Following up on his *Wall Street Journal* op-ed in January, President Joe Biden has now directly called on Congress to act on privacy legislation. Last week, he bluntly told lawmakers in his State of the Union address: “[I]t’s time to pass bipartisan legislation to stop Big Tech from collecting personal data on kids and teenagers online, ban targeted advertising to children, and impose stricter limits on the personal data that companies collect on all of us.” During a speech that at times provoked partisan outbursts and rowdy responses, this portion was applauded by both sides of the aisle, confirming that enactment of privacy legislation remains a bipartisan issue – and thus opening the door for legislative momentum in 2023.

Last year, a bipartisan group of three prominent lawmakers – Rep. Cathy McMorris Rodgers (R-WA), Rep. Frank Pallone (D-NJ), and Sen. Roger Wicker (R-MS) – released a comprehensive national data privacy and data security framework, the American Data Privacy and Protection Act (ADPPA). The ADPPA included compromises on two major areas that had been elusive for at least a decade: federal preemption of state laws and a private right of action to enforce the law. While the legislation garnered many key endorsements, it failed to come to a vote in the full House of Representatives or to reach the Senate floor. Certain members of the House’s California delegation, including then-Speaker Nancy Pelosi (D-CA), sought to ensure their state’s more stringent standards were not eclipsed by federal action. In the Senate, Sen. Maria Cantwell (D-WA) never signed on to the original draft; she favored her own legislation. As chair of the Senate committee with jurisdiction over the ADPPA, her support would have been a prerequisite for the bill to reach the Senate floor for a full vote.

Members of the 118th Congress were sworn in last month. As a result of the change of control in the House, the landscape has changed significantly. Rep. Nancy Pelosi is no longer Speaker. The gavel is now held by a Californian from a different party – Speaker Kevin McCarthy (R-CA). Speaker McCarthy has expressed interest in privacy legislation in the past and is not beholden to Silicon Valley.

The lawmakers who championed the bill previously continue to push it forward this year. In a recent hearing, House Committee on Energy and Commerce Chair McMorris Rodgers expressed a need “to
cement America’s global technological leadership,” which should “start by passing comprehensive privacy and data security protections with one national standard.” The Ranking Member of the Committee, Rep. Pallone, agreed: “We should act on the American Data Privacy and Protection Act, comprehensive privacy legislation I authored with Chair Rodgers. This crucial legislation ensures that consumers—wherever they reside in this country—will have meaningful control over their personal information, while providing clear and consistent rules of the road on privacy and data security to innovators, entrepreneurs, and small tech companies.”

Lawmakers have just begun their legislative activities this year, but the moves towards privacy legislation look promising. Stakeholders interested in weighing in on the potential bill would be wise to voice their opinions soon, as all signs point to this bipartisan opportunity being pursued in short order.

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