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## Wicker, Thune, Fischer, Blackburn Offer Consumer Data Privacy Bill

Senate Commerce, Science, and Transportation Committee Chairman Roger Wicker (R., Miss.) and committee members John Thune (R., S.D.), Deb. Fischer (R., Neb.), and Marsha Blackburn (R., Tenn.) today introduced federal data privacy legislation that would establish consumer access, correction, deletion, and porting rights for personal data collected by businesses, require consumer consent to the processing or transferring of their sensitive data, set data minimization and secondary use limits, establish data security obligations, and require transparency about the use of algorithms.

The proposed Setting an American Framework to Ensure Data Access, Transparency, and Accountability (SAFE DATA) Act would prohibit “take-it-or-leave-it” practices requiring consumers to give up privacy rights if they want to use a business’s products or services, and it would require businesses to adopt and disclose their privacy policies and to conduct privacy impact assessments. It would authorize enforcement by the Federal Trade Commission and state attorneys general.

The SAFE DATA Act would also give the FTC rulemaking authority to establish additional categories of sensitive data. The definition in the legislation covers government-issued identifiers, such as Social Security numbers, passport numbers, and driver’s license numbers; data that describes or reveals physical health, mental health, or disability diagnoses or treatments; financial data, such as account numbers, debit and credit card numbers, access codes, and passwords; biometric information; precise geolocation information; the contents of private communications; account log-in credentials; data revealing an individual’s racial or ethnic origin, religion, sexual orientation, or sexual behavior; data about online behavior; and calendar data, address book information, phone or text logs, photos, or videos maintained for an individual’s private use on their device.

It would require the FTC to maintain a data broker registry; authorize it to oversee the data use practices of common carriers and nonprofit organizations, which are otherwise excepted from the agency’s authority over unfair and deceptive business practices; and restore the FTC’s authority to obtain monetary remedies for consumers.

Chairman Wicker said, “As COVID-19 increases activity online and opportunities to misuse personal data continue to surge, it is time to pass a uniform, national privacy law. More than ever, we need to stop bad actors and restore consumers’ trust in the internet marketplace.”

Sen. Thune said, “Today’s introduction of the SAFE DATA Act is the right step toward a more comprehensive online transparency and reform effort, and, importantly, the legislation sets a single national data privacy standard for consumers. I’m glad the broader legislation includes my Filter Bubble

Transparency Act, legislation that would make it easier for internet platform users to understand the potential manipulation that exists with secret online algorithms.”

From the House, Energy and Commerce Committee ranking minority member Greg Walden (R., Ore.) and consumer protection and commerce subcommittee ranking minority member Cathy McMorris Rodgers (R., Wash.) said in a joint statement, “Throughout the COVID-19 pandemic, every American has personally experienced the importance of technology. In this new normal, we need real protections for children learning online, for professionals doing business virtually, and seniors and other vulnerable communities relying on telehealth. It is past time for Congress to create a national data privacy standard that ensures Americans’ data, no matter which state you are in, remains protected from bad actors and provides much needed certainty for small businesses and innovators.”

They added, “We applaud our Senate colleagues for recognizing the importance of a federal data privacy framework and holding a hearing to explore ways to make this happen. Unfortunately, House Democrats continue to put trial lawyers’ interests ahead of what is best for American consumers. House Democrats should take note and complete our work on what should be a bipartisan, bicameral priority. We can and should work together to achieve a solution for all Americans on this critical issue.”

Craig Albright, vice president–legislative strategy at software developer trade group BSA, said, “BSA applauds Senator Wicker for his important work toward ensuring that a federal privacy law gives consumers rights in their personal data and places obligations on businesses to handle that data in trusted and responsible ways. The COVID-19 pandemic has underscored the many ways that data can help us as a society, including in combatting this virus — and it also shows the importance of finding the right set of privacy and security safeguards when using data. We are encouraged by the continued support for comprehensive federal privacy legislation and look forward to continuing to work with Senator Wicker and his colleagues on these important issues.” —Lynn Stanton, [lynn.stanton@wolterskluwer.com](mailto:lynn.stanton@wolterskluwer.com)

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