

April 29, 2024

The Honorable Charles Schumer  
Majority Leader  
United States Senate  
Washington, District of Columbia 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, District of Columbia 20510

The Honorable Mike Johnson  
Speaker  
United States House of Representatives  
Washington, District of Columbia 20515

The Honorable Hakeem Jeffries  
Minority Leader  
United States House of Representatives  
Washington, District of Columbia 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and Minority Leader Jefferies:

As members of ACT | The App Association and small business leaders, we are committed to ensuring that companies like ours are implementing the strongest and most consistent privacy protections for our users and clients. In the absence of a national privacy law, disparate and misaligned approaches to protecting people's privacy continue to evolve and conflict with the most effective approaches to privacy and security developers build and implement. We are writing to urge Congress to continue working and come to a bipartisan agreement on a federal privacy bill.

We commend your leadership and efforts thus far in the development of a comprehensive privacy bill. We strongly urge that any federal privacy framework include the "four Ps" of privacy:<sup>1</sup> preemption, protection against unauthorized access, a path to compliance, and strict limits on any private right of action. The American Data Privacy Protection Act (ADPPA) from last Congress included several of these concepts, and we urge Congress to build on the bipartisan work resulting in ADPPA.

While the "four Ps" of privacy are not an exhaustive list of what should comprise a strong privacy bill, we believe they provide a set of helpful guideposts for Congress to use as they seek to minimize compliance burdens while maximizing consumer protection.

1. *Preemption*. One of the most serious issues our member companies face related to privacy policy is the growing and increasingly variable set of overlapping consumer privacy laws adopted by state legislatures. We ask that a federal privacy framework include a preemption provision that covers general-applicability state privacy laws that cause the most confusion and conflict between states.
2. *Protection Against Unauthorized Access*. The majority of a federal privacy framework generally focuses on *authorized* uses of consumer data. However, a

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<sup>1</sup> Graham Dufault, "The 4 Ps of Privacy: What Small Businesses Need in a Privacy Bill," ACT | THE APP ASSOCIATION BLOG, (Sept. 13, 2022), available at <https://actonline.org/2022/09/13/the-4-ps-of-privacy-what-small-businesses-need-in-a-privacy-bill/>.

comprehensive law should also include data security provisions addressing how covered companies prevent *unauthorized* access to consumer data.

3. *Path to Compliance.* Instead of completely carving out small businesses from all requirements, a comprehensive privacy framework should provide a path to compliance for smaller firms that helps them come into compliance while easing associated burdens. We urge Congress to include a provision enabling small companies under a certain threshold to certify to compliance with independent frameworks, minimizing the risk of exorbitant fines or consequences for potential mistakes or other compliance issues.
4. *Private Right of Action Limitations.* If a compromise federal privacy framework authorizes private litigants to bring claims for alleged violations, such a provision *must* include strict limits and safeguards to avoid creating sue-and-settle business models that too often prey on small businesses that lack dedicated legal representation.

While Congress' work to date, including ADPPA, has multiple strong points and sets a solid foundation for a better national privacy framework, small businesses like ours need Congress to build on this work. The "four Ps" of privacy streamline regulatory landscapes, minimize legal uncertainties for small app developers and, ultimately, catalyze growth and innovation in the digital economy. We believe in the capability of Congress to come together and work to produce a privacy bill that better optimizes privacy protections and compliance by small businesses across the United States.

Thank you for your efforts and consideration.

Sincerely,

1564b  
365. Training  
Alchemy Security  
BadVR  
BlueLabel Labs  
Busy Bee Studios  
Colorado Technology Consultants  
Computer Ways, Inc.  
Critical Sites  
FMS Inc.  
For All Abilities  
Fresco Capital

GlobalForce Technology Consulting  
Lucihub  
PayEye  
Ratio Business Insight  
Rotational Labs  
Sequense  
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WellBeyond  
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