

Prepared Oral Statement of
Commissioner Noah Joshua Phillips
Before the
Committee on Commerce, Science, Transportation
Subcommittee on Consumer Protection, Product Safety,
Insurance, and Data Security
“Oversight of the Federal Trade Commission ”
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Chairman Moran, Ranking Member Blumenthal, distinguished members of the Subcommittee, thank you for the opportunity to appear before you today. I'm honored to be back here with my fellow commissioners to highlight the important work that the FTC and its talented staff do every day on behalf of American consumers.

I'd like briefly to address two international issues, as well as the legislative process you have undertaken on consumer privacy.

While offering incredible opportunities for American consumers, the digital economy poses new challenges for law enforcement, particularly relating to cross-border activities. In 2006, Congress recognized this and passed the U.S. SAFE WEB Act,¹ allowing the FTC to share evidence with and assist foreign authorities in matters involving issues such as privacy violations and data breach. It also confirms our authority to challenge foreign frauds that harm U.S. consumers or involve material conduct in the United States.

¹ Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006.

Using SAFE WEB, the FTC has worked with foreign authorities to stop illegal conduct and secure millions for consumers, and sometimes even obtain criminal convictions. SAFE WEB is a vital tool, but it sunsets in 2020. Congress should reauthorize it, and eliminate the sunset provision.

The FTC works with the Department of Commerce to enable transatlantic data flows and support American business leadership through three cross-border data transfer programs, including the EU-U.S. Privacy Shield.² We look for Privacy Shield violations in four ways:

- Referrals from the Department of Commerce;
- Priority consideration of referrals from the European Union;
- Evaluating compliance as part of every privacy investigation; and
- Proactive monitoring of Privacy Shield participants.

We are committed to the success of these cross-border data transfer mechanisms, having brought nearly 50 related actions; and enforcement will remain a priority.

Finally, on the ongoing debate we are having as a nation on consumer privacy, I want to stress three points. First, “privacy” can be a nebulous concept. As you consider legislation, then, it is critical to be clear and frank about the wrongs

² The other two are the Swiss-U.S. Privacy Shield, and the Asia-Pacific Economic Cooperation Cross-Border Privacy Rules (CPBR) System. Before Privacy Shield came into effect, the Commission enforced the predecessor EU-U.S. “Safe Harbor” agreement.

world leader. I am concerned that early indications about the new European General Data Protection Regulation indicate