

American Privacy Rights Act Continues to Move Forward in Congress

October 31, 2024 -The U.S. House Committee on Energy and Commerce Subcommittee on Data, Innovation and Commerce approved a revised draft of the American Privacy Rights Act (APRA) during a voice vote held on May 23, 2024. This updated draft, which included substantial changes and new provisions is continuing to move forward. The bill would establish a comprehensive federal data privacy law.

The ARPA, introduced by Representative Cathy McMorris Rodgers and Senator Maria Cantwell, seeks to create a national standard for data privacy and security regulation, replacing the existing patchwork of state laws. The most recent draft includes the Children's and Teens' Online Privacy Protection Act (COPPA 2.0), aiming to provide stronger protections for minors' online privacy.

The APRA would grant consumers the right to control their personal data, allowing them to opt-out of targeted advertising, view, correct, export, or delete their data. It also restricts companies from using algorithms to make decisions related to housing, employment, healthcare, credit, education, and insurance without consumer consent. The bill would also companies to implement data security measures and minimizes data collection, ensuring that only necessary data is collected and used.

One of the significant provisions of the APRA is the creation of a national data broker registry to increase transparency and oversight of data brokers. The bill also includes sections on executive responsibility, holding company executives accountable for ensuring compliance with privacy standards, and preventing companies from using personal information to discriminate against individuals in areas such as housing, employment, healthcare, and credit.

The APRA preempts state privacy laws, establishing a single, comprehensive national standard. This raises privacy concerns among privacy advocates who argue that preemption would weaken existing privacy standards in states with more robust protections. The bill aims to strike a balance by providing stronger protections at the federal level while ensuring consistency across the country.

The inclusion of a private right of action in the APRA would allow individuals to take legal action against companies for significant privacy harms, providing a mechanism for enforcement. This provision has been a point of contention, with industry groups expressing concerns about potential litigation risks.

Based on other privacy legislation that has been debated in congress, we expect that if this bill does get passed, that it will be significantly watered down. Industry lobbyists are likely to fight tooth and nail against any meaningful privacy legislation as billions of dollars of advertising revenue are at stake. If our suspicions are correct, the ARPA is much more likely to weaken American privacy standards than it is to enhance them. Under those circumstances, we would not be supportive of it.

The bill's progress will be closely watched by stakeholders, including consumer advocates, industry groups, and lawmakers.

by Jim Malmberg

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