



July 19, 2022

The Honorable Frank Pallone  
Chair  
House Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers  
Ranking Member  
House Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Jan Schakowsky  
Chair  
House Energy and Commerce Subcommittee on  
Consumer Protection and Commerce  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Gus Bilirakis  
Ranking Member  
House Energy and Commerce Subcommittee on  
Consumer Protection and Commerce  
United States House of Representatives  
Washington, D.C. 20515

**Re: Markup of H.R. 8152, the “American Data Privacy and Protection Act”**

Dear Representatives Pallone, Rodgers, Schakowsky, and Bilirakis:

On behalf of the National Restaurant Association, we once again thank you for the opportunity to submit comment regarding H.R. 8152, the “American Data Privacy and Protection Act” (ADPPA).

Founded in 1919, the National Restaurant Association (“The Association”) is the leading business association for the restaurant and foodservice industry, representing national and small restaurant businesses. As the nation’s second-largest private sector employer, with nearly one million locations across the country, the restaurant industry is a vital driver of the U.S. economy.

While 90% of restaurants across the country have less than 50 total staff, restaurants of all cuisines and sizes routinely safeguard their most valuable assets. Whether it is putting cash and receipts in a register or safe, maintaining the highest standards when selecting, storing, and preparing food, or providing a safe environment for customers and employees alike, security is a priority for restaurant operators. Securing our customers’ personal information is no different. As the backbone of every community, restaurant operators build their business on trusted relationships with their guests and rely on robust data privacy and security practices to strengthen that trust in today’s digital economy.

Our industry firmly believes that consumers across the country should be empowered to control their data. To this end, we continue to support Congress’s efforts to enact a uniform, federal data privacy law that creates privacy protections for all consumers and obligations for all businesses handling consumers’ personal information, and we appreciate the Committee’s goal to embody those principles within the ADPPA.

Since the ADPPA was first introduced, the Association has worked collaboratively with Committee staff to provide thoughtful feedback on how to improve the ADPPA before the bill is voted on by the full House of Representatives. In particular, we thank you and your staff for your willingness to make important changes that will preserve customer loyalty programs, which are critical to our industry’s success and allows our customers to continue enjoying the discounts and other benefits they already and expressly choose to enjoy today. We also appreciate your work on a bipartisan amendment to require service providers and third parties to meet certain statutory obligations so that there are no privacy loopholes that leave consumers unprotected when their personal data is handled by any business, regardless of where an individual lives.

However, we are disappointed to see that the newest version of the ADPPA continues to fall short with respect to a few key issues. As drafted, the bill still retains far too many carveouts for other relevant state-level privacy laws, consumer protection laws, and laws that govern both employee and biometric data, among others. These carveouts nullify the bill's preemption provision and would require businesses to continue complying with the multitude of federal and state laws that already exist today. Further, the latest version of the legislation still includes a robust private right of action that would enable trial lawyers to act as privacy "trolls" by creating class action lawsuits for alleged violations that may not have actually occurred. The revised two-year implementation for this type of enforcement will not improve consumer protection and instead result in restaurants and other consumer-facing businesses being forced to fight never-ending lawsuits.

In sum, the Association appreciates the Committee's effort to work collaboratively with us on issues that impact the restaurant industry, but we ultimately believe that further significant changes must be made for this legislation to garner our support for a vote on the House floor. We hope that you will continue to work with the Association in good faith to make these further changes so that the ADPPA becomes a workable federal data privacy standard that will protect consumers and allow businesses to safely and effectively handle personal information.

Sincerely,



Brennan Duckett  
Director, Technology & Innovation Policy