

# Digital Content Next

Legal and Legislative Committee  
April 14, 2015

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## Agenda

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- House Energy and Commerce Committee Moving Data Security and Breach Notification Act
- Trustworthy Accountability Group (TAG) To Take On Fraud, Piracy
- Update on DCN 2015 Legal and Legislative Day

### House Energy and Commerce Committee Scheduled to consider bill on Wednesday, April 15

- Sponsored by Reps. Marsha Blackburn (R) and Peter Welch (D)
- Passed Commerce, Manufacturing and Trade Subcommittee on March 24

## Key Provisions:

- Require “reasonable security measures and practices....as appropriate for the size and complexity of such covered entity...”
- Require breached entities to notify consumers within 30 days
  - After determining the scope of the breach
  - After restoring the “reasonable integrity, security and confidentiality of the data system”
- FTC enforcement
- No private rights of action, State AGs may bring civil suits
- State laws preempted, but not common law

# Data Security and Breach Notification Act

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## Positives:

- Preemption of state law
- No Private Rights of Action
- Flexibility in 30-day notification requirement
  - New version of bill could be problematic

## Concerns:

- 30-Day requirement may not allow company flexibility to assess scope of breach
  - Only to determine no reasonable risk
- Scaling of security systems should be tied to sensitivity of data, not size of company
- Definition of “personal data” is overly broad
  - Any two of:
    - Home address/telephone number
    - Mother’s Maiden Name
    - Date of birth

## Concerns (cont'd):

- Access vs Acquisition
  - Current version of the defines a data breach as “unauthorized access to OR acquisition” of personal data
  - “Access” alone is overly broad
  - Should be “unauthorized access AND acquisition”
- Role of Service Providers
  - Obligation to notify data owner, not consumer
  - No liability for breach

### ANA/White Ops Study Released in Dec 2014 Found Rampant Bot Fraud in Online Ads

- 23% of video ad impressions were from bots
- 11% of display ad impressions were from bots
- Publishers who bought sourced traffic from 3<sup>rd</sup> parties had a bot fraud rate of 52%
- 19% of retargeted ads served to bots

### Trustworthy Accountability Group (TAG) formed to develop solutions

- ANA, IAB and 4As
- Would also incorporate piracy solution

# DCN Board and Exec Committee Focused on Solutions

- Low levels of bot fraud on premium publisher sites
- Role for DCN?
  - DCN member cos are shining light
  - Best practices?
  - TAG involvement

June 9, 2015 12 Noon to 5 PM

Comcast/NBCUniversal

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### Topics Under Consideration:

- Net Neutrality Privacy Implications
- Anti-Fraud/Piracy Efforts
- Viewability Contracts
- VPPA Update/Tech Solutions
- Cross Device Tracking