



The Daily Dish

The Continued Need for Privacy Legislation

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Let us begin with a confession. A while back – probably 2019 – Eakinomics predicted the imminent passage of federal privacy legislation because there would be bipartisan interest in setting a single standard and not being saddled with a patchwork of state-level laws. Roll the clock forward to 2026. In his [discussion](#) of the [Securing and Establishing Consumer Uniform Rights and Enforcement over Data Act](#) (SECURE Data Act – who *does* make up these acronyms?), AAF’s Technology and Innovation Policy Director Nick Krosse notes:

In the past decade, as technology increasingly mediates our daily lives, demand for data privacy laws has grown across developed economies. The United States is the only G20 economy without a national privacy law covering every industry. In this gap, [21 states](#) have enacted comprehensive privacy laws, leading to a [patchwork of laws](#) that are increasingly costly for businesses to coherently comply with.

Oops.

Krosse also points out:

This increase in internet usage and connected devices has also necessitated and allowed for the generation and collection of more consumer data. Often, this data generation and collection benefits consumers. For example, consumer data can [reduce search and matching costs](#) for consumers and businesses through targeted advertising. It can also help to [prevent fraud](#), enable [faster product innovation](#), and make goods and services [lower-cost, free, or even just available to begin with](#). But consumers face risks as well, particularly from [data breaches](#), or even data being [misused](#) after being acquired legally.

So, at this juncture there is simply a greater volume of data to secure. But there are also many more states that have adopted their own privacy legislation. This makes it harder for any state delegation in Congress to support a privacy law that is either weaker or stronger than back home. In short, the legislative problem has gotten much harder.

One way around this difficulty is to set a uniform national standard via the federal privacy law, but do so at a level that is comfortably low. Then, where particular kinds of data are involved (for example, smart home data), allow for a higher standard. Again:

[T]he SECURE Data Act offers an innovative mechanism by which industries can develop their own voluntary codes of conduct to be overseen by independent third parties and submit them to be enforced by the FTC. Companies that adhere to these guidelines will be given a rebuttable presumption that they are not violating the law. But if companies fail to adhere to the guidelines they agreed to, the FTC and state attorneys general can use their enforcement powers under the Act to ensure compliance and obtain relief for consumers.

Notice that dealing state attorneys general into the equation makes the politics more palatable as well.

Eakinomics no longer thinks it is a lock that federal privacy legislation passes in the near future. But it sure should!