



May 22, 2024

The Honorable Cathy McMorris Rodgers, Chair

House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Attn: Innovation, Data, and Commerce Subcommittee

The Honorable Gus Bilirakis, Chair

Re: The American Privacy Rights Act

Dear Chairperson McMorris Rodgers and Congressman Bilirakis,

As advocates who helped spur the passage of California's first-in-the-nation privacy law, the California Privacy Rights Act (CPRA), Consumer Watchdog urges you to preserve the progress states have made by passing legislation that sets a floor and not a ceiling on data privacy rights.

Nearly 10 million Californians voted for strong data privacy rights when they passed CPRA. CPRA is unique because it gives Californians a baseline of rights that can be improved upon over time, but cannot be eroded by legislators.

However, because of preemption language, the American Privacy Rights Act (APRA) will wipe away years of progress made in California and in nearly 20 states that have passed similar laws across the country.

APRA would also virtually eliminate the authority of the California Privacy Protection Agency (CPPA), which has been building up its privacy enforcement division over the past three years. It will be replaced with the Federal Trade Commission (FTC), which is in the middle of many important antitrust battles and does not gain additional funding under APRA. Per the bill, the FTC will have two years from when the law is enacted to draft regulations. That's a lot of time for people's data to change hands and for rogue algorithms to do damage. Technological innovation moves fast. But Californians have protections right now.

APRA would put a lid on progress, likely never to be opened again. While APRA would give Americans rights surrounding how companies use, share or sell their data, it takes away:

- Opt out rights in effect right now. The ability to limit the use of sensitive personal information, to opt out of the sharing and selling of your personal information for targeted advertising, to know how personal information is used by businesses, and the ability to correct or delete it are all protections Californians would lose for years were this bill approved.
- Protections for sensitive information, such as sexual orientation, union membership, and immigration status. APRA does not include those categories in the definition of sensitive covered data.
- Protections against profiling.
- Protections against targeted advertising. Under APRA, service providers will still be able to combine data to execute targeted advertising.
- Protections against companies that collect or share data with a local or federal agency. Service providers are exempt under APRA.
- Progress made surrounding artificial intelligence and automated decision making technology. The CA privacy agency is currently drafting landmark rules surrounding a right to opt-out of the use of personal information with respect to training automated decisions.
- A stronger private right of action for data breaches. APRA would move all cases to federal court, where it is harder for consumers to seek remedies.

To be clear, Consumer Watchdog supports privacy rights for Americans, but they shouldn't come at the expense of the rights that millions already enjoy. Wiping away years of progress is not what Californians voted for when they passed the California Privacy Rights Act.

Sincerely,



Justin Kloczko
Privacy Advocate
Consumer Watchdog