

June 26, 2024

The Honorable Cathy McMorris Rogers
Chair, Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member, Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chair Rogers and Ranking Member Pallone,

In advance of the Committee's markup of the *American Privacy Rights Act (APRA)* and the *AM Radio for Every Vehicle Act*, the Consumer Technology Association (CTA) writes to share our perspective.

American Privacy Rights Act (APRA)

CTA has long advocated for a comprehensive federal privacy bill and appreciates that your committee has worked on a bipartisan, bicameral basis to achieve this goal. While there has been progress in this effort, we respectfully submit the following recommendations we believe will help drive broad stakeholder consensus to support the APRA:

- 1. Uniform Federal Standard:** While the stated purpose of APRA is to establish a uniform federal standard for privacy considerations, as drafted, the legislation should be clearer to accomplish this. The operative language of APRA only preempts state laws expressly "covered by provisions" of the Act, but should leave no room for even supplemental state regulation. The current limitation will lead to confusion for consumers and businesses, as APRA will be interpreted to only preempt state laws if there are identical requirements, leaving states the opportunity to enact more restrictive regimes than APRA. This would make worse the growing state patchwork of conflicting laws. As drafted, the preemption provisions in APRA do not achieve the federal uniformity that is essential for the survival and success of small businesses. CTA is concerned that the expansive carveouts in APRA explicitly preserve state laws that allow for lawsuits based on alleged privacy harms. This is of particular concern with the *Illinois Biometric Information Privacy Act*, which has been abused by trial lawyers with no real benefit to consumers. More, APRA continues to preserve state common law rights and remedies that relate to or impose obligations on business with respect to privacy.

- 2. Enforcement:** As drafted, APRA will encourage a rush of frivolous lawsuits that will slow the pace of innovation and embolden trial lawyers seeking to take advantage of a litigious environment under the guise of helping consumers. This concern is particularly acute for small and medium-sized businesses that lack the resources to defend against multiple opportunistic legal actions. Companies acting in good faith, without any harmful intent, would be forced to shell out hefty settlements to avoid the exorbitant costs of litigation. The American economy already pays the world's highest lawyer tax and creating a new private federal cause of action would further disadvantage American businesses. CTA asks that APRA not burden industry and federal courts with a private right of action.

CTA understands that consumer trust must be a central tenet of the products and services developed by our industry. This trust is earned when companies are good stewards of their consumers' data. These are complex issues, and we recognize that Congress has been grappling for years with how to effectively structure a federal privacy law. It is an important and critical undertaking, and we appreciate the opportunity to help improve the current draft.

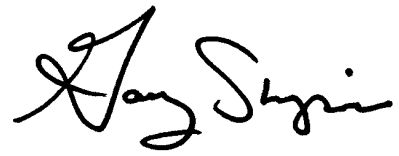
AM Radio for Every Vehicle Act

CTA opposes the *AM Radio for Every Vehicle Act*. Mandating the inclusion of AM radio in all vehicles is an undue intervention in the private sector. At a time when car makers are developing autonomous vehicles, imposing this precedent-setting mandate is counterproductive and misaligned with the industry's, and even this Committee's, forward-looking goals. Instead of maintaining and singling out this antique technology, Congress should support initiatives that foster innovation. We encourage the Committee to refocus its attention to the Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act (SELF DRIVE), legislation that would save American lives and allow American automakers to compete with China in the race for autonomous vehicle leadership.

An existing loophole allows AM and FM radio broadcasters to profit significantly from playing music on radio stations without compensating the artists who created it. Other mediums including digital and streaming platforms pay performance royalties. This inequity is counter to the most basic American values. Broadcasters have repeatedly pushed Congress to preserve their outdated business model and circumvent the free-market principles that the American economy thrives on. AM and FM radio use spectrum licenses issued by the Federal Communications Commission (FCC), together with music to build their audience, allowing broadcasters to make billions in revenue from advertising, while paying nothing to performers. This is disturbing given estimates show that over 240 million songs are played on AM radio every year. As legislators have rightly pointed out, the U.S. is the **only** democracy in the world where artists are not compensated for the use of their songs on AM or FM radio. Mandating AM radio without addressing this inequity, would condone this unfair system, allowing the broadcast industry to reap profits at the expense of artists.

Thank you for considering our perspective. CTA is committed to working with the Committee to achieve a comprehensive privacy bill that protects consumers and encourages innovation.

Sincerely,

A handwritten signature in black ink that reads "Gary Shapiro". The signature is fluid and cursive, with the first name "Gary" and last name "Shapiro" clearly legible.

Gary Shapiro
CEO
Consumer Technology Association

Cc: Members of the House Committee on Energy and Commerce