

December 19, 2018

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Pre-Hearing Comments in Advance of Upcoming Hearing on Consumer Data Privacy

Dear Commissioners:

Workday is pleased to provide brief pre-hearing comments in advance of the Federal Trade Commission's (FTC) February 2018 hearing on consumer data privacy.

Workday is a leading provider of enterprise cloud applications for finance and human resources. Founded in 2005, Workday delivers financial management, human capital management, and analytics applications designed for the private sector, educational institutions, and government agencies. Workday's cloud-based applications empower enterprises to process a wide variety of human resources and finance-related transactions, gain new insights into their workforce and financial performance, and manage employee financial outcomes consistently on a companywide basis.

At Workday, privacy protections have been a fundamental component of our services from the very beginning. Our third-party audit reports and standards certifications provide tangible evidence of how we protect our customers' data. When we develop new offerings, we implement privacy by design from the very beginning. We have received approval from European Union (EU) privacy regulators for our Binding Corporate Rules and were among the first companies to certify to the EU-U.S. Privacy Shield protecting personal data transferred from the EU. We've also built features that enable our customers to comply with the European Union's General Data Protection Regulation. Lastly, we were the first U.S. company to be certified under the APEC Privacy Recognition for Processors system.

We appreciate the FTC turning its attention to privacy as part of the series of Hearings on Competition and Consumer Protection in the 21st Century announced in June 2018. The questions the Commission intends to review are certain to provide an in-depth and timely dialogue. We would offer two consideration.

Incorporating OECD Principles

Workday believes that privacy rights must be protected through strong legislation and enforcement that ensures ethical use of individuals' information. Along those lines, we have publicly called for strong and comprehensive federal privacy legislation. The U.S. has a long privacy law tradition, stretching back to the Fair Information Practice Principles which provided

the doctrinal foundation for the Organization for Economic Cooperation and Development (OECD) Fair Information Principles.

In our view, the U.S. and other countries around the world should adopt privacy laws based on the OECD Fair Information Principles. A law based on the OECD principles will ensure fair treatment of individuals and their personal information, regardless of where they live or with whom they interact. The OECD principles provide a widely-shared common baseline for the 35 countries that are OECD members. The voluntary OECD principles cover all the core tenets of data privacy rights—data collection, data quality, purpose specification, use limitation, security safeguards, openness, individual participation, and accountability. Enacting these principles in U.S. national legislation should result in U.S. law being deemed adequate by the EU and will facilitate the continued free flow of personal data.

The questions posed by the FTC for consideration in the upcoming hearing include:

- *If the U.S. were to enact federal privacy legislation, what should such legislation look like? Should it be based on Fair Information Practice Principles?*

We would suggest that also encouraging consideration of the OECD Fair Information Principles as a basis of privacy legislation in the U.S. would provide meaningful discussion.

Incorporating Differing Business Models

The tech industry is far from monolithic and replete with varying business models including enterprise-based companies like ourselves that operate in the cloud. Rather than monetize personal data, cloud-based enterprise companies often operate predominantly in the business-to-business market and provide subscription-based services that protect data privacy, streamline processes, and increase efficiencies for companies throughout the U.S. and global economy. Both recognizing and addressing such differences will be key to the successful application of any federal privacy action that seeks to maintain prosperity and innovation while protecting personal data.

The questions posed by the FTC for consideration in the upcoming hearing include:

- *How might a comprehensive law based on Fair Information Practice Principles account for differences in uses of data and sensitivity of data?*

We would suggest encouraging a discussion of differences in business models as well as difference in uses of data. This could spur a recognition of the nuance of the tech industry that comprehensive application of federal action on privacy will require.

Thank you for the opportunity to provide pre-hearing comments prior the FTC's hearing focused on consumer privacy. We stand ready to provide further information and to answer any questions. Please do not hesitate to reach out to me at chandler.morse@workday.com for further assistance.

Sincerely,



Chandler C. Morse
Director of U.S. Public Policy