

Senate Commerce Committee Republicans Include 13(b) Fix in New Privacy Legislation

John E. Villafranco, Maggie C. Crosswy

September 24, 2020



Section 13 (b)log



Late last week, Senate Commerce Committee Chairman Roger Wicker (R-MS), along with Senators John Thune (R-SD), Deb Fischer (R-NE), and Marsha Blackburn (R-TN), [introduced](#) S. 4626, the Setting an American Framework to Ensure Data Access, Transparency, and Accountability (SAFE DATA) Act. The comprehensive privacy bill was years in the making and follows a discussion draft [released](#) last November. The [SAFE DATA Act](#) expands upon last year's discussion draft, among other things, strengthening the Federal Trade Commission's enforcement authority.

Specifically, Section 403 of the bill, as introduced, would clarify the FTC's ability under Section 13(b) of the FTC Act to obtain monetary remedies for consumers. The provision comes in response to numerous agency requests for Congressional action on 13(b) following ongoing legal challenges to the scope of its authority.

While the SAFE DATA Act - or any privacy legislation, for that matter - faces long odds for passage in the waning days of the 116th Congress, the bill lays the groundwork for further action in 2021.

Additionally, it is worth noting that while Congressional Republicans and Democrats remain at odds on the path forward for comprehensive privacy legislation, there may be bipartisan support for a 13(b) fix. During a Senate Commerce Committee [hearing](#) on privacy legislation earlier today, Ranking Member Maria Cantwell (D-WA) suggested that the "core mission of the FTC would be crippled" without the authority to obtain monetary relief under Section 13(b). Later this fall, the Supreme Court will hear argument on the issue with a ruling expected this spring. The implications of that ruling could inspire a legislative response.

Stay tuned for more installments of the "Section 13 (b)log."

For more information on the FTC and other topics, visit:

- [Advertising and Privacy Law Resource Center](#)

- [Ad Law Access Blog](#)
- [Ad Law News and Views Newsletter](#)
 - [Back to School Edition out now](#)

