

# **The American Data Dissemination (ADD) Act**

## **Senator Marco Rubio**

**Background:** On January 16, 2019, Senator Rubio introduced the American Data Dissemination (ADD) Act, legislation that would provide a national consumer data privacy law that protects both consumers and the innovative capabilities of the internet economy. The bill uses the Privacy Act of 1974 as its framework, which was created to balance the government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted intrusions of their data privacy. A similar structure would provide consumers with protections against similar unwarranted intrusions from sophisticated actors in the private industry.

**American Data Dissemination Act:** Currently, there is no single, comprehensive federal law regulating the collection and use of personal data. The United States has a patchwork of state privacy and federal laws that apply to particular categories of information, such as health (HIPPA) or financial information (Gramm-Leach Biley), but lacks a national law regulating the collection and use of our personal data. The ADD Act will provide clear protections that consumers can understand and the Federal Trade Commission can enforce.

Specifically, the bill does the following:

- Not later than 180 days after enactment of the ADD Act, the FTC is required to submit detailed recommendations for privacy requirements that Congress can impose on covered providers. These requirements would be substantially similar to the requirements applicable to agencies under the Privacy Act of 1974.
- Not earlier than one year after the date on which the Commission has submitted detailed recommendations (18 months after enactment), the FTC will publish and submit to the appropriate committees of Congress proposed regulations to impose privacy requirements on covered providers that are substantially similar to the requirements applicable to agencies under the Privacy Act of 1974.
- To ensure Congress acts in a timely manner, if the Congress fails to enact a law based on the recommendations provided by the date that is two years after enactment of this bill, the FTC would promulgate a final rule, not later than 27 months after the date of enactment to impose privacy requirements based on the narrow, congressionally mandated course of action created through this bill.

Importantly, this bill takes important precautions to ensure that it does not entrench large, incumbent actors in this space. The FTC is required to establish criteria for exempting certain small, newly formed covered providers from the requirements under the regulations, which take into account certain factors including the period of time the provider has been operating, the annual revenue of the provider and the number of individuals about whom the covered provider collects records. It also provides consumers with rights to access and correct records maintained by a covered provider that are not accurate, relevant, timely or complete as defined by the FTC, and a process for deletion of a record.