



**FTC Topic #5:**

***The Commission's remedial authority to deter unfair and deceptive conduct in privacy and data security matters***

*Of particular interest to the Commission: (a) the efficacy of the Commission's use of its current remedial authority; and (b) the identification of any additional tools or authorities the Commission may need to adequately deter unfair and deceptive conduct related to privacy and data security.*

Workday, a leading provider of enterprise cloud applications for finance and human resources, is pleased to submit comments in advance of the Federal Trade Commission's hearings on competition and consumer protection in the 21<sup>st</sup> century. Founded in 2005, Workday delivers financial management, human capital management, and analytics applications designed for the private sector, educational institutions, and government agencies and we work with organizations representing more than 31 million workers. Workday is headquartered in Pleasanton, California, with offices and customers across the U.S. We empower enterprises to process a wide variety of HR and finance-related transactions, gain new insights into their workforces and financial performance, and manage employees and financial outcomes consistently on a company-wide basis through our cloud-based applications. Workday's applications give customers real-time insights into their organizations, allowing them to make decisions based on data rather than guesswork. Being in the cloud also means that customers have access to their financial and workforce data whenever and wherever they need it, on any device. For employers, this translates to an ability to better manage the business, and for employees, it simplifies many daily transactions and democratizes access to critical data.

The Commission has exercised its authority under Section 5 of the FTC Act to sanction unfair or deceptive privacy practices many times over the past decade. As the Commission's 2017 Privacy and Security Update notes, the Commission has brought over 50 general privacy lawsuits. The resulting sanctions and consent decrees—and the obligations they impose, supported by third party auditing—are effective deterrents against substandard privacy practices. In addition, the Commission has embraced its role as a privacy regulator, regularly meeting with data protection authorities around the world, and vigorously enforcing compliance with the EU-U.S. Privacy Shield.

As part of Workday's support for a comprehensive Federal privacy law, we support a grant of rulemaking authority to the Commission in the area of privacy and security regulation. The Commission's case-by-case method of fleshing out what is an unfair and deceptive practice in the privacy and security areas has evolved into substantial guidance, but it depends on what violations the Commission uncovers and what cases ultimately are brought. However, for a regulatory regime to be effective in a fast-changing environment, and for it to give individuals comfort that their privacy rights will be protected, a set of concrete rules must be developed. And while we believe those rules, in the first instance, should be embodied in statute, there will be a need for more detailed regulatory guidance that can evolve as technology advances. We think that the Commission is the right privacy regulator, and that it should be empowered to set rules even in advance of bringing cases for enforcement.



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Thank you for the opportunity to submit comments in advance of the hearings. We stand ready to provide further information and to answer any questions you may have. Please do not hesitate to reach out to Jason Albert [ejason.albert@workday.com](mailto:ejason.albert@workday.com) if we can be of further assistance.