



June 14, 2021

The Honorable Maria Cantwell
United States Senate
Chair, U.S. Senate Committee on Commerce,
Science, and Transportation
511 Hart Senate Building
Washington, DC 20510

The Honorable Roger Wicker
United States Senate
Ranking Member, U.S. Senate Committee on
Commerce, Science, and Transportation
555 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Blumenthal
United States Senate
Chairman, Subcommittee on Consumer Protection,
Product Safety, and Data Security
706 Hart Senate Office Building
Washington, DC 20510

The Honorable Marsha Blackburn
United States Senate
Ranking Member, Subcommittee on Consumer
Protection, Product Safety, and Data Security
357 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Cantwell, Wicker, Blumenthal, and Blackburn:

Privacy for America, a coalition of top business trade organizations and companies representing virtually every sector of the American economy, shares your commitment to provide meaningful privacy protections to consumers by granting enhanced enforcement authority to the Federal Trade Commission (“FTC”). We believe that strong enforcement is essential to ensure compliance with the law, deter harmful behavior, and provide meaningful protections to consumers. To that end, we urge bipartisan collaboration to swiftly enact legislation granting the FTC the authority to obtain monetary relief under Section 13(b) from companies engaging in activity that companies have clear notice is harmful to consumers.

Support for FTC Section 13(b) authority aligns with Privacy for America’s proposed framework for comprehensive federal privacy legislation (the “Framework”).¹ The Framework was developed by our coalition to clearly define and make illegal data practices that would harm consumers or otherwise make personal data vulnerable to breach or misuse while preserving the ability for industry to use data responsibly and to foster innovation. A key component of our Framework is a proposal to significantly strengthen enforcement and oversight from federal and state authorities, particularly the FTC. The Framework would create a new Bureau within the FTC to enforce a national privacy law, and it would empower the FTC to obtain civil penalties upon first violation of such a law. The Framework would also put companies on notice of prohibited conduct by enumerating certain practices as *per se* unreasonable, an approach that could strengthen the FTC’s 13(b) authority to protect consumers and create a fair marketplace for responsible businesses.

¹ A copy of the Framework can be found at <https://www.privacyforamerica.com>.

In the wake of the Supreme Court’s decision in *AMG Capital Management, LLC v. FTC*, we are concerned that the FTC is now left with limited tools to redress consumer harms through monetary relief.² Acting FTC Chairwoman Rebecca Kelly Slaughter noted that absent Congressional action, “the FTC will be far less effective in its ability to protect consumers and execute its law enforcement mission.”³ FTC Commissioner Christine Wilson has also noted that “congressional clarification of 13(b) would help immensely” in the FTC’s effort to “pursue wrongdoers.”⁴

We are encouraged by bipartisan Congressional efforts in bolstering the FTC’s authority to provide meaningful protections to consumers and strongly support efforts to strengthen the FTC’s authority to obtain monetary relief under Section 13(b) for violations of consumer protection laws.

Privacy for America thanks you for your efforts on this important issue.

Sincerely,

Privacy for America

² *AMG Capital Management, LLC v. Federal Trade Commission*, 141 S. Ct. 1341 (2021), available at: https://www.supremecourt.gov/opinions/20pdf/19-508_l6gn.pdf.

³ Federal Trade Commission, *FTC Asks Congress to Pass Legislation Reviving the Agency’s Authority to Return Money to Consumers Harmed by Law Violations and Keep Illegal Conduct from Reoccurring* (Apr. 27, 2021) available at: <https://www.ftc.gov/news-events/press-releases/2021/04/ftc-asks-congress-pass-legislation-reviving-agencys-authority>.

⁴ Hearing on Strengthening the Federal Trade Commission’s Authority to Protect Consumers before the Senate Com. Comm., 117th Cong. (2021) (Testimony of FTC Commissioner Christine Wilson).