.S. Senate

Committees of Jurisdiction

- **Senate Committee on Commerce, Science, and Transportation**
  - Chair will be Maria Cantwell (D-WA)
  - Roger Wicker (R-MS) will serve as Ranking Member
- **Senate Banking**
  - Chair will be Sherrod Brown (D-OH)
  - Pat Toomey (R-PA) will serve as Ranking Member
- **Senate Judiciary**
  - Chair will be Dick Durbin (D-IL)
  - Chuck Grassley (R-IA) will serve as Ranking Member

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U.S. House of Representatives
Committees of Jurisdiction

- **House Energy and Commerce Committee**
  - Committee with sweeping jurisdiction
  - 10 new members
    - 20% of committee
  - Chaired by Frank Pallone (D-NJ)
    - Subcommittee on Consumer Protection and Commerce chaired by Jan Schakowsky (D-IL)
  - Ranking Member Cathy McMorris Rodgers (R-WA)
    - Subcommittee on Consumer Protection and Commerce Ranking Member is Gus Bilirakis (R-FL)
- **House Financial Services Committee**
  - Chair and Ranking Member unchanged
    - Maxine Waters (D-CA) will continue as Chair, and Patrick McHenry (R-NC) will continue as Ranking Member
- **House Judiciary Committee**
  - Chair and Ranking Member unchanged
    - Jerry Nadler (D-NY) will continue as Chair, and Jim Jordan (R-OH) will continue as Ranking Member

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Privacy for America

Coalition of top trade organizations and companies representing a broad cross-section of the American economy, working to enact federal data privacy legislation.

Goals:

- To provide strong and comprehensive data protections for individuals
- To establish clear rules of the road for individuals, businesses, and law enforcers
- To stop harmful and unexpected data practices while allowing beneficial practices to continue
- To shift emphasis away from "notice and choice" and towards a common set of norms about what data practices should be prohibited and permitted.

Framework: Scope

Apply to all personal information collected & used in the US, broadly defined

Cover virtually all companies doing business in the US

Give the FTC expanded authority over non-profits and common carriers

Framework: Key Provisions

Prohibitions on Data Misuse

- Eligibility Determinations
- Discrimination
- Fraud & Deception
- Stalking
- Use of Sensitive Data Without Express Consent
- Special Protections for Tweens

Accountability and Transparency

- Privacy Compliance Plan
- Vendor & Third Party Oversight   Individual Rights
- Data Security
- Data Personalization Opt Out

Enforcement & Oversight

- New FTC Bureau, Staff, Resources, Rulemaking & Approved Certifications
- Recognition of Reasonable Permitted Data Practices
- State AG Enforcement
- Civil Penalties (including fines for first-time violations)

Comprehensive Legal Scheme

- Excludes information covered by existing federal sectoral laws
- Preempts state laws that implicitly create national standards
- EXISTING LAWS: New paradigm will not overturn existing federal privacy laws & will preempt state laws like the CCPA

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