

September 19, 2018

Chairman John Thune  
Ranking Member Bill Nelson  
Senate Commerce Committee  
Washington, DC

Dear Chairman Thune and Ranking Member Nelson,

On behalf of leading consumer privacy organizations in the United States, we write to express surprise and concern that not a single consumer representative was invited to testify at the September 26 hearing "Examining Safeguards for Consumer Data Privacy." While we appreciate your consideration of these important issues, we do not understand why the Committee has chosen to exclude the voice of consumers.

First, by tradition both the Senate and House Commerce Committees routinely invite consumers to testify at hearings concerning consumer interests. The hearing next week on consumer privacy, which includes six industry witnesses, may be one of the first ever convened when not a single consumer group was asked to testify.

Second, the absence of consumer representatives all but ensures a narrow discussion, focused on policy alternatives favored by business groups. Will any of your witnesses recommend federal baseline legislation, heightened penalties for data breaches, the end of arbitration clauses, the establishment of a privacy agency in the U.S., techniques for data minimization, or algorithmic transparency to prevent the secret profiling of American consumers? These are all safeguards favored by many consumer privacy organizations that should be considered by Committee Members. How can members of the Committee develop sensible solutions if they are not even aware of the full range of options?

Third, the United States Senate is first and foremost a public institution, accountable to the people. While we have no objection to the participation of business groups in Senate hearings on consumer privacy, the Senate's first instinct should be to hear from the American public on these important issues. Are you aware, for example, that identity theft is among the top concerns of American consumers? Do you know that the recent Harris survey found that 78 percent of U.S. respondents say a company's ability to keep their data private is "extremely important," but only 20 percent "completely trust" organizations they interact with to maintain the privacy of their data?

We urge you to invite consumer witnesses to the September 26 hearing. If that is not possible at this time, we ask that you announce a date certain for a hearing in the Senate Commerce Committee at which consumer privacy organizations will be given the opportunity to speak with you about this important issue.

Thank you for your consideration of our views.

Sincerely,

Access Humboldt  
American Civil Liberties Union  
American Policy Center  
Campaign for Commercial Free Childhood  
Center for Digital Democracy  
Center for Democracy & Technology

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Center for Media Justice  
Common Cause  
Common Sense Kids Action  
Constitutional Alliance  
Consumer Action  
Consumer Federation of America  
Consumer Federation of California  
Consumer Watchdog  
Customer Commons  
Defending Rights & Dissent  
Digital Privacy Alliance  
Electronic Frontier Foundation  
Electronic Privacy Information Center  
The Free Press Action Fund  
National Association of Consumer Advocates  
National Consumers League  
New America's Open Technology Institute  
Patient Privacy Rights  
Privacy Rights Clearinghouse  
Privacy Times  
U.S. PIRG  
World Privacy Forum