

Senator Maria Cantwell

Opening Statement Before the Senate Committee on Commerce, Science and Transportation

Hearing: Examining Legislative Proposals to Protect Consumer Data Privacy

Witnesses: The Honorable Julie Brill, Former Commissioner of the Federal Trade Commission, Corporate Vice President and Deputy General Counsel, Microsoft;
The Honorable Maureen Ohlhausen, Former Acting-Chair of the Federal Trade Commission, Co-Chair, 21st Century Privacy Coalition;
Ms. Laura Moy, Executive Director and Associate Professor of Law, Georgetown Law Center on Privacy & Technology;
Ms. Nuala O'Connor, Senior Vice President and Chief Counsel, Digital Citizenship at Walmart;
Ms. Michelle Richardson, Director of Privacy and Data, Center for Democracy and Technology

December 4, 2019

CANTWELL: Thank you, Mr. Chairman. It's safe to say this is the other hearing this morning. And not only that, I'm glad to see that all the witnesses testifying today are people I know for sure care about privacy. I think it's historic that it's an all-women panel this morning, but again, thanks to each and every one of you trying to advocate on these important issues.

Cyber Monday was just a couple of days ago, and it set a record – nine billion in sales and an increase of 19% over last year. For the first time ever, it was three billion dollars that came from people using smartphones to make those purchases. So during the peak hours between 11pm and midnight – I'm sorry, 11pm eastern time and midnight – consumers spent an average of eleven million dollars every minute.

So it's not just Cyber Monday that's reminding us, because we all know that we buy groceries, fill prescriptions, pay bills, connect to home devices to the internet, apply for loans, stay connected with family and friends, and social media, and so much more of our lives are lived online. Which means more information is shared, which means deeply, sometimes personal, information is shared. And that information can be used to be targeted or to exclude consumers, to be sold, or even worse, it can be stolen. And that's why we're here today. Because we want to protect consumers' privacy rights. We believe to do that you need strong enforcement and mechanisms to make sure that those rights are protected.

The risks that we face online are real. We know that companies today are using ads that might be only for the purposes of targeting what they think is a correct population – young men to work in software – but others can see those ads as discriminatory, or not making themselves available to what information is out there on a job. Google's Nest camera was involved in an alarming situation where a hacker was able to hack into a couple's baby camera, shouting obscenities before they were able to disable the device. A woman in Portland, Oregon had a private conversation, sent by an Alexa device when it went rogue, to a colleague. And then, of course, there's the huge issue of marketed and stolen information: Social Security numbers, login information, drivers' licenses, passports, all now going in the thousands of dollars on the dark web, and in fact in 2005 more than eleven billion consumers have had their information breached.

Just last month, the Washington state attorney general released a report saying that the number of data breaches in my state has increased nearly 20% in one year. So that is a matter of our digital footprints continuing to be under attack.

It is Congress' job to make sure Americans are protected and that this information, that is an ever-connected, ever-evolving world, is protected. And that is why a few weeks ago Senators Schumer, Brown, Murray, Feinstein, and myself, joined together to talk about a privacy framework, legislation from all of those committees, that we think would be important for the milestones, the privacy goals that we think should be met.

Last week, Senators Schatz, Klobuchar, Markey, and myself also introduced the Consumer Online Privacy Act, that guarantees rights to consumers and strong enforcement. As the Chairman mentioned, many of our colleagues here – Senator Blumenthal, Senator Thune, Senator Blackburn, and others – have been involved in these privacy discussions as well, and we welcome everyone's input on how we move forward.

The important things that we think should be there is that you should have the right to make sure your data is not sold. That you have the right to make sure your data is deleted. That you have the right to make sure that you're not discriminated against with data, and the right to have plain old transparency about what is being done on a website. All of these things are tangible and meaningful for consumers. I say they just need to be clear as a bell so that people understand what their rights are and so they know how to enforce them.

So today we're here to hear from a group of witnesses who are going to tell us how those issues might be interpreted for the future. But I think the director of the New York Law School's Innovation Center, Ari Ezra Waldman, recently made a statement that really resonated with me. He said, "we can pass any laws we want, but if there's no way to enforce them, then what's the point?"

So today we also have to talk about enforcement, because enforcement is going to be the key to making sure that privacy rights are actually upheld, that the consumer is truly protected. And if we want the consumers to have that protection, then we also have to make sure that there's accountability, that there's whistleblowers, that there is cases against abuses that might happen. If your privacy rights are violated, you need to be first able to find out about it, and then you need to have the power to do something about it as well, and that is why we think our strong legislation does so.

But I also want to say how much this issue is evolving. Today's Seattle Times features a very large announcement by the Knight Foundation and the University of Washington, and Washington State University, on this issue of the public being fooled by online manipulation – whether that is news stories, digital forgeries, or fakes. They want to focus on developing research and tools to resist misinformation, promote an informed society, and strengthen the discourse and discussion in America.

I'm so proud that these institutions are taking on this challenge, and that this kind of national initiative in our legislation, with NIST, the National Institute of Standards and Technology, at the Department of Commerce, would be empowered in the legislation we introduce to help with this effort.

While we're here today to talk about just some basics in digital hygiene online, the future though is this: the challenges we face as more and more misinformation, forgery, things we can't even detect whether they're true or not, will continue to appear online. We need to build a strong system today in a federal

framework that will help us continue to grow for the ever-changing technology future. That's what we're dedicated to. I look forward to hearing the witnesses today and seeing how we can move forward in this important policy area. Thank you, Mr. Chairman.

Oh, and if I could also just enter into the record, a list of organizations, a letter sent to you and I, of organizations sponsoring, supporting privacy legislation. And I'll just mention a few others if I could Mr. Chairman.