

**COMMENTS OF**

**INTUIT INC**

**ON THE**

**FEDERAL TRADE COMMISSION**

**PRELIMINARY STAFF REPORT:**

**PROTECTING CONSUMER PRIVACY IN AN ERA OF RAPID CHANGE**

**A PROPOSED FRAMEWORK FOR BUSINESSES AND POLICYMAKER**

**FEBRUARY 17, 2011**

Intuit thanks the Federal Trade Commission for the opportunity to comment on its proposed framework for protecting consumer privacy, and we applaud the Commission for its extensive work to evaluate the effectiveness of consumer privacy and its thoughtful work to develop the proposed framework.

## About Intuit

Intuit was founded in Silicon Valley nearly 30 years ago, and is dedicated to solving important problems by using technology to simplify financial management for consumers and small business. Our mission on behalf of consumers and small businesses is to provide products, services and tools that improve our customers' financial lives so profoundly that they cannot imagine going back to the old way. In addition to the commercial enterprise, Intuit's mission as a corporate citizen is also carried through more than a decade of philanthropy that enables eligible lower income, disadvantaged and underserved individuals and small businesses to benefit from our tools and resources for free.

Today, we are one of the nation's leading providers of tax, financial management and online banking solutions for consumers, small and mid-sized businesses, accountants and financial institutions.

Our familiar brands, TurboTax ([www.turbotax.com](http://www.turbotax.com)), Quicken ([www.quicken.com](http://www.quicken.com)), Mint ([www.mint.com](http://www.mint.com)), and QuickBooks ([www.quickbooks.com](http://www.quickbooks.com)) are designed to help our customers -- individuals and small businesses -- improve their financial lives. This means we help them make or save money, be more productive, and be in compliance. For example, Intuit makes it easy for any small business owner to get customers, get paid, pay employees, track sales and expenses, and do financial and tax planning. We do this by organizing, displaying, summing, and using our customer's information as triggers for alerts to serve their needs and requirements.

Intuit also helps consumers manage their health and medical expenses. Among other offerings, Intuit cooperates with several health plans to provide *Quicken Health<sup>sm</sup> Expense Tracker*; a service that gathers medical expense information in one place, enabling the consumer to find and correct errors, to make medical expense payments easily, and to transfer relevant information smoothly to their income tax returns.

Intuit is pleased to see that Commission recognizes the importance of both respect for the consumer control of information and the value and benefit of continued innovation. Intuit was actually founded on the idea of consumer-driven innovation. For nearly 30 years, our passion for inventing products to solve important problems, and perfecting those products to delight our customers, has made Intuit the first choice in financial software for consumers and small business. Our respect for the customer is reflected in the policies and practices that have driven our business, and trusted data stewardship has been central to that commitment and to our success.

## The Intuit Philosophy and Strategic Approach to Data

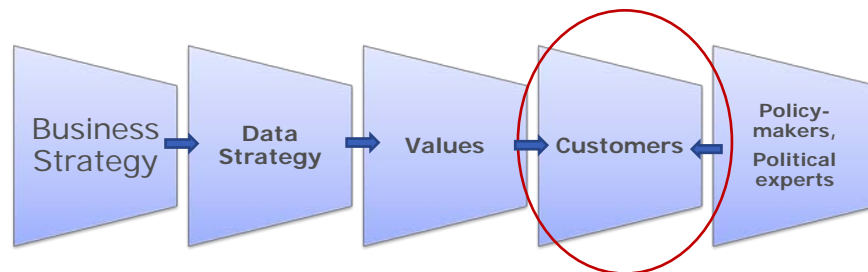
Intuit’s customers entrust us with their most sensitive data, including: their federal and state income tax return information; their individual purchase transactions, bill payments, and health information; and their business accounts, including employee payroll, accounts receivable, vendor lists, inventory and other business data. We are widely recognized and respected for our strong privacy and security practices. Maintaining our customers’ trust is critical to maintaining our business. Recognizing that importance has led our experienced privacy team to undertake a formal examination of how we inform our customers about how and what information we collect, process, use and then protect, so that the customer may understand what we do, know what to expect from us, and actively choose to participate.

Our formal examination included reviewing our company value system (notably our first business value which underpins everything we do: Integrity without Compromise), our privacy policies, and our data use practices. This review helped us articulate what we stand for. We then formed an aligned and informed philosophy that we term “Data Stewardship Principles” that guide our use of information in our products and in business operations. The principles have undergone thorough review within Intuit, including extensive research in our customer community, and with external thought leaders.

### Data Stewardship Principles – How they were developed

Intuit needs simple and clear data principles that:

1. Guide our behaviors and mindsets about using data
2. Enable our customers to have trust and confidence that how we handle and safeguard their data
3. Enable us to shape the external perceptions and rulemaking about data use



Principles are guardrails – judgment will be required

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“Accountability” is the foundational principle for our approach to Data Stewardship, both as a baseline concept and for Intuit’s internalization and application. Intuit has participated with the Center for Information Policy Leadership as part of the Accountability Project (which built on ideas in the OECD Guidelines, the EU Privacy Directive), and the work in forming the APEC Privacy Framework, as well as U.S. federal and state law.

Accountability is a central tenet in Intuit's treatment of our customer's information: we are and will be accountable for the information entrusted to us. We will provide explanations of why we ask for information that may be sensitive; we will give choice in whether information is disclosed to another organization; we will hold our service providers to the same standards we hold ourselves. Of course, we will use customer information in normal business operations: to maintain customer lists for marketing; to bill our service subscribers; to provide shipping information to our fulfillment vendors; to complete payment processing; and to determine how our products and services are being used so that we may improve the customer experience. By design, our Data Stewardship Principles align closely with globally recognized fair information practices, including those for online privacy developed in the late 1990s and to their originating concepts, the OECD privacy principles. As we have learned, we believe the Principles identified below are the ones that carry the most weight and meaning to actual consumers, based on an extensive research process we will describe below.

## Data Stewardship Principles

### What we stand for:

- We are all accountable for upholding the data stewardship principles, which are consistent with our company values, especially Integrity without Compromise
- Our customers' privacy (and their customers' and employees') is paramount to us
- Our customers place a deep trust in Intuit because we hold their most sensitive data...therefore, we are a trusted steward of their data

### How we run our business (what we hold ourselves accountable to):

#### We will not:

- Without explicit permission, sell, publish or share data entrusted to us by a customer that identifies the customer or any person
- Sell, publish or share anonymized aggregate data entrusted to us by a customer in a way that would allow the customer or any person to be re-identified

#### We will:

- Use customer data to help our customers improve their financial lives
  - This means: we help them make or save money, be more productive, be in compliance
- Use customer data to operate our business, including helping our customers improve their user experience and understand the products and services that are available to help them
- Give customers choices about our use of data that identifies them
- Give open and clear explanations about how we use data
- Train our employees about how to keep data safe and secure, and educate our customers about how to keep theirs and their customers' data safe and secure

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## The FTC's Proposed Framework for Businesses and Policymakers Alignment with Intuit Philosophy and Strategic Approach

Intuit believes that any U.S. consumer privacy framework should empower and protect consumers, enable innovation in the 21<sup>st</sup> century, and enhance global competitiveness. Our products and services are inherently both data-driven and customer-driven. Customers use our products and services to manage their personal lives and businesses, 24/7. Trust is woven into the user experience...our users know what to expect from us. They look to Intuit to improve and simplify their lives in ways so profound that they won't go back to their old way of doing things.

As Intuit looks to the future (where our customers are going, where the marketplace and technology is going) we see an ever-increasing pace of change and expectations from current and future customers. Both new offerings and enhancements to existing offerings will employ more and more sophisticated, rich, real-time interactive use of data. To retain consumer trust in that context, Intuit's vision is that privacy and security are central to the concept of customer "delight", and therefore serves as a competitive advantage. For innovation to succeed, creative re-use of data, under a Data Stewardship regime, is a must. The essence of Data Stewardship cannot rely on just one element of our principles, it must be comprised of all of them combined: customer-driven innovation coupled with responsible, innovative, and compelling data uses. Moreover, as global competitiveness evolves beyond the bricks-and-mortar economies of the past, and international trade takes on an electronic character in the economy of the future, sound business practices and wise public policy are critical components of innovation, invention, and full, fair and open competition. Attached is a link to our Intuit 2020 Report for your reference: [http://httpdownload.intuit.com/http.intuit/CMO/intuit/futureofsmallbusiness/intuit\\_2020\\_report.pdf](http://httpdownload.intuit.com/http.intuit/CMO/intuit/futureofsmallbusiness/intuit_2020_report.pdf)

- **Comments on the scope of data covered by the Proposed Framework**

- We note that the concept of PII is not explicitly present and is replaced by "consumer data", a much broader category. We interpret the term to mean any data that could identify a person even when commonly considered PII identifiable data (name, address, SSN, etc) is not present. This could cover everything from account numbers, email, device ID, IP address, browser type, session ID, to individual data items entered by a customer into our products as they manage their finances or small business. However, it could be extrapolated to mean any data obtained from a consumer or about a consumer. Intuit encourages the Commission to develop a precise definition or scope to the data covered by the proposed framework, and that such a definition not be overly broad. While Intuit's approach to Data Stewardship encompasses a range of data from or about a consumer (because of how we run our business and deliver Software as a Service offerings where much of the data is located and secured), we also believe that the scope should not be overly broad as a baseline for privacy protection in the U.S., because in other organizations that data may be widely distributed and not associated with a person. We would welcome the opportunity to work with the Commission to develop a clearer definition that would create clearer understanding and certainty for consumers and for businesses.
- We encourage the Commission to incorporate a use-centered approach to data, meaning that different levels of data need different levels of protection, based on the business purpose, on the level of individual participation; and that a company's obligations derive from those uses. For example, our customers give us permission to use their online banking credentials in order to update

their financial account transactions, on their behalf, into their Mint.com or Quicken accounts. The update of users' financial transactions is a key benefit and provides significant ease of use and reliability while using these products. That credential data must be handled and protected to the highest standard possible, including highly restricted access controls and rigorous encryption of the credential data in transit and at rest. Less restrictive standards could apply to statistical compilations of data, used for internal analysis only about the user experience when using Mint.com or Quicken.

### **The Proposed Framework, Privacy by Design and the Intuit Approach to Data Stewardship**

Our history of customer-driven innovation is part of the DNA of how we run our business every day. As we developed and refined our Data Stewardship Principles, as our established practices suggest, we would take our customers along with us on the journey to define our value principles about the use of data in a way that reflects the needs, concerns and values of those customers. We took draft Data Stewardship Principles directly to our customers and asked them for their feedback, on both the concepts and words, on intent and practical, with real-world customer experience and expectations. We conducted 2 rounds of quantitative, statistically valid surveys that cut across multiple customer bases and product lines to get feedback and learn if Data Stewardship and Privacy mattered to them, which principles and how much. We conducted 2 rounds of qualitative customer focus group sessions to dive deeper into the subtleties of transparency, choice, data use cases and security.

Staying true to customer-driven innovation, we iterated and refined the Data Stewardship Principles over the course of the customer research process. After several rounds of input and iteration, the Principles have been extremely well received

Here is what we learned in summary.

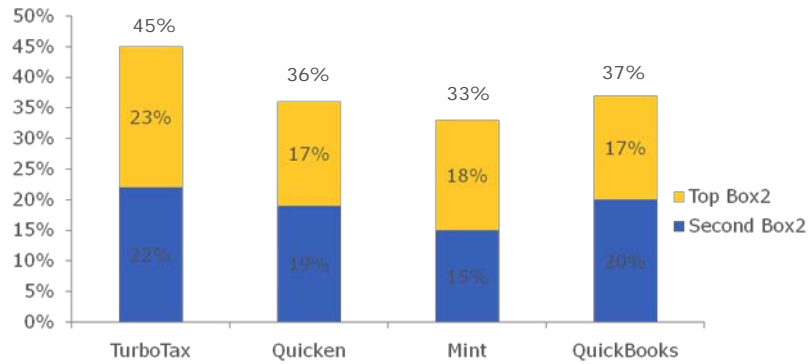
- Customers may not read privacy policies but care deeply about how their data is used.
- Consumers are smarter than some give them credit for.....they are aware of a wide range of data uses, to benefit them directly and for necessary internal business operations.
- While a majority of our customers already have a positive impression of Intuit, the Data Stewardship Principles further build trust.
- Across all research studies, the principle around not selling or sharing data is the most important.
- The more transparent (meaning open, simple and clear) the company is, the more customer trust increases and the customers' need for detailed and frequent or repetitive choice mechanisms appears to decrease.

- Training employees to uphold these principles is also important to customers and adds an incremental level of trust that we will deliver against our promises.

## Customer Trust and Confidence Baseline

### Current Overall Level of Trust (Before Exposure to Principles)

Overall, our customers have a high level of trust in Intuit.  
Trust improves the longer a customer is with Intuit.



Q4: Overall, please indicate the level of trust you have towards Intuit in keeping your financial and personal information safe.

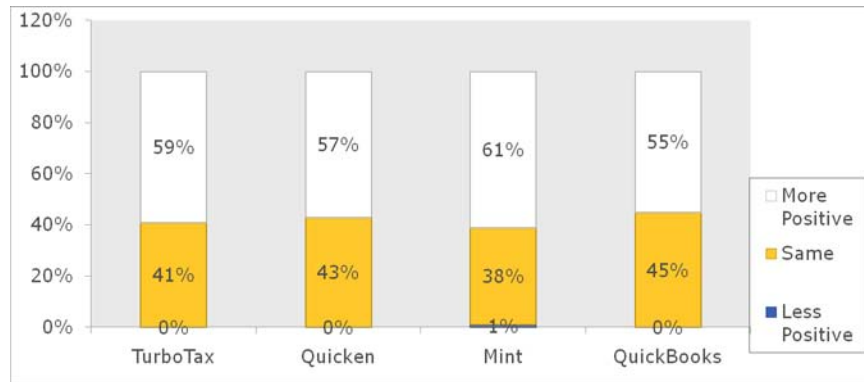
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## Customer Trust and Confidence increases dramatically after reviewing Data Stewardship Principles

## Impression of Intuit (After Exposure to Principles)

The majority feel better about Intuit after reading the principles.



Q6. After reading these principles, is your impression of how Intuit handles your financial and personal information...?

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Here are a few illustrative verbatim statements from our customers that show what Intuit's Data Stewardship Principles mean to them:

- *"This is what makes customers trust them. I like that privacy is paramount & do believe they're committed to this."*
- *"Customer focused, protecting my data and interests, holding themselves accountable."*
- *"I like that these principles are VERY SPECIFIC. There is no doubt, or any way to not understand EXACTLY how Intuit intends to treat my information. I like that."*
- *"Because of these principles, I will continue to use their products."*
- *"A little safer in an unsafe world."*

When customers participate directly in the shaping of Data Stewardship Principles, it brings to life the FIPPs concepts of Transparency and Individual Participation in profound ways. Intuit believes policymakers and regulators can learn from our experience and our customers' feedback.

Specifically, we have learned that a principle-based, non-prescriptive approach to privacy is substantive and meaningful to consumers, and will provide more flexibility in adapting to a wide range of industries and data uses, innovation and invention.



Intuit will continue to research the impact of Data Stewardship Principles on customer behavior, focused on transparency and choice, using experience design and A/B testing techniques, and can make a summary of those results available, when the research is complete, if the Commission is interested.

**The specific elements the Commission Proposes in Privacy by Design align with Data Stewardship at Intuit**

The specific elements the Commission Proposes in Privacy by Design align with Data Stewardship at Intuit, from our vigorous focus on the customer, on implementing processes to enable compliance and how we innovate using data to benefit our customers' financial lives.

- Data Security – At a minimum, Intuit applies the FTC Safeguards to customer data. But the Intuit information security team partners with the privacy team and our businesses to go even farther to protect our customers. Together, we help the business write and test secure code, and set proper authentication and access controls. Moreover, Intuit has mandatory annual security training for all employees, and we provide security best practices resources and training for our consumer and small business customers.
- Reasonable Collection Limits – Intuit believes setting principles around reasonable limits to data collection is feasible, and is consistent with our approach. However, because Intuit customers use our products to manage their financial and business lives on an hourly, daily or weekly basis, the scope of what we and our customers consider reasonable limits to collection is by its very nature much broader and may not be relevant to the Commission's thinking on this topic. We believe, and in research our customers agree, that we collect a very reasonable and appropriate amount within a connected services/Software as a Service context.
- Retention – Intuit agrees that organizations should have data retention programs. Any approach to data retention should be flexible and allow different businesses to set retention periods based on delivering a product or service, customer requirements, applicable legal requirements or published commitments.
- Data Accuracy – It is an important business objective for the data that we collect, use and store to retain its integrity and accuracy. Data that lacks these qualities creates unnecessary risk for consumers and the organization alike. At Intuit, data accuracy goals fit with our Data Stewardship Principles and are part specific programs to maintain customer data accuracy.
- Comprehensive Data Management Procedures --Intuit agrees that organizations should have data management procedures consistent with the uses, obligations and types of data it collects, uses and stores, which address, integrity, availability, retention and security.

- The impact of Legacy Data Systems must be carefully considered within the context and successful implementation of Privacy by Design. Legacy systems present unique challenges to organizations, because those systems create many practical data management issues. Those issues include data structures that may not “talk” to other systems’ data, data that is not readable through any other user interface (UI) or reporting method, and systems and data that require technical resources with unique skills to maintain their functionality and integrity. Therefore, these complexities are one reason why we recommend the Commission avoid technology-specific requirements regarding data quality, integrity and access. Additionally, given the rapid pace of innovation, technology-specific requirements quickly become obsolete as newer technologies are utilized to thwart continued attempts of hackers to access data. A principles-based approach allows industry the flexibility to modify and improve technologies to accomplish objectives while also giving them the flexibility to manage legacy systems.

- **Simplified Choice**

Intuit applauds the Commission for creating and proposing a framework for “commonly accepted practices”, activities virtually every business conducts every day to function – financial operations and reporting; fulfillment, service delivery and customer service and support; managing, paying and providing benefits to employees; customer research; securing intellectual property; preventing and detecting fraud and other cybercrime; developing new products and services and helping customers understand the products and services that are available to them. The FTC’s approach here is consistent with the data and feedback Intuit has gathered as part of the Data Stewardship Principles customer research. In the research, Intuit customers were shown many use case examples of business operation activities, including ‘first party’ marketing, all of which they understood to be common practices. Intuit believes that first party marketing should be included in commonly accepted business practices, and managed by the choice mechanisms that are already in place via CAN SPAM, Do Not Call, and for Intuit, adherence to TRUSTe privacy seal requirements.

As a Software as a Service (SaaS) company, we provide services (products) that our customers use every day to manage their personal and business lives, 24/7, that always work, are always accurate and always secure. The use of the service and the data within the service is entered and manipulated by the customer. We believe that is very important for the Commission to understand that as a SaaS company, the framework for “commonly accepted practices” specifically includes “product and service fulfillment (what we call service delivery)” covering ongoing, interactive use of customer data at the request of the customer. This is what customers expect, and what they’ve paid for. Intuit believes that there are some use cases within SaaS service delivery, that customers should have the capability to ‘turn off’ data uses that are not relevant

to their needs. We are actively testing and analyzing those use cases with our customers now. Open, clear and honest explanations about data uses are a critical component in framing choice options. We believe there may be an opportunity to offer different methods of choice, within the customer experience. In the case of services that the consumer does not pay for, we are extremely clear about the data uses, and that choices are limited for free services.

### **Context is Crucial**

Intuit respectfully urges the Commission to recognize that different applications of data can and should have different requirements and different safeguards. Tax return information, such as that collected in the use of the TurboTax product, is already governed by a strict, specialized set of requirements under IRS Regulation 7216. Indeed, different types of data are governed by different statutes and regulations. Some uses of data are essential to delivering services and applications over the Internet, whether they be online services such as Quicken, Mint.com, QuickBooks Online, Intuit Online Payroll or Intuit Go Payment. Collecting information for use in routing a search request on the Internet should have different standards for transparency, acceptable uses, protection, and retention than the information collected to describe a patient's visit to a physician, payment processing or an electronic transfer of funds to a bank account. Each deserves protection but the shields for the identity of persons in medical studies, for example, need to be stronger and last longer because the information must be retained longer to serve its purpose. It is the use of the information as well as its characteristics that should inform our treatment of it. It is equally critical that the Commission take into account data in the context of mobile service offerings. Customer data collected through a mobile service such as Intuit GoPayment is identical to the customer data collected via the web version, and therefore should not be subject to different standards. Context is crucial.

### **The Role of Do not Track**

Intuit believes that Do Not Track is an idea that requires further detailed analysis and testing before mandating implementation. Browser companies can and should take the lead to evaluate the effectiveness and usability of Do Not Track tools by consumers. Intuit is testing the interaction of cookie-based or browser-setting techniques with our online Software as a Service (SaaS) offerings and other related products, which use tracking technology to function properly. We want to understand the impact on our customers' experience and overall product functionality. We are concerned about unintended consequences to customers who use Do Not Track while using our services. It would be an unfortunate, confusing and negative trust message if SaaS providers had to tell customers to turn off Do Not Track in order for the product to function properly and provide the intended and desired service. We would also encourage the Commission to determine the impact on multi-party online technology used by consumers such as online banking services and federated identity solutions. We are willing to share the results of our testing if the

Commission is interested in reviewing the results. We believe it is premature to legislate Do Not Track at this time until there is a full understanding of how it might be implemented in a manner which balances the needs of the customers with their ability to access and utilize the services they want.

### **Greater Transparency**

Transparency enhances and builds trust. As Intuit has brought our customers along with us on the development of the Data Stewardship Principles, the often abstract concepts of individual participation and transparency have come to life. Given the broad consumer base of Intuit customers, they could be considered a proxy for consumers overall. From our research, we know that – consumers understand data uses, both the benefits and risks, much more than they are given credit for. Consumers highly value open and clear explanations of how their data is used; the greater the transparency, the less compelled they appear to be to want choices at every turn. Intuit is testing different transparency mechanisms with our customers, including context-sensitive information, simple and short privacy notes, just-in-time short notices and presenting the Data Stewardship Principles. We are happy to share the results of these tests with the Commission if you are interested in learning more.

- Reasonable Access – Intuit products and services are built with access as a core part of the functionality. It's how customers get access to their accounts; manage their own data, transactions and financial management activities. We have long been a believer in this principle, strongly supporting consumer access.
- Consumer Education – Intuit wholeheartedly supports the important goal of consumer education. We believe we can help to “demystify data”. Today Intuit provides training and educational resources for our customers on our Security and Privacy Web Center. <http://security.intuit.com/>

### **Data Stewardship at Intuit, Accountability and the FTC proposed framework**

Intuit's Data Stewardship Principles and practical implementation approach is aligned with the Accountability Framework, and we believe is a proof point for the type of framework the Commission proposes.

We believe Accountability (see Accountability Project reference p.2) is more than risk and compliance assessments and validation or audits, or delivering on any one element of fair information practices.

Accountability is the sum of all promises (e.g. Data Stewardship Principles) an organization makes and the many mechanisms in place to make those promises real. It must include training and awareness building,

substantive executive sponsorship, governance bodies, performance metrics and reporting, business model analysis, along with the aforementioned risk and compliance validation.

Validation processes may incorporate a wide range of criteria, external and internal. External criteria may derive from 3<sup>rd</sup> party accountability agents such as TRUSTe or the Better Business Bureau, from technology or industry standards such as Payment Card Industry requirements or SAS70/SSAE-16, from government-industry agreements such as the U.S.-E.U. Safe Harbor Agreement or the APEC Privacy Principles Pathfinder Cross Border Privacy Rules, and of course from laws, regulations and enforcement actions.

### **A compelling need to align disparate privacy standards**

While so many laws and regulations are based on essentially the same principles, multi-state and multi-nation companies are challenged by the differences among them. Some regulations in breach notification, for example, require notification of some state agencies; others don't. The notification triggers and thresholds are different. And the definitions of important terms vary across the landscape.

In a domestic context, we support a uniform federal breach notification law. Aligning practices across states would provide benefits for consumers who purchase from merchants in other states. It would also lessen the complexity for merchants, a consistent goal in improving the economy.

In an international context, baseline principles that meet the E.U. and APEC principles would improve multi-national commerce, allowing the freer-flow of transactions across borders and thus improving our ability to export. Intuit agrees that the U.S. government should continue to work toward increased cooperation among privacy enforcement authorities around the world and develop a framework for mutual recognition of other countries' frameworks. Intuit agrees that the U.S. should also continue to support the APEC Privacy Principles Pathfinder Project, because it is the best framework to achieve data privacy interoperability in the 21st century.

There can be value in the idea of baseline, principle-based privacy legislation that could work in tandem with codes of conduct. However, to be accretive to current law, it must be a principle-based approach that is not prescriptive but enables flexibility to work within a wide range of data use contexts and existing sector privacy laws and, importantly, is technology-neutral. Due to the nature of Intuit's particular business portfolio, we are in the unique position of already working under multiple sector-specific privacy laws, and we have insights and experience regarding strengths and weaknesses of each. A principle-based approach could fill the gaps, crevices that exist between the differing sector approaches, while at the same time blending with them. A principle-based approach is more likely to be received and effectively adapted by all businesses, including small businesses or spectrum of businesses not actively engaged in the privacy landscape. A principle-based approach is more likely

to be understood by the public it seeks to protect. And a principle-based approach is more likely to achieve consensus over time in the international context, which will be essential to global competitiveness in the emerging digital economy. Such an approach could set forth a minimum set of requirements for business, and provide a fundamental, core level of consistency for businesses and consumers. Codes of conduct, based on context, industry/sector, technology platform or other data use drivers would build on top of a privacy baseline.

Intuit sees the proposed FTC framework can become a new paradigm for privacy in the U.S. In developing our Data Stewardship Principles, we believe we have an approach that is also a new paradigm, which aligns nicely with the Commission's thinking. We have a shared goal: that we can innovate using data to improve our customers' financial lives, in a trusted, real, and fundamental way, while protecting consumers every day.

***Intuit appreciates the opportunity to provide comments on the Proposed Framework for Business and Policymakers. We eagerly await the opportunity to help move the strategy forward.***