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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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

(a) DEFINITIONS.—In this section:
(1) **BROADBAND PROVIDER.**—The term “broadband provider” means a person who provides a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.

(2) **EDGE PROVIDER.**—The term “edge provider” means any person who—

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

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

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—It is unlawful for a broadband provider or edge provider to use an unfair or deceptive act or practice relating to privacy or data security in or affecting commerce.

(2) **RULE OF CONSTRUCTION.**—Paragraph (1) shall not be construed to imply that it was lawful before the date of the enactment of this Act for a broadband provider or an edge provider to use an
unfair or deceptive act or practice relating to privacy
or data security in or affecting commerce.

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

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

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

(2) POWERS OF COMMISSION.—

(A) IN GENERAL.—Except as provided in
subparagraph (C), the Federal Trade Commiss-
sion shall enforce this Act in the same manner,
by the same means, and with the same jurisdic-
tion, powers, and duties as though all applicable
terms and provisions of the Federal Trade
Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) PRIVILEGES AND IMMUNITIES.—Except as provided in subparagraph (C), any person who violates this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(C) COMMON CARRIERS AND NONPROFIT ORGANIZATIONS.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), and 46) or any jurisdictional limitation of the Federal Trade Commission, the Commission shall also enforce this Act, in the same manner provided in subparagraphs (A) and (B) of this paragraph, with respect to—

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

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

(e) ENFORCEMENT BY STATES.—
(1) **IN GENERAL.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to subsection (b)(1) in a practice that violates such subsection, the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

(2) **RIGHTS OF FEDERAL TRADE COMMISSION.**—

(A) **NOTICE TO FEDERAL TRADE COMMISSION.**—

(i) **IN GENERAL.**—Except as provided in clause (iii), the attorney general of a State shall notify the Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before initiating the civil action against a person subject to subsection (b)(1).

(ii) **CONTENTS.**—The notification required by clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.
(iii) Exception.—If it is not feasible for the attorney general of a State to provide the notification required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

(B) Intervention by Federal Trade Commission.—The Commission may—

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

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

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

(3) Investigatory Powers.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.
(4) Action by Federal Trade Commission.—If the Federal Trade Commission institutes a civil action with respect to a violation of subsection (b)(1), the attorney general of a State may not, during the pendency of such action, bring a civil action under paragraph (1) of this subsection against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

(5) Venue; Service of Process.—

(A) Venue.—Any action brought under paragraph (1) may be brought in—

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

(ii) another court of competent jurisdiction.

(B) Service of Process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(6) Actions by Other State Officials.—
(A) IN GENERAL.—In addition to civil actions brought by attorneys general under paragraph (1), any other officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

(7) AUTHORITY PRESERVED.—Nothing in this Act shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.