



Expand the FTC's power as a private-sector privacy watchdog

The ACLU is engaged in a policy process to develop recommendations for the creation of a U.S. institution equivalent to the privacy commissioners that enforce the Fair Information Principles in nearly every other advanced-industrial nation. Based on interviews with a wide variety of officials, our provisional recommendations are that separate institutions be created to oversee privacy within the government and across the private sector.

We recommend that Congress build upon existing institutions to create an institution with the sufficient power to serve as a genuine privacy watchdog in the private-sector arena. at institution is the Federal Trade Commission.

The FTC has already been involved with enforcing privacy rights, and has resources and staff expertise that would give it a substantial head start over any agency cut new from whole cloth. However, as a result of the fact that so much of its authority comes from Section 5 of the Federal Trade Commission Act of 1914, which charges the commission with preventing “unfair trade,” its approach to privacy has been narrower than what the American people need. The FTC has no authority to actually judge or impose the Fair Information Principles or any other substantive privacy standards in the private sector. Currently, a company that conducts itself in the most abominable manner with regards to privacy – but never makes any claims to the contrary, cannot be touched by the FTC.

To give the FTC the power to properly and fully protect the privacy of consumers, we recommend that Congress enact a new statute broadening the authority of the FTC in the privacy arena. Rather than confining the agency to policing “unfair trade” practices, Congress should charge the commission with enforcing the Fair Information Principles in the commercial sector. The core Fair Information Principles are:

- **Notice.** The right to know what will be done with your personal information before it is collected.
- **Choice or consent.** The ability to control how personal information collected from you is used.
- **Access.** The right to view data that is held about you.
- **Security.** The right to have your data be accurate and secure.
- **Redress.** The right to enforce the principles in case they are not followed.

As part of broadening the FTC's role, Congress should also direct the FTC and government-oversight bodies such as the Privacy and Civil Liberties Board to coordinate on matters where privacy issues related to the government and the private sector overlap. That is a growing problem as we witness the emergence of a “Surveillance-Industrial Complex” in the United States in which the government increasingly leverages and commandeers the information tracking and collecting abilities of the private sector for its own ends.