

115TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To protect broadband users from unfair or deceptive practices relating to  
privacy or data security, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. BLUMENTHAL introduced the following bill; which was read twice and  
referred to the Committee on \_\_\_\_\_

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## **A BILL**

To protect broadband users from unfair or deceptive practices relating to privacy or data security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Managing Your Data  
5 Against Telecom Abuses Act of 2017” or the “MY DATA  
6 Act of 2017”.

7 **SEC. 2. PROTECTING BROADBAND USERS FROM UNFAIR OR**  
8 **DECEPTIVE ACTS OR PRACTICES RELATING**  
9 **TO PRIVACY OR DATA SECURITY.**

10 (a) DEFINITIONS.—In this section:

1           (1) BROADBAND PROVIDER.—The term  
2 “broadband provider” means a person who provides  
3 a mass-market retail service by wire or radio that  
4 provides the capability to transmit data to and re-  
5 ceive data from all or substantially all Internet  
6 endpoints, including any capabilities that are inci-  
7 dental to and enable the operation of the commu-  
8 nications service, but excluding dial-up Internet ac-  
9 cess service.

10           (2) EDGE PROVIDER.—The term “edge pro-  
11 vider” means any person who—

12                   (A) provides any content, application, or  
13 service over the Internet; or

14                   (B) provides a device used for accessing  
15 any content, application, or service over the  
16 Internet.

17 (b) PROHIBITION.—

18           (1) IN GENERAL.—It is unlawful for a  
19 broadband provider or edge provider to use an un-  
20 fair or deceptive act or practice relating to privacy  
21 or data security in or affecting commerce.

22           (2) RULE OF CONSTRUCTION.—Paragraph (1)  
23 shall not be construed to imply that it was lawful be-  
24 fore the date of the enactment of this Act for a  
25 broadband provider or an edge provider to use an

1       unfair or deceptive act or practice relating to privacy  
2       or data security in or affecting commerce.

3       (c) REGULATIONS.—The Federal Trade Commission  
4 may, after consulting with the Federal Communications  
5 Commission, promulgate such regulations under section  
6 553 of title 5, United States Code, as the Federal Trade  
7 Commission considers appropriate to carry out this sec-  
8 tion.

9       (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
10 SION.—

11           (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
12 TICES.—A violation of subsection (b)(1) shall be  
13 treated as an unfair or deceptive act or practice in  
14 violation of a regulation prescribed under section  
15 18(a)(1)(B) of the Federal Trade Commission Act  
16 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-  
17 tive acts or practices.

18           (2) POWERS OF COMMISSION.—

19           (A) IN GENERAL.—Except as provided in  
20 subparagraph (C), the Federal Trade Commis-  
21 sion shall enforce this Act in the same manner,  
22 by the same means, and with the same jurisdic-  
23 tion, powers, and duties as though all applicable  
24 terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were in-  
2 corporated into and made a part of this Act.

3 (B) PRIVILEGES AND IMMUNITIES.—Ex-  
4 cept as provided in subparagraph (C), any per-  
5 son who violates this Act shall be subject to the  
6 penalties and entitled to the privileges and im-  
7 munities provided in the Federal Trade Com-  
8 mission Act (15 U.S.C. 41 et seq.).

9 (C) COMMON CARRIERS AND NONPROFIT  
10 ORGANIZATIONS.—Notwithstanding section 4,  
11 5(a)(2), or 6 of the Federal Trade Commission  
12 Act (15 U.S.C. 44, 45(a)(2), and 46) or any ju-  
13 risdictional limitation of the Federal Trade  
14 Commission, the Commission shall also enforce  
15 this Act, in the same manner provided in sub-  
16 paragraphs (A) and (B) of this paragraph, with  
17 respect to—

18 (i) common carriers subject to the  
19 Communications Act of 1934 (47 U.S.C.  
20 151 et seq.) and Acts amendatory thereof  
21 and supplementary thereto; and

22 (ii) organizations not organized to  
23 carry on business for their own profit or  
24 that of their members.

25 (e) ENFORCEMENT BY STATES.—

1           (1) IN GENERAL.—In any case in which the at-  
2           torney general of a State has reason to believe that  
3           an interest of the residents of the State has been or  
4           is threatened or adversely affected by the engage-  
5           ment of any person subject to subsection (b)(1) in  
6           a practice that violates such subsection, the attorney  
7           general of the State may, as *parens patriae*, bring  
8           a civil action on behalf of the residents of the State  
9           in an appropriate district court of the United States  
10          to obtain appropriate relief.

11          (2) RIGHTS OF FEDERAL TRADE COMMIS-  
12          SION.—

13                (A) NOTICE TO FEDERAL TRADE COMMIS-  
14                SION.—

15                   (i) IN GENERAL.—Except as provided  
16                   in clause (iii), the attorney general of a  
17                   State shall notify the Commission in writ-  
18                   ing that the attorney general intends to  
19                   bring a civil action under paragraph (1)  
20                   before initiating the civil action against a  
21                   person subject to subsection (b)(1).

22                   (ii) CONTENTS.—The notification re-  
23                   quired by clause (i) with respect to a civil  
24                   action shall include a copy of the complaint  
25                   to be filed to initiate the civil action.

1 (iii) EXCEPTION.—If it is not feasible  
2 for the attorney general of a State to pro-  
3 vide the notification required by clause (i)  
4 before initiating a civil action under para-  
5 graph (1), the attorney general shall notify  
6 the Commission immediately upon insti-  
7 tuting the civil action.

8 (B) INTERVENTION BY FEDERAL TRADE  
9 COMMISSION.—The Commission may—

10 (i) intervene in any civil action  
11 brought by the attorney general of a State  
12 under paragraph (1); and

13 (ii) upon intervening—

14 (I) be heard on all matters aris-  
15 ing in the civil action; and

16 (II) file petitions for appeal of a  
17 decision in the civil action.

18 (3) INVESTIGATORY POWERS.—Nothing in this  
19 subsection may be construed to prevent the attorney  
20 general of a State from exercising the powers con-  
21 ferred on the attorney general by the laws of the  
22 State to conduct investigations, to administer oaths  
23 or affirmations, or to compel the attendance of wit-  
24 nesses or the production of documentary or other  
25 evidence.

1           (4) ACTION BY FEDERAL TRADE COMMIS-  
2           SION.—If the Federal Trade Commission institutes  
3           a civil action with respect to a violation of subsection  
4           (b)(1), the attorney general of a State may not, dur-  
5           ing the pendency of such action, bring a civil action  
6           under paragraph (1) of this subsection against any  
7           defendant named in the complaint of the Commis-  
8           sion for the violation with respect to which the Com-  
9           mission instituted such action.

10           (5) VENUE; SERVICE OF PROCESS.—

11           (A) VENUE.—Any action brought under  
12           paragraph (1) may be brought in—

13           (i) the district court of the United  
14           States that meets applicable requirements  
15           relating to venue under section 1391 of  
16           title 28, United States Code; or

17           (ii) another court of competent juris-  
18           diction.

19           (B) SERVICE OF PROCESS.—In an action  
20           brought under paragraph (1), process may be  
21           served in any district in which the defendant—

22           (i) is an inhabitant; or

23           (ii) may be found.

24           (6) ACTIONS BY OTHER STATE OFFICIALS.—

1           (A) IN GENERAL.—In addition to civil ac-  
2           tions brought by attorneys general under para-  
3           graph (1), any other officer of a State who is  
4           authorized by the State to do so may bring a  
5           civil action under paragraph (1), subject to the  
6           same requirements and limitations that apply  
7           under this subsection to civil actions brought by  
8           attorneys general.

9           (B) SAVINGS PROVISION.—Nothing in this  
10          subsection may be construed to prohibit an au-  
11          thorized official of a State from initiating or  
12          continuing any proceeding in a court of the  
13          State for a violation of any civil or criminal law  
14          of the State.

15          (7) AUTHORITY PRESERVED.—Nothing in this  
16          Act shall be construed to limit the authority of the  
17          Federal Trade Commission under any other provi-  
18          sion of law.