It's Time for Congress to Address the Dilemma of Data Brokers

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As technology continues to evolve, so do threats. Gone are the days of Bonnie and Clyde style bank robberies; the much larger threat in modern times is the clandestine data pilfering by data brokers. We live in an era where our personal information is a commodity that can be purchased and then used against us. Despite the dangerous nature of data brokers, there is no comprehensive legislation protecting our personal data.[1]

A data broker is "a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship."[2] Data brokers collect deeply personal information including credit scores, location data, political affiliations, and health information with virtually no oversight.[3] Further, this personal data is usually bought and sold without consumer permission or knowledge.[4] Although the data may often be used to create targeted advertisements, there are numerous concerns with personal data being sold such as threats to national security, intrenching biases and stereotypes, improving scam-artists' craft, and providing victims' addresses to bad actors.[5] Despite the troubling issues that surround data brokerage, there is no legislation at the federal level that regulates data brokers and only five states—Vermont, California, Nevada, Texas, and Oregon[6]—have legislation on their books.

Although the amount of regulation dealing with data brokers is certainly lackluster, California's Consumer Privacy Act (CCPA) is an example of the type of legislation that should be implemented at the federal level. The CCPA requires data brokers to register with the California Data Broker Registry, and the brokers must comply with reporting and disclosure obligations.[7] The disclosure obligations require businesses to tell customers that they are selling their personal information and provide customers with a method to opt out.[8] California's disclosure and opt out policy is a major step towards limiting the dangers of data brokers and these same protections should be afforded to all citizens of the United States.

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[1] *Data Brokers: What Are They and Why Does It Matter?*, TRUEVAULT, https://www.truevault.com/learn/what-is-a-data-broker. [https://perma.cc/E78N-M3WG].

[2] *Id.*

[3] *Data Brokers*, ELECTRONIC PRIVACY INFORMATION CENTER, https://epic.org/issues/consumer-privacy/data-brokers/. [https://perma.cc/HB7U-8PY2].

[4] *Id.*

[5] *Id.*

[6] Ben Isaacson, *Wake Now, Discover That You Are a Data Broker*, CALIFORNIA LAWYERS ASSOCIATION, https://calawyers.org/privacy-law/wake-now-discover-that-you-are-a-data-broker/#:~:text=There%20are%20five%20states%20with%20laws%20specifically,incur%20penalties%20up%20to%20$100/day%20for%20non%2Dregistration. [https://perma.cc/3US4-H7D4].

[7] F. Paul Pittman, et al., *Data Privacy Update*, WHITE & CASE, (Jan. 19, 2025) https://www.whitecase.com/insight-alert/data-privacy-update-2025?. [https://perma.cc/EB7M-J829]; *see also Data Brokers: What Are They and Why Do They Matter?*, *supra* note 1.

[8] *Data Brokers: What Are They and Why Do They Matter?*, *supra* note 1.

While there is no federal legislation to regulate data brokers, some federal agencies have attempted to tackle the issue. In 2024, the Federal Trade Commission (FTC) enforced data privacy protections in twenty-two matters including charging Mobilewalla, a data broker, with selling consumers' raw location data.[9] Although the FTC is able to work within the confines of the Federal Trade Commission Act to bring enforcement actions against egregious data privacy issues, broader legislation is still necessary to appropriately protect data since the FTC cannot investigate all data sales. More targeted federal regulations seemed possible when the Consumer Financial Protection Bureau (CFPB) proposed a rule to stop data brokers from selling sensitive personal data to scammers, stalkers, and spies[10]; however, CFPB withdrew this proposed rule in May 2025.[11]

Given the gravity and dangers presented by data brokers, it is time for Congress to safeguard the American public. As technology develops, Congress needs to develop with it to appropriately serve its citizens. Data broker regulation is beyond due. While large scale protections should be put in place, at the very least, consumers should have the knowledge that their data will be sold if they transact with businesses that sell to data brokers and be provided an opportunity to opt out of that sale. Americans deserve to have their personal information protected.

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[9] Pittman, *supra* note 7.

[10] *CFPB Proposes Rule to Stop Data Brokers from Selling Sensitive Personal Data to Scammers, Stalkers, and Spies*, CONSUMER FINANCIAL PROTECTION BUREAU (Dec. 3, 2024) https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-stop-data-brokers-from-selling-sensitive-personal-data-to-scammers-stalkers-and-spies/. [https://perma.cc/XD8E-TFKW].

[11] *CFPB withdraws proposed rule that would have prevented data brokers from selling or misusing consumers' sensitive personal data*, CONSUMER REPORTS, (May 14, 2025) https://advocacy.consumerreports.org/press_release/cfpb-withdraws-proposed-rule-that-would-have-prevented-data-brokers-from-selling-or-misusing-consumers-sensitive-personal-data/. [https://perma.cc/3AUC-RQCU].