

Comprehensive Federal Privacy Legislation

Can Build on State Privacy Laws

THERE ARE THREE KEY COMPONENTS OF PRIVACY LEGISLATION:

1

ESTABLISHING CONSUMERS' RIGHTS IN THEIR DATA

California creates new consumer rights including:

- Confirmation of Processing
- Access
- Correction
- Deletion
- Portability
- Opt out of: (1) sale, and (2) sharing of personal information

Virginia creates the same consumer rights but has a broader opt out right, allowing consumers to opt out of: (1) sale, (2) targeted advertising, and (3) certain types of "profiling"

Federal Law should create these important consumer rights—and give consumers broad rights to opt out of processing, not limited to sale.

2

OBLIGATING COMPANIES TO HANDLE THAT DATA IN WAYS THAT DO NOT SURPRISE CONSUMERS

California imposes several obligations on companies that decide how and why a consumer's data is collected and used, including:

- Data minimization and purpose specification
- Reasonable security measures
- Prohibition on retaliating against consumers that exercise new rights

Virginia creates a broader set of obligations on businesses that decide how and why consumers' data is processed, including:

- Putting the burden on companies to obtain a consumer's consent to process sensitive data and to obtain consent for unexpected processing
- Prohibiting processing data in violation of state and federal non-discrimination laws

California and Virginia both recognize the distinct role of service providers, including requiring them to process data pursuant to a contract.

Federal Law should build on these obligations to ensure that companies use consumers' personal data consistent with consumer expectations.

3

STRONG ENFORCEMENT

California's law creates a new regulator to enforce the law's privacy provisions

Virginia's law will be enforced by the Attorney General

Federal Law should not be enforced by a single regulator, but by federal and state agencies working together.

Federal: The FTC should enforce federal privacy law, with new tools including:

1. Targeted rulemaking authority
2. Authority to fine first-time violators
3. Additional funding and staff

State: Attorneys General in all states and territories should also enforce the law, adding 50+ new enforcement agencies.

We urge Congress to enact a federal consumer privacy law that builds on state privacy protections in each area. Congress should build on privacy laws enacted by California and Virginia to protect consumers nationwide.