

Crapo Statement at Hearing on Data Ownership
October 24, 2019

WASHINGTON – U.S. Senator Mike Crapo (R-Idaho), Chairman of the U.S. Senate Committee on Banking, Housing and Urban Affairs, delivered the following remarks at a hearing entitled, “Data Ownership: Exploring Implications for Data Privacy Rights and Data Valuation.”

The text of Chairman Crapo’s remarks, as prepared, is below.

“We welcome to the Committee four witnesses with extensive experience and a range of perspectives on issues related to data ownership, valuation and privacy, including: Mr. Jeffrey Ritter, Founding Chair of the American Bar Association Committee on Cyberspace Law, and an external lecturer at the University of Oxford; Mr. Chad Marlow, Senior Advocacy and Policy Counsel at the American Civil Liberties Union; Mr. Will Rinehart, Director of Technology and Innovation Policy at the American Action Forum; and Ms. Michelle Denedy, Chief Executive Officer of DrumWave.

“As a result of an increasingly digital economy, more personal information is available to companies than ever before.

“Private companies are collecting, processing, analyzing and sharing considerable data on individuals for all kinds of purposes.

“There have been many questions about what personal data is being collected, how it is being collected, with whom it is being shared and how it is being used, including in ways that affect individuals’ financial lives.

“Given the vast amount of personal information flowing through the economy, individuals need real control over their personal data.

“This Committee has held a series of data privacy hearings exploring possible frameworks for facilitating privacy rights to consumers.

“Nearly all have included references to data as a new currency or commodity.

“The next question, then, is who owns it? There has been much debate about the concept of data ownership, the monetary value of personal information and its potential role in data privacy.

“Some have argued that privacy and control over information could benefit from applying an explicit property right to personal data, similar to owning a home or protecting intellectual property.

“Others contend the very nature of data is different from that of other tangible assets or goods.

“Still, it is difficult to ignore the concept of data ownership that appears in existing data privacy frameworks.

“For example, the European Union’s General Data Protection Regulation, or GDPR, grants an individual the right to request and access personally identifiable information that has been collected about them.

“There is an inherent element of ownership in each of these rights, and it is necessary to address some of the difficulties of ownership when certain rights are exercised, such as whether information could pertain to more than one individual, or if individual ownership applies in the concept of derived data.

“Associated with concepts about data ownership or control is the value of personal data being used in the marketplace, and the opportunities for individuals to benefit from its use.

“Senators Kennedy and Warner have both led on these issues, with Senator Kennedy introducing legislation that would grant an explicit property right over personal data, and Senator Warner introducing legislation that would give consumers more information about the value of their personal data and how it is being used in the economy.

“As the Banking Committee continues exploring ways to give individuals real control over their data, it is important to learn more about what relationship exists between true data ownership and individuals’ degree of control over their personal information; how a property right would work for different types of personal information; how data ownership interacts with existing privacy laws, including the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act and GDPR; and different ways that companies use personal data, how personal data could be reliably valued and what that means for privacy.

“I appreciate today’s witnesses for offering their expertise and sharing a range of unique perspectives.”

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