

January 24, 2020

The Honorable Jan Schakowsky  
Chair  
Subcommittee on Consumer Protection & Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Cathy McMorris-Rodgers  
Ranking Member  
Subcommittee on Consumer Protection & Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

**RE: Consumer Data Privacy Legislation and HR Data**

Dear Representatives Schakowsky and McMorris-Rodgers:

Thank you for your leadership on the important issue of protecting consumers' privacy. We have reviewed your consumer data privacy draft bill with interest and write to express our commitment to working with you and others on this issue.

HR Policy Association is the leading organization for Chief Human Resources Officers of more than 385 of the largest employers in the United States. Our member companies collectively employ more than 12 million individuals in the United States and are committed to maintaining a culture of trust in the workplace, especially as relates to workforce data.

We believe that legislation expanding privacy rights for consumers should not undermine employers' efforts to provide leading wages, benefits, and safe workplaces. We thus applaud your efforts to avoid the unintended consequences of sweeping HR data into new consumer privacy legislation by exempting such data.

However, we are concerned that the draft language may not achieve its intended purpose to exempt HR data. Section 17 (8)(A)(ii)(I) notes that "information that is processed solely for the purpose of employment of an individual by the individual's employer" is to be exempted. Critically, many large employers receive help from other companies to collect and process worker data in a secure, efficient manner. We recommend including the language "or processed on their behalf" to the end of the above clause in order to not interfere with this legitimate business practice.

The language further specifies that the exemption covers "any information regarding an individual that pertains to such individual in his or her capacity as an owner, director, or employee of a partnership, corporation, trust, estate, cooperative, association, or other type of entity." This, however, excludes those who are job applicants, potential job applicants (having placed their information on a job-searching site), officers, or contractors. By not extending the exemption to such data, the language would invite the unintended consequences it seeks to avoid. The language also leaves out "organization" from its list of covered entities with which an individual may have a work relationship, creating an inconsistency with the draft bill's definition of "covered entity" found in Section 17(7)(A).

Thank you for your consideration of our input. While supporting progress toward a federal standard for consumer data privacy, the employer community is keenly focused on ensuring that such legislation appropriately distinguishes HR data from consumer data.

We would welcome the opportunity to speak to your staff about this issue further.

Sincerely,

HR Policy Association