March 1, 2023

The Honorable Gus Bilirakis
Chairman
Innovation, Data, and Commerce Subcommittee
2306 Rayburn House Office Building
Washington, DC 20515

The Honorable Jan Schakowsky
Ranking Member
Innovation, Data, and Commerce Subcommittee
2408 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on a National Standard for Data Privacy

Dear Chairman Bilirakis and Ranking Member Schakowsky:

Thank you for convening today's hearing on establishing a national standard for data privacy. Every day, American consumers share their personal information with countless businesses just by using routine products and services. Consumers deserve to know that their data is being used responsibly. As more states consider or advance comprehensive privacy legislation, consumers and businesses alike face the possibility of fragmented regulatory regimes that could prove to be difficult to both navigate and enforce. A strong national data privacy standard will provide consumers and businesses the certainty they deserve.

BSA | The Software Alliance is the leading advocate for the global software industry.[1] Our members are enterprise software companies that create the business-to-

[1] BSA's members include: Adobe, Alteryx, Atlassian, Autodesk, Bentley Systems, Box, Cisco, CNC/Mastercam, Databricks, DocuSign, Dropbox, Graphisoft, IBM, Informatica, Juniper Networks, Kyndryl, MathWorks, Microsoft, Okta, Oracle, Prokon, PTC, Salesforce, SAP, ServiceNow, Shopify Inc., Siemens Industry Software Inc., Splunk, Trend Micro, Trimble Solutions Corporation, TriNet, Twilio, Unity Technologies, Inc., Workday, Zendesk, and Zoom Video Communications, Inc.

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business technology products and services that power the digital transformation of companies in every industry. BSA members provide cloud storage services, customer relationship management software, human resource management programs, identity management services, and remote collaboration software, along with a range of other enterprise technology products.

BSA commends the Energy and Commerce Committee's efforts and progress towards advancing a strong federal privacy law in the 117th Congress through the bipartisan committee passage of H.R. 8152, The American Data Privacy and Protection Act (ADPPA). Additionally, we appreciate the Committee's engagement with a broad range of stakeholders, including industry, to ensure that any federal privacy law is both effective and workable.

This Congress has a real opportunity to enact a comprehensive federal privacy law on a bipartisan basis. Passing a strong federal privacy law is a pillar of BSA's National Agenda for Digital Transformation,[2] and today's hearing represents an opportunity to build upon the momentum developed last Congress. Specifically, BSA urges Congress to enact a federal privacy law that (1) establishes consumers' rights in their personal data; (2) imposes strong obligations on companies that require them to handle consumers' data responsibly; and (3) provides strong and consistent enforcement. A federal privacy standard should:

- *Establish Consumer Rights.* A federal privacy law should create new rights for consumers, including the rights to access, correct, and delete their personal data, as well as the right to opt out of the sale and sharing of their personal information. These rights can help provide consumers control over their information and increase their ability to both trust and verify how their data is used.

- *Create Clear Obligations for Businesses to Handle Data Responsibly.* A federal privacy law should place meaningful limits on businesses that handle consumers' personal data and require them to handle consumers' data responsibly. Those limits should also reflect a business's role in handling consumer data, including whether a company decides why and how to collect a consumer's personal data, or instead acts as a service provider that processes a consumer's data on behalf of another company and pursuant to that company's instructions. The distinction between these two types of companies is critical to a host of privacy laws worldwide, which recognize that both types of businesses have important responsibilities and obligations to safeguard

[2] https://www.bsa.org/files/policy-filings/01182023uspolicyagendaltr.pdf

consumers' personal data and that those obligations must reflect how the company interacts with consumers' data to avoid creating new privacy and security risks for consumers.[3]

- *Provide Strong and Consistent Enforcement.* Effective enforcement is important to protecting consumers' privacy, ensuring that organizations meet their commitments and legal obligations, and deterring potential violations. A federal privacy law should not be enforced by a single regulator, but by federal and state agencies working together. We support enforcement of a federal privacy law not only by the FTC but also all state Attorneys General, to create consistent and effective enforcement.

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BSA supports strong privacy protections for consumers, and we appreciate the opportunity to provide these comments. We welcome and look forward to further engagement with the Committee on these important issues.

Sincerely,



Craig Albright
Vice President, US Government Relations

CC:
The Honorable Cathy McMorris Rodgers
The Honorable Frank Pallone

[3] *See* BSA, Controllers and Processors: A Longstanding Distinction in Privacy, *available at* https://www.bsa.org/files/policy-filings/10122022controllerprodistinction.pdf.