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and Transportation, Subcommittee on Consumer Protection,
Product Safety, and Insurance

“Consumer Privacy and Protection in the Mobile Marketplace”

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Thank you Chairman Pryor, ranking member Toomey, and distinguished members of the committee for the opportunity to speak with you today. As ACT's Executive Director, I represent over 3,000 developers and small business entrepreneurs, many of whom write apps for smartphones and tablets.

Often when we consider issues in this grand setting, addressing their impact on the country at large, we tend to talk broad themes and big ideas. But today I'd like to start off differently, breaking it down to the smallest of the small. Specifically, my pint-sized five-year-old.

My daughter is learning to speak Chinese, granted, she's doing it because dad wants her to, but, I let her use an old smartphone of mine onto which I've loaded several Chinese language learning apps. She has games that test her ear, games that help her recognition, and even one that lets her take pictures of characters and translate them. I've even seen a demo of an app that takes pictures of objects and give you an audible translation. These are apps that won't make the cut on a desktop computer; if for no other reason than 5 year olds never sit still. Many of the apps were .99 cents, and none more than \$5. When she gets a little older, she and I will use the Star Walk app, which uses your location information to show a real time, movable map of the night sky. Mobile apps like these open up worlds of learning for kids and adults in a way that was unimaginable just 5 years ago.

There are thousands of similar stories. Over 500,000 apps are available on mobile platforms today. Originating less than four years ago, the apps economy will grow to \$5.8 billion in sales this year. In the next four years that total is expected to reach 37 billion. If you include apps services, that figure climbs to over \$50 billion.

This is a remarkable American success story in a time of economic uncertainty. U.S. developers account for the vast majority of apps available on the market today, creating opportunity throughout the country while also exporting popular programs abroad.

88% of the top 500 apps were written by small businesses. The vast majority of these are micro businesses with fewer than ten employees.

More importantly, these developers are a not just a Silicon Valley phenomenon.

In fact, Scott Bedwell has developed his series of "DJ" apps in Bentonville Arkansas, and GL Golf is developed by Nuclear Nova in Meadville Pennsylvania. The geographically diverse nature of the new app economy means we are seeing economic growth and job creation in every state in the country.

While the app stores are helping small businesses grow, the devices and various applications provide the user with tools to protect their personal information. For the smartphone my daughter uses, I have enabled privacy settings provided by the device; turning off location services for most apps, restricting in-app purchases and

disabling her ability to add or delete apps. And as she gets older, the features I enable will grow with her maturity.

While privacy protection at the handset is the place to start, we in the apps community want to do more to inform and educate consumers about how we handle their data. Accordingly, ACT has been working to develop a set of guidelines for mobile application developers to enable them to do a better job creating privacy policies, and helping them understand the complexity of privacy regulation. Most mobile apps collect no information, and therefore aren't required to have a policy, but we feel that they should, not because of regulation, but because the most valuable asset is the trust of their customers. A quick peek at the comments section on many mobile apps shows how quickly an app can lose favor because it failed to meet customer expectations.

We don't want anyone to lose sight of the fact that these are hardworking innovative entrepreneurs who create exciting new products, and ACT is committed to ensure they have the tools needed to avoid the pitfalls of data mismanagement.

But for those few fraudulent app makers who misuse consumers' personal information, we say throw the book at them. The FTC's recent \$3-million-dollar COPPA fine against Playdom underscored the considerable enforcement measures available. Section Five of the FTC Act offers government broad authority to go after bad actors and to effectively oversee the marketplace.

While recent events in the media have given a high profile to bad actors in this area, I would urge the Committee to evaluate the considerable enforcement options currently available before considering the creation of additional regulatory mechanisms.

Too often, government intervention in an emerging technology marketplace has unintended consequences that stunt its development. The last thing we want to do is to constrain an industry with tremendous growth where our country has such a clear competitive advantage. Let's address bad behavior without threatening the uniquely American apps economy.

Thank you and I look forward to addressing any questions you may have.