



Submitted via email to privacyrfc2018@ntia.doc.gov on November 9, 2018

**TWILIO'S RESPONSE TO THE NTIA REQUEST FOR COMMENTS ON DEVELOPING THE
ADMINISTRATION'S APPROACH TO CONSUMER PRIVACY: DOCKET NO. 180821780-8780-01**

Twilio commends the National Telecommunications and Information Administration (NTIA) for its efforts to advance user-centric privacy principles. NTIA's request for comments is timely. Twilio agrees that companies should play a critical role in providing advice and data to help the Administration shape initiatives to strengthen privacy protection for consumers.

Twilio's comments below are shaped by the company's experience as a global cloud communications provider, and the essential role that trust and privacy play in the company's mission. With that perspective, Twilio makes a few specific suggestions and welcomes the opportunity to continue to engage with NTIA as this process proceeds.

ABOUT TWILIO

Twilio is a globally available cloud communications platform whose web service application programming interfaces (APIs) provide software developers with the building blocks to embed communications tools including voice, video, text messaging, and chat into their web and mobile applications. Twilio democratizes communications by enabling software developers to concentrate on building applications instead of focusing on complicated telecommunications infrastructure, allowing a person with even limited coding experience to leverage its APIs. Simply put, Twilio enables innovators to reinvent how their companies and organizations communicate and engage with their users. Founded in 2008, Twilio has grown into a publicly traded company with more than 60,000 customers.

Twilio Chief Executive Officer Jeff Lawson often notes that "Trust is the #1 thing in the cloud." Building and maintaining that trust demands that a cloud-based company act responsibly with regard to the personal information entrusted to it. Consequently, Twilio has invested heavily in privacy compliance. The company is self-certified under the EU - U.S. Privacy Shield, has made significant efforts to come into compliance with the European Union's General Data Protection Regulation (GDPR), and had EU Binding Corporate Rules approved in May 2018.

Leading businesses trust Twilio to power their communications with their customers. Twilio customers range across many sectors: from technology (Netflix, Salesforce, Airbnb); to retail (Nordstrom, eBay, Walmart Labs); to finance and insurance (Morgan Stanley, Liberty Mutual, ZestFinance); to healthcare (Arkansas Children's Hospital, SeniorHomes.com, Doctor on Demand). In addition, many of Twilio's customers are small- and medium-sized enterprises (SMEs). Twilio's core mission includes empowering entrepreneurs, helping the small companies of today become the industry leaders of tomorrow.

SPECIFIC ISSUES

Twilio urges the Administration to focus its privacy efforts on promoting consistency of privacy protections across jurisdictions; developing a framework that can be reasonably adopted by firms of all sizes, thus raising the overall level of privacy protection for consumers; and establishing uniform terminology and incorporating industry input.

I. ESTABLISHING CONSISTENT DEFINITIONS AND INCORPORATING INDUSTRY INPUT

Just as the Administration has successfully convened stakeholders across different industries to contribute to cybersecurity risk-based assessments, the Administration's efforts in protecting consumer privacy would benefit from a similar approach. Regardless of sector, important points of view and unique perspectives can be brought to bear toward this important goal. Twilio encourages the Administration to especially seek out companies with unique vantage points on how data protection can best be achieved across various industry sectors.

Twilio also urges the Administration to promote uniformity by establishing standardized definitions and consistency of terminology across agencies and departments. Such consistency would promote the ease of adoption of regulations (or best practices) by companies, minimize complexity, and assist consumers in understanding key data protection concepts. Twilio encourages the Administration to leverage stakeholder input on existing NTIA, ITA and NIST-developed language, particularly that around risk management. The objective should be to develop consensus on terminology and definitions where possible, or otherwise specifically identify areas where divergences may be necessary.

Consistency and uniformity should be promoted specifically because they improve consumers' privacy protection. When companies abide by consistent and uniform privacy standards, there are two clear benefits to consumers. First, consumers have greater insight into what they can expect from the companies they interact with in terms of personal data protection. Second, the companies have established targets regarding the types of policies they should adopt to protect consumers.

II. REASONABLY ADOPTED BY FIRMS OF ALL SIZES

Twilio encourages the Administration to carefully consider the unique challenges of adhering to multiple legal privacy frameworks for small and medium-sized enterprises.

In today's digital economy, even small and medium sized firms are increasingly offering their products globally. The operational complexities of handling personal information across various jurisdictions, however, continues to constitute an outsized burden to such firms. This condition creates a *de facto* advantage for larger organizations that have sufficient operational resources to navigate these complexities.

As a matter of promoting competition and preserving U.S. innovation leadership, Twilio believes that the Administration should actively guard against regulations that favor large firms. A clear example of the inadvertent creation of an incumbent advantage through regulation is in emerging technologies. Regulations that are overly burdensome could result in a future state where investment in innovative technology and requisite compliance would only be achievable by large, well-resourced companies.

III. CONSISTENT ACROSS JURISDICTIONS, THEREBY FACILITATING GLOBAL DATA FLOWS

Twilio urges the Administration to pursue steps to help bring consistency to privacy and data protection standards worldwide. Such an approach would allow U.S. firms of all sizes to compete effectively on a global scale and would help to ensure the free flow of data across national borders, something essential to robust economic development.

Multinational companies like Twilio, as well as many of Twilio's customers, have been required to assess and in some cases implement a variety of foreign national privacy laws in recent years. While the European Union's GDPR is the most prominent example, privacy legislation is also emerging in other jurisdictions, such as Brazil. Still more foreign data protection legislative schemes are on the horizon, including in India.

U.S. states are also increasingly active in the privacy legislation arena. California recently adopted state-level privacy legislation in the California Consumer Privacy Act of 2018, and it seems likely that other states will introduce their own versions of consumer privacy legislation in 2019.

Differing privacy and data protection standards pose complex operational challenges for companies seeking to comply with the laws. These challenges are often resource-intensive to navigate and may require companies to take such steps as building parallel infrastructure to handle data sets originating from different jurisdictions. In some cases, data localization requirements in privacy laws may require companies

to invest in redundant infrastructure and resources to satisfy the requirements. While the burden is substantial on larger companies, differing standards and localization requirements pose a disproportionate burden on SMEs.

Twilio would welcome U.S. leadership in efforts to bring consistency across frameworks and urges the Administration to convene individuals and organizations in order to explore how the intersection of multiple regulatory frameworks affects competition and the competitiveness of U.S. enterprises globally.

CONCLUSION

Twilio looks forward to working with NTIA on best practices for a scalable and consistent approach to consumer privacy.