



**America's
Credit Unions**

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The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy & Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives
Washington, DC 20515

Re: Today's Markup and Concerns About the American Privacy Rights Act

Dear Chair McMorris Rodgers and Ranking Member Pallone:

On behalf of America's Credit Unions, I am writing ahead of today's Committee markup to share our thoughts regarding the amendment filed to H.R. 7890, the Children and Teens' Online Privacy Protection Act, that would insert a modified version of the American Privacy Rights Act (APRA) and urge your opposition to adopting this amendment. America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their over 140 million members nationwide.

We applaud efforts to protect children in the underlying bill and appreciate the bipartisan efforts to craft comprehensive data privacy legislation. However, since our major concerns were not addressed by the modifications to the APRA, America's Credit Unions opposes the amendment adding the APRA to the text of H.R. 7890. Credit unions strongly support the idea of a national data security and data privacy regime that includes robust security standards that apply to all who collect or hold personal data and is preemptive of state laws. We firmly believe that there can be no data privacy until there is strong data security.

Stringent information security and privacy practices have long been a part of the financial services industries' business practices and are necessary as financial services are entrusted with consumers' personal information. This responsibility is reflected in the strong information security and privacy laws that govern data practices for the financial services industry as set forth in the Gramm-Leach-Bliley Act (GLBA). The GLBA's technical safeguards and privacy protections are strengthened by federal and state regulators' examinations, implementing regulations, and robust enforcement for violations of the GLBA's requirements.

There are three key tenets that credit unions believe must be addressed in any new national data privacy law: a recognition of GLBA standards and accompanying regulations in place for financial institutions and a strong exemption from new burdensome requirements; a strong federal preemption from the myriad of various state laws for those in compliance with national privacy and GLBA standards; and protection from frivolous lawsuits created by a private right of action. While the current version of the APRA touches on many of these areas, we believe it falls short of addressing credit unions' concerns and is not ready to be advanced at this markup.

GLBA Exemption

We are concerned that APRA does not have an entity-level exemption for those in compliance with the GLBA, but instead creates a narrower GLBA exemption that is limited to activities specifically contemplated by the GLBA's high-level description of technical information safeguards and privacy protections. While this would provide some exemption for credit unions from several of the bill's provisions, it may not address others that lack any comparable analogue in either the GLBA or the Fair Credit Reporting Act (FCRA), such as data portability and data minimization standards. The narrow exemption in the bill, unlike an entity-level exemption, will only apply to the extent the GLBA addresses specific uses of data.

We would urge changes to strengthen the GLBA exemption to an entity level to include all credit unions before moving forward.

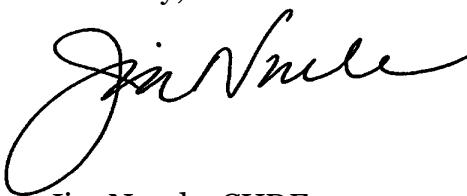
Federal Preemption

As amended, the APRA would not preempt state privacy and data security laws. The absence of meaningful preemption will likely undermine the purpose of a strong, uniform federal privacy standard and could lead to inconsistencies across states in terms of how liability is allocated between data providers and third parties, including in disputes arising from the CFPB's proposed rules governing consumer data portability under Section 1033 of the Dodd-Frank Act.

While we appreciate the ongoing dialogue with lawmakers over comprehensive privacy legislation, we would urge removal and greater clarity on these exemptions before moving forward with APRA.

In conclusion, while we appreciate the efforts in the APRA to create a national privacy standard, we believe the bill still needs to be improved before advancing in the legislative process. As such, we urge the Committee to oppose this amendment to include the APRA as part of H.R. 7890 at the markup. On behalf of America's Credit Unions and their over 140 million credit union members, thank you for the opportunity to share our views. We look forward to continuing to work with you to create an environment where credit union members can thrive.

Sincerely,



Jim Nussle, CUDE
President & CEO

cc: Members of the Committee on Energy & Commerce