

Protecting Consumer Privacy, Growing Small Business



While the headlines are dominated by big business, in reality, small businesses are both the key to a federal privacy framework and the leaders in developing privacy practices that work for consumers. ACT | The App Association members handle millions of terabytes of data per day, putting them on the front lines of protecting and enabling good use of data. The App Association gives small innovators a voice in the privacy debate in Congress and at federal agencies by illustrating how proposed laws and regulations would impact their ability to create jobs in your states and districts.



Our members know that consumers have important questions for companies that use and share their data. What data is being used or shared? Who is sharing data and with whom? How are they sharing or using it? The answer to these questions affects how consumers engage with the products and services created by our members.

To that end, we developed tools and guides to help our members comply with—and consumers understand—the Children’s Online Privacy Protection Act (COPPA), the Health Insurance Portability and Accountability Act (HIPAA), and the EU’s General Data Protection Regulation (GDPR). Similarly, we conducted key user testing, including for the short-form privacy notice best practices developed through the National Telecommunications and Information Administration’s (NTIA’s) multistakeholder process in 2013.

We do this for a simple reason: trust is paramount to our members’ success.

The App Association recognizes that the modern notice and consent model is not always a sufficient means of communicating privacy expectations or establishing a relationship of trust. Often consent fails to contemplate dynamic uses of data and does not encapsulate consumers’ future expectations given the passage of time or changing contexts. We believe the time is now for our industry, regulators, and policymakers to have a frank discussion on a federal privacy policy centered on consumer experience while preserving the ability for small innovators to compete and develop better privacy practices and communication methods.

Policymakers should keep the following considerations in mind in crafting any changes to federal privacy policy:

- **Transparency, Access, and Control.** Federal privacy requirements should ensure businesses are transparent and allow users a reasonable level of control over the collection and use of information about them. App Association members compete on privacy and work hard every day to develop better ways to communicate with their users about privacy and give them meaningful choices. Consumers should have a clear understanding of the types of personal data they are sharing, and which companies are using that data and how.
- **Accountability.** As the Federal Trade Commission (FTC) has long argued, privacy should be built into the design and functionality of products and services. If privacy is a functional feature of a product or service, the protections, notices, and options it provides may shift and take on different forms depending on the context. Federal law should support the dynamic functionality of privacy by design by making companies accountable for sound privacy practices while allowing them to innovate on the details of their privacy programs.
- **A Single, National Standard.** New privacy legislation in Congress should establish a single, national standard. Our member companies may include the smallest software and connected device companies, but they each serve customers across the nation and around the world. Complying with a patchwork of state laws would be unnecessarily burdensome because their activities are not limited by any single state's borders. If privacy legislation does include a preemption provision, we would support limited rulemaking authority within statutory guidelines and limits for the FTC and allowing state attorneys general to enforce the bill's provisions.
- **Scalable Requirements.** Federal privacy requirements should be scalable depending on the scope of an enterprise or data processing activities and the size and compliance capabilities of companies. App Association members do not want to be exempt from requirements—they want to comply with strong, flexible, and reasonable requirements.