



Donald S. Clark
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Ave., NW
Suite CC-5610 (Annex C)
Washington, DC 20580

August 20, 2018

Re: Internet Association’s Initial Comments on the Federal Trade Commission’s Competition and Consumer Protection in the 21st Century Hearings — Project Number P181201

Dear Mr. Clark:

Internet Association appreciates the opportunity to provide its response to the Federal Trade Commission’s request for comments in advance of the Competition and Consumer Protection in the 21st Century Hearings. These comments generally respond to the Commission’s Topic 1, which is “[t]he state of antitrust and consumer protection law and enforcement, and their development, since the Pitofsky hearings.” With its dual competition and consumer protection missions, the Commission is well qualified to analyze the new issues that have emerged on competition and consumer protection since the 1995 Pitofsky hearings, with a focus on overall consumer welfare and innovation.

Internet Association is the only trade association that exclusively represents leading global internet companies on matters of public policy. Our mission is to foster innovation, promote economic growth, and empower people through the free and open internet. We believe the internet creates unprecedented benefits for society, and as the voice of the world’s leading internet companies, Internet Association works to ensure legislators, consumers, and other stakeholders understand these benefits.

Benefits of a Vibrant Internet Economy

In its short commercial lifespan, the internet has become an increasingly important way for people to interact with one another, share ideas, feelings, and thoughts, watch videos, discover music, find safe rides home, learn about new restaurants, research home properties, research and book lodging and other travel accommodations, and access so many other services that simplify formerly complex tasks.



The internet has become a crucial engine for global economic growth, innovation, and cross-border trade in goods and services by dramatically expanding the number of U.S. businesses that can compete on a global scale. Virtually every modern business — from large manufacturers, to farmers and small businesses in every town in America — uses internet-enabled tools to connect with domestic and foreign customers, bypassing traditional models of trade that required huge sums of capital and costly multinational supply chains.

Flexible, Fair Regulations are Key to Maintaining Consumer Trust and the Continued Vitality of the Internet Economy

Internet Association believes that regulations must be flexible in order to achieve the dual purposes of protecting consumers while continuing to promote innovation and competition, an approach that is consistent with the Commission’s approach to enforcement since the Pitofsky hearings.

While consumers’ use of technology has developed in ways few could have imagined back in 1995, the Commission’s ability to effectively leverage the enforcement authority set forth in Section 5 of the FTC Act has not changed. When online privacy and data security presented new challenges for the Commission, it adapted its use of Section 5 authority to develop robust online privacy and data security policies through workshops, reports, and hearings. Furthermore, when Congress identified gaps in the Commission’s enforcement capabilities vis-à-vis new uses of technology, it passed legislation — like the Children’s Online Privacy Protection Act and the Safe Web Act — to enhance the Commission’s enforcement capabilities with new tools designed to address specific concerns.

There is no one-size-fits-all approach to privacy and data security policy or enforcement. Enforcement should take into account the particular facts and circumstances at issue and should encourage companies to take innovative approaches to privacy and data security given each company’s resources, and the volume and sensitivity of the personal information each company collects. In addition, any framework should be technology-and-sector neutral. Flexibly applying clear consumer protection principles to all consumer-facing products and services will help consumers make more well-informed choices about the products and services they use, and will promote innovation by simplifying compliance for all businesses.

Because people increasingly rely on online services as a primary means of communicating with their loved ones, storing data, and engaging in financial transactions, companies in our industry strive to ensure that the policies that govern the use of their platforms are consistent with consumer expectations. Service offerings and consumer priorities change over time, and companies must work to ensure that their policies keep pace with those changes. Internet Association members are committed to giving people insight into how the



data they provide can and cannot be used, and many offer privacy-focused “dashboards” and other tools that help consumers manage access to the data they share online.

Global Legal Consistency and Flexibility Promotes Consumer Trust as well as Growth and Innovation

Our member companies operate online and are global in reach. To that end, a reliable and consistent global privacy and data security legal regime, with appropriate flexibility for different business sizes, models, and the sensitivity of the personal information collected, processed, and disclosed, would allow our members to not just comply with legal baselines, but to focus more broadly on being respectful stewards of the trust individuals around the world place in them. A reliable and flexible global legal regime would also allow our members to free up resources otherwise spent on complying with an inconsistent patchwork of laws for use in their continued innovation and our country’s economic growth.¹

We hope that the Commission will continue to work with the Administration and the Department of Commerce to assert a leadership position in advocating for more consistent and flexible legal standards globally.

Conclusion

Internet Association is keenly interested in many of the topics identified by the Commission for exploration, and we look forward to actively participating in the hearings and to providing comments on additional topics as appropriate in the coming months. We encourage the Commission to consider the overwhelmingly positive benefits our members’ products and services offer to consumers, and the important role that fair and reasonable policies play in fostering continued innovation and corresponding benefits, as it seeks to develop its competition and consumer protection policy for the 21st Century.

Respectfully submitted,

Michael Beckerman, President & CEO
Internet Association

¹ Soon-to-be-released research from Internet Association shows that certain approaches, such as those that require data localization and laws that restrict the free flow of data, likely induce the loss of tens of billions of dollars worth of economic activity and hundreds of thousands of U.S. jobs.