

# Investigating the American Privacy Rights Act



An important step forward on a U.S. national privacy standard, but still a long way to go.

## There are some good provisions...



- Addresses real, provable harms rather than targeting specific industries or companies (P. 97, lines 23-25 & P. 98, lines 1-6).
- Includes a right to cure for violations before seeking actual damages, recognizing that compliance should be the goal rather than punishment for accidents (P. 137-139).
- Addresses a real problem that Americans care about: personal data protection (P. 1-2).
- Includes a separate section focused on data security requirements (P. 77-80).

## But there are serious flaws that prevent NetChoice from supporting the bill's current version...

- Fails to create a true uniform national privacy standard due to carve-outs for state laws (P. 140-143).
- Opens the door for exploitative and frivolous lawsuits due to a private right of action provision (P. 133-140).
- Makes it more challenging for young people to access online resources due to strict data requirements for minors (P. 32, lines 15-16).
- Imposes burdensome requirements on small businesses based on a specific NAICS code definition (P. 34-36) .
- Exempts certain non-profits and businesses, creating an uneven playing field for compliance and a false sense of privacy for Americans (P. 34-36).
- Includes provisions related to diversity, equity, and inclusion, which impose additional burdens on businesses and may lead to unintended consequences (P. 100-102).
- Prohibits so-called “dark patterns,” which will be difficult to enforce and undermine the user experience and product design (P. 73, lines 24-25 and P. 74, lines 1-13).
- Prohibits differential treatment based on opt-out, limiting personalized services or rewards for those who actually choose for themselves to share their data (P. 74, lines 21-25 and P. 75, lines 1-3).
- Blocks access to online information and educational resources for minors while giving the FTC power to decide what is “appropriate” (P. 152-174).
- Exposes non-profit organizations to frivolous lawsuits from political antagonists – creating significant legal costs and undermining their ability to fulfill their missions (P. 11, lines 1-3; P. 133-140).

