June 22, 2022

Hon. Janice D. Schakowsky  
Chair, Subcommittee on 
Consumer Protection & Commerce 
Committee on Energy & Commerce 
U.S. House of Representatives 
Washington, DC 20515

Hon. Gus M. Bilirakis  
Ranking Member, Subcommittee on 
Consumer Protection & Commerce 
Committee on Energy & Commerce 
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Dear Chair Schakowsky and Ranking Member Bilirakis:

I am writing on behalf of the more than 31,000 members of the Federal Law Enforcement Officers Association (FLEOA) to advise you of our concerns regarding the proposed legislation H.R. 8152, the “American Data Privacy and Protection Act” (ADPPA).

A federal privacy law is important, but the bill now pending before the Subcommittee has been loaded with provisions that may completely undercut the ability of federal and state law enforcement officers to use private sector services to support investigations if those services also serve corporate anti-fraud customers. H.R. 8152 must be amended to support law enforcement and private sector crime detection and prevention activities before it deserves serious consideration in Congress. The draft privacy law also seems to pick and choose which types of state and federal law violations companies can assist law enforcement in addressing. Specifically, that such support would be allowed for murder investigations or crimes, which “directly harm another person,” but apparently not for money laundering, tax violations, organized retail theft, embezzlement, money laundering or illegal immigration. We do not believe this is the time to enable oligarchs and money laundering, nor that a privacy law should limit what federal laws can be enforced?

The restriction of the use of data for investigation of crime also runs counter to recent statements of the Biden Administration and government agencies. The White House, the Pandemic Response Accountability Committee, the United States Secret Service, the Federal Bureau of Investigations, and Homeland Security Investigations have all made statements on the effectiveness of the use of data in financial investigations, specifically finding and prosecuting the groups and individuals responsible for stealing hundreds of billions of dollars in pandemic relief.

As proposed, the ADPPA ties the hands of our law enforcement professionals and prevents them from protecting the American taxpayers from fraud, waste, abuse, and the continued victimization of our vulnerable populations the elderly and children. The ADPPA is not in the interest of the American people, but instead empowers transnational criminal groups, fraudsters, human traffickers, and even pedophiles by taking away law enforcement’s most powerful and effective investigative tool: data and data analysis from public – private partnerships.
Law enforcement agencies typically use data services from the private sector to aid criminal investigations of illegal activity. Criminals have access to reams of stolen data and sophisticated technology. Law enforcement needs similar data tools and technology resources to fight back effectively. The services provided to law enforcement are usually the same services used in the private sector to combat fraud and other crimes. Law enforcement costs would increase enormously if services used to support law enforcement could not also be used by the private sector for fraud prevention.

The ADPPA targets and handicaps services that do not get their data directly from consumers, which are the most effective anti-crime tools available to prevent fraud and assist law enforcement in carrying out their criminal investigations. As drafted, the ADPPA requires that such firms allow any consumer – including fraudsters, pedophiles, and other violent criminals – to demand that companies delete all covered data they hold about the person from their service and no longer collect data about them in the future without their consent. This allows criminals to submit such deletion requests, seriously impeding law enforcement and corporate investigations. These issues are just the tip of the iceberg in terms of the roadblocks added by the ADPPA that would prevent the efficient detection, prevention, investigation, and prosecution of crime.

The ADPPA also exempts publicly available information from its scope, but then restricts access to that information if it is combined with other types of information. Such combinations make the service more accurate and complete – and the bill also seeks to regulate “inferences” drawn from public information about individuals. Such inferences and other analysis can also be critically important to private and government efforts to investigate major fraud.

In short, provisions of the ADPPA that on their face appear to address marketing data broker uses are also very clearly aimed at limiting criminal investigations. Our country needs a good privacy law, but failure to address these issues in the ADPPA will dramatically constrain the ability of the law enforcement community and the private sector to investigate criminals and protect consumers. Failure to fix the ADPPA will drive up crime and fraud costs for law enforcement, businesses, and consumers across the United States at a time when we can least afford it.

On behalf of the membership of the Federal Law Enforcement Officers Association, thank you again for your consideration of our concerns on this very important issue. We look forward to hearing from you to ensure that the ADPPA is addressing the needs of the law enforcement community overall.

Sincerely,

Larry Cosme
Larry Cosme
President
Federal Law Enforcement Officers Association
cc: Hon. Frank Pallone, Jr., Chair, House Committee on Energy & Commerce
    Hon. Cathy McMorris Rodgers, Ranking Member, Committee on Energy & Commerce