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March 15, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
503 Hart Senate Office Building
Washington, DC 20510

Dear Chair Chairman Crapo and Ranking Member Brown:

On behalf of the 1.3 million members of the National Association of REALTORS® (NAR) and more than 1400 local REALTOR® associations, I wish to provide feedback to your stakeholder request for comments on data privacy, protection and collection legislation in the 116th Congress.

REALTORS® have long been supportive of efforts to protect consumers' sensitive personal information. To this end, NAR supports efforts create a comprehensive, national uniform standard for privacy and data security. The Association believes that one national standard will help to reduce compliance burden for small businesses.

While supportive of a federal standard, NAR strongly believes that any new federal privacy and data security law must be narrowly tailored to minimize the regulatory burden such a law could place on vulnerable independent contractors and small businesses. Real estate firms vary widely in size, but the overwhelming majority are very small entities. NAR's most recent surveys indicate that more than half of all realty firms have less than twenty-five agents and the typical sales agent is affiliated with an independent realty firm with only one office. This unique industry structure can make compliance with regulatory burdens particularly onerous. Further compounding this concern is the independent contractor status of the overwhelming majority of real estate sales professionals. Any new privacy and data security requirements will necessarily impact the individual real estate agent who is a legal business entity separate from the real estate company with which they are affiliated.

NAR members use consumer data in the way that consumers intend, to provide them with excellent customer service when buying or selling or renting a home. For this reason we support the following principles with respect to privacy and data security legislation:

Establish Uniform Standards for Businesses and Equal Protection for Consumers – Federal data privacy frameworks and legislation should apply requirements to all industries that handle personal data. The level of protection for data should not depend on arbitrary distinctions between industries, such as whether a business directly collected data from a consumer or obtained it in a



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business-to-business transaction. Businesses that obtain consumer information indirectly should have the same obligations and responsibilities to protect that information as the businesses that obtain consumer information directly.

Direct Statutory Obligations for All Service Providers Handling Consumer Data – Effective consumer protection regulations cannot be achieved by relying on some businesses to regulate the conduct of other businesses through contracts alone. For example, smaller businesses may lack experienced personnel, legal expertise, bargaining power or business contract sophistication to negotiate terms to require larger businesses to adequately protect the smaller business’s customer data when it is in the larger business’s possession. Such data service providers, particularly those offering transmission, storage, analytical processing or other consumer data services for thousands of small businesses, need direct statutory obligations to ensure they comply with relevant laws to govern customer information.

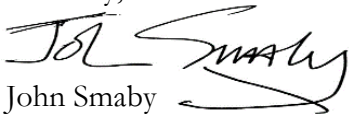
Transparency and Customer Choice – Consumers deserve to know what categories of personal data that businesses collect and how that data is generally used by them. These policies should be clearly disclosed in company privacy policies readily accessible to consumers to ensure that they can learn how customer data is collected and used by the business to provide goods or services to them. Federal data privacy law should provide the regulatory flexibility necessary to ensure that businesses can continue to responsibly use consumer data in ways that avoid frustrating customer experiences with requests for consent where it is unnecessary based on reasonable consumer expectations.

Uniform Nationwide Standard and Enforcement for Data Privacy – Congress should create a sensible, uniform federal framework for data privacy regulation that benefits consumers and businesses alike by ensuring that sensitive consumer information is protected in a consistent manner regardless of the state in which a consumer resides. Preempting state laws effectively setting an alternative set of nationwide rules is necessary to achieve the important, national public policy goal of uniformity.

Data Security & Breach Notification – A federal data privacy law should include provisions codifying a national and reasonable data security standard for businesses, as well as a uniform process for notifying customers about data breaches. All businesses should be required to protect personal data and make notice of their own breaches to affected consumers.

NAR appreciates your consideration of our recommendations and we look forward to a constructive dialogue with you on these matters during the 116th Congress.

Sincerely,



John Smaby

2019 President, National Association of REALTORS®