

AICOA'S THIRD ITERATION STILL DOES NOT ADDRESS THE BILL'S UNDERLYING PRIVACY CONCERNS

This revised legislation concedes all of the bill's problems but solves none of them. The bill still fails to address the deep concerns raised by senators on both sides of the aisle during January's markup. Despite promises to senators to improve the legislation, it continues to pose a danger to Americans' privacy.

Senators voiced their concerns about AICOA and privacy in January:

Sen. Patrick Leahy (D-VT)

"This bill makes it too difficult for online platforms to adequately protect consumers' privacy. The bill creates a bar far too high for platforms to protect privacy without worrying about being penalized."

Sen. John Ossoff (D-GA)

"Striking the appropriate balance between privacy and cybersecurity in this legislation is important. An what I want to offer is a second-degree amendment, Senator Lee, to yours that we toughen the standard slightly that these tech companies have to meet in order to invoke this affirmative defense where privacy or security functionality is concerned."

Does the third draft of the bill manager's amendment address any of these concerns?

No. The revised draft maintains the definition of the term "business user" to include corporations and associations that use or are "likely to use a covered platform for the advertising, sale, or provision of products or services." As in the first two drafts of the bill, the definition of "data" is not specific. It "includes information that is collected by or provided to a covered platform or business user that is linked, or reasonably linkable" to a specific user or customer on the covered platform or simply a user or customer of a business user. It is unclear what "linked" or "linkable" data is in the first instance. This addition would limit the covered platform's ability to maintain user privacy, data security, and to engage in meaningful content moderation.

See more here.