



April 17, 2024

Officers

Chair

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Margaret Huang
Southern Poverty Law Center
Derrick Johnson
NAACP

Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Secretary

Fatima Goss Graves
National Women's Law Center

Treasurer

Lee A. Saunders
American Federation of State,
County and Municipal Employees

Board of Directors

Abed Ayoub
American-Arab
Anti-Discrimination Committee
Gloria L. Blackwell
AAUW

Ray Curry
International Union, UAW
Jocelyn Frye

National Partnership for
Women & Families
Jonathan Greenblatt
Anti-Defamation League

Mary Kay Henry
Service Employees International Union
Damon Hewitt

Lawyers' Committee for
Civil Rights Under Law
David H. Inoue

Japanese American Citizens League
Virginia Kase Solomon
League of Women Voters of the
United States

Marc Morial
National Urban League
Janet Murguía

UnidosUS
Svante Myrick

People For the American Way
Janai Nelson

NAACP Legal Defense and
Educational Fund, Inc.

Christian F. Nunes
National Organization for Women
Rabbi Jonah Pesner

Religious Action Center
of Reform Judaism
Rebecca Pringle

National Education Association
Lisa Rice
National Fair Housing Alliance

Kelley Robinson
Human Rights Campaign
Anthony Romero

American Civil Liberties Union
Liz Shuler
AFL-CIO

Fawn Sharp
National Congress of American Indians
Maria Town

American Association of
People with Disabilities
Randi Weingarten

American Federation of Teachers
John C. Yang
Asian Americans Advancing Justice |
AAJJC

President and CEO

Maya Wiley

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chair McMorris Rodgers, Ranking Member Pallone, Chair Bilirakis, and Ranking
Member Schakowsky,

On behalf of the Center for Civil Rights and Technology, an advocacy hub of The
Leadership Conference on Civil and Human Rightsⁱ and The Leadership Conference
Education Fundⁱⁱ, we thank you for the opportunity to submit our views regarding online
privacy. We ask for this letter to be entered into the record of the Innovation, Data, and
Commerce Subcommittee hearing titled "Legislative Solutions to Protect Kids Online and
Ensure Americans' Data Privacy Rights" on April 17, 2024.

Technological progress should bring greater safety, economic opportunity, and convenience
to everyone. And the collection of demographic data is essential for documenting persistent
inequality and discrimination. But just as technology has created immense positive value by
creating economic opportunities, facilitating civil rights advocacy, and adding new voices to
our culture and public debate, it can also enable discriminatory conduct and give new tools
to powerful institutions to entrench and exacerbate existing disparities.

Today, despite efforts to enact a strong comprehensive federal privacy law, tens of millions
of people remain without any kind of legal protections for their personal data.ⁱⁱⁱ The lack of
legal protections means that they are discriminated against in housing, employment, credit,
education, finance, and other economic opportunities, and they are left in the dark about how

their personal data is used.^{iv} As we have told this committee previously, privacy rights are civil rights.^v

Accordingly, we are heartened by the continued focus by Congress on the important issue of people's privacy and are encouraged by the release of the American Privacy Rights Act of 2024 (APRA). The APRA contains important provisions that could address ongoing discrimination in housing, employment, credit, education, finance, and other economic opportunities stemming from biased algorithmic systems and data privacy abuses.^{vi} The proposal prohibits the use of personal data in a discriminatory manner in the provision of goods or services on the basis of protected characteristics. It would ensure that these protections would be incorporated into the sectors that need them most, through requirements to test algorithms for bias and to measure potential impacts on equal access to and eligibility for housing, employment, credit, education, insurance, health care, and public accommodations. The bill also appears to preserve state civil rights laws and other types of state laws that are important for the protection of consumers and marginalized communities. The data minimization requirements in the APRA will further protect the rights of individuals by limiting potential data surveillance.

Under the proposal, consumers would be able to hold companies accountable for data misuse through a private right of action. The Federal Trade Commission is given enforcement authority, and attorneys general and privacy agencies in every state in the country are empowered to enforce the APRA. Through these three layers of enforcement, consumers and our institutions will be able to effectuate meaningful change and hold bad actors accountable.

While we are still reviewing the proposal, the provisions described above are reasons why The Leadership Conference welcomes the release of the APRA. In 2014, The Leadership Conference, along with 14 signatories, released the "Civil Rights Principles for the Era of Big Data," (civil rights principles) calling on the U.S. government and businesses to respect and promote equal opportunity and equal justice in the development and use of data-driven technologies.^{vii} While the terminology has shifted from "big data" to "AI," the issues remain the same and the threats technology can pose to civil rights have only grown.

Recognizing this increased urgency, as well as the growing disparity between the vast amount of personal data available to companies, and the very limited amount of information available to the public about how companies are using it, in 2020, The Leadership Conference, along with a number of advocacy and civil rights organizations, released updated civil rights principles.^{viii} Those principles include ending high-tech profiling; ensuring justice in automated decisions; preserving constitutional principles; ensuring that technology serves people historically subject to discrimination; defining responsible use of personal information and enhancing individual rights; and making systems transparent and accountable.

Although the APRA is a very positive step in the right direction and in line with our civil rights principles, there are changes that need to be made for it to be truly impactful. Any privacy legislation moving forward must preserve state civil rights laws and other types of state laws important for the protection of consumers, as well as provide for robust enforcement authority across both the federal government and state governments. Additionally, we have concerns about preemption of existing state data privacy laws under the bill. Further, the legislative language must be tightened to disallow data

brokers from inappropriately selling private consumer data to both public and private entities, Congress must ensure that “Big Tech” and other companies are held accountable for the data they collect and use, especially when those actions impact people’s lives. Any loopholes or exceptions must be closed and the scope of the entities covered by the APRA, as well as the protected classes in the bill, must be tailored to ensure individuals are fully protected. It is critical that those important protections for all people remain, and are built on, as the bill moves forward.

We stand ready to work with Congress on policies that will protect civil rights, prevent unlawful discrimination, and advance equal opportunity. Should you require further information or have any questions regarding this issue, please feel free to contact Jonathan Walter, policy counsel, at walter@civilrights.org; Frank Torres, privacy and AI fellow, at torres@civilrights.org; or Alejandra Montoya-Boyer, senior director of the Center for Civil Rights and Technology, at montoyaboyer@civilrights.org.

Sincerely,



Koustubh “K.J.” Bagchi
Vice President, Center for Civil Rights and Technology

ⁱ Founded in 1950, The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States.

ⁱⁱ The Education Fund was founded in 1969 as the education and research arm of The Leadership Conference on Civil and Human Rights

ⁱⁱⁱ Thorin Klosowski, “The State of Consumer Data Privacy Laws in the US (And Why It Matters), N.Y. Times (Sept. 6, 2021), <https://www.nytimes.com/wirecutter/blog/state-of-privacy-laws-in-us/>.

^{iv} “The Leadership Conference on Civil and Human Rights Views on Discussion Draft of The American Data and Privacy Act,” The Leadership Conference on Civil and Human Rights (June 14, 2022), <https://civilrights.org/resource/letter-to-house-energy-and-commerce-committee-on-the-american-data-privacy-andprotection-act/>.

^v “The Leadership Conference on Civil and Human Rights Views on Discussion Draft of The American Data and Privacy Act,” The Leadership Conference on Civil and Human Rights (June 14, 2022), <https://civilrights.org/resource/letter-to-house-energy-and-commerce-committee-on-the-american-data-privacy-andprotection-act/>.

^{vi} “The Leadership Conference on Civil and Human Rights Views on Discussion Draft of The American Data and Privacy Act,” The Leadership Conference on Civil and Human Rights (June 14, 2022), <https://civilrights.org/resource/letter-to-house-energy-and-commerce-committee-on-the-american-data-privacy-andprotection-act/>.

^{vii} “Civil Rights Principles for the Era of Big Data,” The Leadership Conference on Civil and Human Rights (Feb. 27, 2014), <https://civilrights.org/2014/02/27/civil-rights-principles-era-bigdata/#:~:text=Technological%20progress%20should%20bring%20greater,documenting%20persistent%20inequality%20and%20discrimination.>



^{viii} Press Release, “Civil Rights Leaders Announce Principles to Protect Civil Rights and Technology,” The Leadership Conference on Civil and Human Rights (Oct. 21, 2020), <https://civilrights.org/2020/10/21/civil-rightsleaders-announce-principles-to-protect-civil-rights-and-technology/>.