

National Telecommunications and Information Administration
1401 Constitution Avenue NW
Room 4725
Washington, DC 20230

Submitted via email to privacyrfc2012@ntia.doc.gov

Comments to the National Telecommunications and Information Administration on
“Multi-stakeholder Process To Develop Consumer Data Privacy Codes of Conduct”
Docket No. 120214135–2135–01

Consumer Action appreciates the opportunity to comment on the Administration’s recent white paper on consumer privacy. The report was both innovative and groundbreaking, and we commend the Administration for its attempt to strike an even-handed tone on the charged topic of consumer privacy. As a 40-year-old national nonprofit, we have long advocated on behalf of consumers on a broad range of issues that impact them on a daily basis, including privacy concerns, and believe that innovation does not just belong to technology but to policy-makers as well. We believe that the Administration baseline principles on protecting personal data are practical and common sense, and provide a useful way to begin the process of developing codes of conduct for industry.

We were also pleased to see the call for baseline consumer privacy legislation in the white paper, *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Innovation in the Global Digital Economy*. Congress must act to craft and implement comprehensive legislation that provides real-world protections for consumer personal information in a data-hungry world. And we believe that if Congress cannot act, it must be pushed to act or called to task by the organizations and officials that understand the risks of inaction.

The white paper’s call for a multi-stakeholder process is an interesting approach to keeping policy in time with the pace of rapidly changing technology and one that we believe could provide positive impact. However, as a participant in various multi-stakeholder processes that began with the best intentions only to collapse under the weight of poorly defined goals and political influence, we strongly encourage you to consider implementing a fundamental set of principles to guide the process itself.

Consumer Action, along with 11 other leading consumer, civil liberties, and privacy groups, under the leadership of the World Privacy Forum, have identified a set of fundamental principles that must be implemented if the multi-stakeholder process is to succeed, including:

- Adequate resources must be made available to facilitate civil society participation in in-person meetings. If funding is not provided, meetings should only be held electronically.
- Consumer representation must be robust and reasonably balanced.
- The process must be open and transparent to the greatest extent possible.
- Decisions must be based on a fair and broad consensus among stakeholders.

The World Privacy Forum will also submit the full text of the principles document as part of a separate formal filing. We hope you will take the time to review and consider the importance of adopting these principles in advance of the first multi-stakeholder meeting.

In addition, we believe the NTIA should be used as a *forum* for these discussions, rather than as a participating member. We think this will insure that there is a backdrop of principled guidance that will allow members to work towards the common goal of crafting codes of conduct that are straightforward, real-world, and allow both industry and consumers to feel that their interests are being protected.

NTIA has also asked for comments on issues to be discussed during the multi-stakeholder process. We believe there are several privacy issues that are ripe for consideration and would offer a reasonable chance of successful dialogue.

- The rise of social media, including both data use by the companies themselves and use as it relates to consumer harms such as for employment purposes, insurance rates or credit checks.
- Collection and use of consumer personal information by data brokers.
- The collection and use of data by mobile apps.
- The deployment of facial recognition technology in ways that outpace consumer expectations.

We believe these issues represent topics that are timely and represent issues at the heart of consumer privacy protection. Also, there is potential for true policy innovation if the process is successful. We are happy to work with you on these issues going forward and appreciate the chance to comment.

Thank you for your work to advance consumer privacy.

Sincerely,

Michelle De Mooy
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Consumer Action