



August 27, 2015

The Honorable John Kline
Chairman
Committee on Education and the Workforce
United States House of Representatives
2181 Rayburn House Office Building
Washington D.C. 20515

The Honorable Todd Rokita
United States House of Representatives
1717 Longworth House Office Building
Washington, DC 20515

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
United States House of Representatives
2181 Rayburn House Office Building
Washington D.C. 20515

The Honorable Marcia L. Fudge
United States House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Re: Student Privacy Protections Act 2015

Dear Chairman Kline, Ranking Member Scott, and Representatives Rokita and Fudge:

The Internet Association is the unified voice of the Internet economy, representing the interests of leading Internet companies and their global community of users.¹ It is dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users, both young and old alike. Included in these policy planks are industry and legislative solutions that provide parents with access to and control of children and students’ personally identifiable information.

We commend the work done by the Committee to update FERPA in order to bring it into the digital age through the Student Privacy Protections Act 2015 (H.R 3157). The public policy goals underpinning the bill are as valid today as they were when FERPA was enacted over 40 years ago. However, we are writing to the Committee to highlight some concerns with the bill as currently drafted, in particular its privacy and data security provisions.² We highlight these concerns since we believe that these provisions will create undue costs for our member companies without countervailing benefits to students, their families, and educational institutions. These concerns are compounded by the fact that the bill, as currently drafted, does not preempt state law and create a meaningful national standard in this area.

As currently drafted, the data security and privacy provisions of the bill impose vague security

¹ The Internet Association’s members include Airbnb, Amazon, auction.com, Coinbase, eBay, Etsy, Expedia, Facebook, FanDuel, Gilt, Google, Groupon, IAC, Intuit, LinkedIn, Lyft, Monster Worldwide, Netflix, Pandora, PayPal, Pinterest, Practice Fusion, Rackspace, reddit, salesforce.com, Sidecar, Snapchat, SurveyMonkey, TripAdvisor, Twitter, Yahoo, Yelp, Uber, Zenefits and Zynga.

² Although this letter focuses on the Internet Association’s position with respect to the data security and privacy provisions in H.R. 3157, we are considering the impact of the bill beyond these provisions internally and will share these concerns with the Committee at a later date.



requirements, including notice requirements triggered by a “breach of the security practices,” which theoretically could include common employee errors such as failing to properly sign-in a visitor or failing to logout of a computer when going to get coffee for 5 minutes. The bill also imposes an unprecedented 3-day period for notice of data breach or data disclosure, which conflicts with commonly accepted security practices, and lacks an appropriate threshold for notice. Finally, since the bill does not preempt existing state laws, companies may find themselves having to send multiple notices to the same consumers absent a preemptive national standard. The net effect of these provisions will be failsafe over-notification of consumers and increased and unnecessary compliance burdens on companies.

The bill also requires ed-tech providers to adopt “commonly accepted industry standards on privacy protection” without reference to those standards. In reality, these standards vary significantly according to the sensitivity of the personal information involved. The bill does appear to give the Secretary of Education essentially unlimited authority to provide guidance, but it is unclear to the Internet Association that the Department of Education has either the personnel or the expertise to create industry standards on privacy protection at this time.

The data security and privacy provisions of H.R. 3157 are at odds with the House Energy & Commerce Committee Data Security and Breach Notification Act of 2015 (H.R. 1770), which was voted out of committee earlier this year. The Internet Association gave constructive (but not unequivocal) support to H.R. 1770 since it preempted all state data breach statutes, contained a narrowly crafted harm trigger, and did not create rulemaking authority. Differently stated, it sought to create a true national standard to protect consumers while recognizing legitimate industry concerns about the cost of compliance with its provisions. As currently drafted, H.R. 3157 does not achieve these goals.

Respectfully submitted,

Michael Beckerman
President and CEO