



BIPARTISAN POLICY CENTER

November 9, 2018

Delivered via Electronic Mail

David Redel
Assistant Secretary for Communications and Information
National Telecommunications and Information Administration
Washington, DC 20233

RE: NTIA Request for Comments on “Developing the Administration’s Approach to Consumer Privacy” (Docket No. 180821780—8780—01)

Dear Assistant Secretary Redel:

Thank you for the opportunity to comment on the proposed approach for developing the administration’s consumer privacy policy.¹ My comments are intended to represent my own views on the topic based on past work for the U.S. Commission on Evidence-Based Policymaking examining federal privacy policy.

In short, I encourage the National Telecommunications and Information Administration (NTIA) to carefully consider the recommendations of the U.S. Commission on Evidence-based Policymaking in development of a consumer privacy policy.² While the commission focused on issues pertaining to the use of government-collected data, many of the principles and concepts outlined by the commission are also relevant for the use of data in and by private sector entities. Moreover, existing law and practice that applies to federal government data (e.g., the Privacy Act) offers valuable approaches that could be considered for developing an administration policy.

The commission also recommended the development and continued research on privacy-preserving approaches and technologies. These approaches could include differential privacy and secure multi-party computation. I encourage that to the extent

¹ *Federal Register*, Vol. 83, No. 187, pp. 48600-48603. Available at: <https://www.federalregister.gov/documents/2018/09/26/2018-20941/developing-the-administrations-approach-to-consumer-privacy>

² U.S. Commission on Evidence-Based Policymaking. (2017) *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*. Washington, D.C.: Government Printing Office. Available at: <https://bipartisanpolicy.org/wp-content/uploads/2017/10/CEP-Final-Report.pdf>

possible the policy seek to incentivize both private- and public-sector research on privacy technologies and approaches.

Finally, I encourage NTIA to consider the variation in potential uses as a relevant dimension of establishing a potential privacy policy. The commission made a clear distinction between statistical activities, which aim to produce knowledge about a group without directly altering rights or benefits, and non-statistical activities. In 2018, former Chief Statistician of the United States Katherine Wallman and I elaborated in a Bipartisan Policy Center technical paper how current law and practice relates to the concepts of transparency, accountability, and consent for these types of statistical data uses.³ We describe the role of “societal consent” in broader data uses that relate to statistical activities, we encourage NTIA to consider how the construct may be relevant in broader consumer applications based on the type of data use.

Again, thank you for the opportunity to offer brief comments. If I can be of assistance, or if you would like more information about the commission’s or Bipartisan Policy Center’s work related to privacy policy, please do not hesitate to contact me at 202-204-2400.

Sincerely,

Nicholas R. Hart, Ph.D.

*Director, Evidence Project
Bipartisan Policy Center*

³ Hart, Nicholas and Katherine Wallman. 2018. Transparency, Accountability, and Consent in Evidence Building. Washington, D.C.: Bipartisan Policy Center. Available at: <https://bipartisanpolicy.org/library/transparency-accountability-and-consent-in-evidence-building/>