Before the
CONSUMER FINANCIAL PROTECTION BUREAU
Washington, D.C. 20552

COMMENTS

of the

INTERACTIVE ADVERTISING BUREAU, INC.

and

NETWORK ADVERTISING INITIATIVE

on the

Request for Comments in Response to Advance Notice of Proposed Rulemaking on Personal Financial Data Rights Reconsideration

Docket No. CFPB-2025-0037

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The Interactive Advertising Bureau, Inc. (IAB) and Network Advertising Initiative (NAI) welcome the opportunity to submit this comment in response to the Consumer Financial Protection Bureau's (CFPB) request for public comment on its Advanced Notice of Proposed Rulemaking on Personal Financial Data Rights Reconsideration (ANPRM), published on August 22, 2025.[1]

Founded in 1996, IAB (www.iab.com) represents over 700 leading media companies, brand marketers, agencies, and technology companies that are responsible for selling, delivering, and optimizing digital advertising and marketing campaigns. Together, our members account for 86 percent of online advertising expenditures in the United States. Working with our member companies, IAB develops both technical standards and best practices for our industry. In addition, IAB fields critical consumer and market research on interactive advertising, while also educating brands, agencies, and the wider business community on the importance of digital marketing.

Founded in 2000, the NAI is the leading non-profit, self-regulatory association for advertising technology companies. For over 20 years, the NAI has promoted strong consumer privacy protections, a free and open internet, and a robust digital advertising industry by maintaining and enforcing the highest voluntary industry standards for the responsible collection and use of consumer data. Our member companies range from the largest companies in the industry to smaller startups, and they collectively represent a substantial portion of the digital advertising technology ecosystem, all committed to strong self-regulation and protecting consumer data across all digital media.

We believe that consumers can have the benefits of digital advertising while also having robust consumer privacy protections. American consumers recognize the value of an ad-supported internet:

- 80% of consumers agree that the free and open, ad-supported internet is important to democracy and free speech.[2]
- 80% also agree that websites/apps are free because of advertising.[3]
- 91% would react negatively if they had to start paying for the websites/apps they currently use for free.[4]

Consumers benefit from personal data used to tailor ads to their interests and prevent fraud. Personal data also enables limits on how often a consumer sees the same ad. It also is critical to measurement and attribution of digital ads, without which no advertiser would purchase ad inventory.

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[1] Consumer Fin. Prot. Bureau, *Personal Financial Data Rights Reconsideration*, 90 Fed. Reg. 40986 (Aug. 22, 2025).
[2] Interactive Advertising Bureau, *The Free and Open Ad-Supported Internet: Consumers, Content, and Assessing the Data Value Exchange* (Jan. 2024), https://www.iab.com/wp-content/uploads/2024/01/IAB-Consumer-Privacy-Report-January-2024.pdf.
[3] *Id.*
[4] *Id.*

Reasonable uses of data supporting data-driven advertising also ensure that companies of all sizes can meaningfully engage in the digital ecosystem, thereby promoting competition throughout the economy. This includes small businesses that rely on personal data to reach their audiences, compete with larger companies, and grow their customer bases on limited budgets. Data-driven advertising has helped to create thousands of new small, medium, and self-employed businesses across multiple sectors of the economy, maintain tens of millions of jobs across the nation in every congressional district, and deliver trillions of dollars in consumer value.[5]

The CFPB seeks comments and data to inform its consideration of four issues related to implementation of Section 1033 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank Act).[6] Section 1033 grants consumers a statutory right to obtain certain personal financial data held by covered providers of consumer financial products or services.[7] While the intent of the Dodd-Frank Act was to help protect consumers, CFPB rulemakings have inadvertently introduced additional issues. These issues include: the proper understanding of who can serve as a "representative" in making a request on behalf of the consumer; the optimal approach to the assessment of fees to defray the costs incurred by a "covered person" in responding to a customer driven request; the threat and cost-benefit pictures for data security associated with section 1033 compliance; and the threat picture for data privacy associated with section 1033 compliance.

Much of the CFPB's Personal Financial Data Rights Rule (PFDR Rule or Rule)[8] appears to reasonably implement the CFPB's statutory mandate by facilitating the exchange of consumer financial data contemplated in Section 1033. This comment focuses solely on issues related to data privacy and use of covered data for digital advertising. Specifically, we have two key areas of concern related to the PFDR Rule: (1) the limitations placed on consumers' ability to grant third parties' permission to use their data; and (2) the requirement for consumers to affirmatively reauthorize access to covered data by third parties.

I. <u>Consumers' Ability to Grant Third Parties Permission to Use Their Data</u>

Section 1033.421 permits a third party to use covered data for what is "reasonably necessary" to provide the consumer's requested product or service, but expressly excludes targeted advertising, cross-selling other products or services, and the sale of covered data from what is reasonably necessary.[9] Instead, the PFDR Rule provides that third parties are permitted to engage in those activities only where the consumer affirmatively requests them, and where, "the third party can obtain meaningful consent through a separate authorization for a standalone product or service."[10]

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[5] John Deighton & Leora Kornfeld, *Measuring the Digital Economy: Advertising, Content, Commerce, and Innovation* (Apr. 2025), https://www.iab.com/wp-content/uploads/2025/04/Measuring-the-Digital-Economy_April_29.pdf.
[6] Pub. L. No. 111-203, 124 Stat. 1376.
[7] 12 U.S.C. § 5533(a).
[8] Consumer Fin. Prot. Bureau, *Personal Financial Data Rights*, 88 Fed. Reg. 74796 (Oct. 31, 2023).
[9] 12 C.F.R § 1033.421(a).
[10] 89 FR 90921.

In explaining how targeted advertising could be provided for covered data in only very limited circumstances, the Rule states "[t]o be a 'standalone' product or service, it must be clear that the targeted advertising, cross-selling, or sale of covered data is a distinct product or service the consumer could obtain in the market without obtaining other products or services."[11] The PFDR Rule cites as an example, "a 'standalone product' that involves targeted advertising might both evaluate a consumer's data for the purpose of identifying lower cost credit cards for a particular consumer and send that consumer advertisements for such lower cost credit cards."[12]

This approach is inconsistent with the way covered data is currently used, where consumers may utilize a financial service that serves one or more specific purposes, and the provider of the service may obtain the consumer's consent to share covered data with partners to provide targeted advertising and marketing that effectively subsidizes the cost of the financial service, therefore making it available to a wider range of consumers.

The IAB and NAI strongly agree that when collecting, using, and retaining sensitive data, which includes sensitive financial information, companies have a responsibility to protect that information and use it in ways that consumers expect. Consumers should ultimately be in the driver's seat when it comes to their data. That means companies should clearly and conspicuously provide consumers with detailed notice about the use of their sensitive financial data for advertising and marketing, and obtain affirmative express consent for these purposes.[13]

On the contrary, the PFDR Rule's limitations on targeted advertising and cross-selling unnecessarily burden consumers and businesses and cause friction in the marketplace. The Rule is particularly harmful to smaller third-party financial services businesses, limiting their ability to provide innovative financial products and services that compete with larger businesses. Twenty states have enacted comprehensive privacy laws, and even the strictest state privacy laws require a single opt-in consent for sensitive personal information, which includes financial data, while also providing consumers with the option to opt-out of targeted advertising.[14]

Given the PFDR Rule's significant impact on the economy, we recommend that the CFPB pursue a more balanced approach and one that is more aligned with consumers' online experiences. IAB and NAI believe that consumer expectations and choice would be better served by a single, unified consent flow that covers both data access for services requested and consumer-authorized advertising and data uses by authorized third parties and data aggregators, *provided* that the disclosures are clear and easy to understand. Transparency and control are critical, but they must be delivered through a streamlined process that enhances the consumer experience. Requiring multiple consent flows only fragments and disrupts that experience.[15]

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[11] 89 FR 90934.
[12] *Id.*
[13] *See, e.g.* Network Advertising Initiative, *Guidance for NAI Members 2019*, (Nov. 2019), https://thenai.org/wp-content/uploads/2021/07/nai_optinconsent-guidance19.pdf.
[14] *See, e.g.*, C.R.S. § 6-1-1306(1)(a); Conn. Gen. Stat. § 42-518(a); Va. Code Ann. § 59.1-577(5).
[15] *See, supra* note 8, at 362 ("Regardless, the CFPB recognizes that consumers might continue to sign up for, and in some cases can benefit from, targeted advertising, cross-selling, and data sales.").

II. Annual Reauthorization to Access Data

While the IAB and NAI support the PFDR Rule's requirement for consumers to affirmatively authorize third parties to access covered data, the Rule also creates an additional requirement for consumers to annually *reauthorize* covered data collection by a third party after a maximum period of one year.[16] This additional requirement is impractical and unnecessary, as current law already requires that businesses notify consumers and seek consent upon any material retroactive changes to the terms of service that could warrant a consumer to reconsider whether to share their personal information.[17]

However, in the absence of such a change, there is not sufficient reason to put consumers through the process of annually reviewing and reauthorizing sharing of covered data with known third parties for processes they have already opted into. Rather than adding significant additional protections for consumers, this additional step will needlessly inundate consumers with a stream of authorizations for consumers and further create "consent fatigue," a well-documented phenomenon where users become desensitized or exhausted by repeated consent requests, which leads to weakening of the overall consent process due to increased rates of disengagement or careless acceptance of such notices.[18] This phenomenon is not only problematic for the annoyance and burden it creates for consumers, but it's also likely to lead to a diminished ability to review and engage with notices that are of greater importance.

Ultimately, the most likely outcome of this requirement is unintended stoppage of services that consumers value and wish to continue receiving, consistent with their initial authorization. Therefore, the IAB and NAI urge you to remove this burdensome authorization requirement from the PFDR Rule.

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In reconsidering the PFDR Rule, the CFPB should take into consideration the value that advertising offers for innovation, competition, and consumers. Some companies, for example, offer mobile applications that aggregate a participating user's financial data to provide insights on spending patterns. Other companies analyze credit card transactions to enable users to track, manage, and cancel unwanted subscriptions. And other companies track income and expenses to help users manage their tax obligations. By enlisting companies to access their personal financial data for those and many other purposes, consumers can better control their spending, saving, and investing—in short, their financial well-being.

In order to provide such valuable financial services on which consumers across the globe have come to depend, many companies rely upon digital advertising and marketing. Some companies, upon obtaining a consumer's consent, use the consumer's financial data to facilitate

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[16] 12 C.F.R § 1033.421(b).
[17] Fed. Trade Comm'n, *AI (and other) Companies: Quietly Changing Your Terms of Service Could be Unfair or Deceptive*, (February 13, 2024), https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/02/ai-other-companies-quietly-changing-your-terms-service-could-be-unfair-or-deceptive.
[18] Bart W. Schermer, Bart Custers & Simone van der Hof, *The Crisis of Consent: How Stronger Legal Protection May Lead to Weaker Consent in Data Protection*, 16 Ethics & Info. Tech. 171 (2014).

targeted advertising and marketing. By enabling consumers to learn about goods and services that may interest them, such advertising and marketing directly benefits consumers. And if revenue derived from advertising and marketing using the financial data of freely consenting consumers were to suddenly disappear, many companies would likely be forced to increase the prices of their products and services, decrease the quality of their products and services, or even refrain from offering products and services entirely. This would inflict significant and unnecessary harm on consumers everywhere.

IAB and NAI appreciate the opportunity to submit comments to the Consumer Financial Protection Bureau on its Advance Notice of Proposed Rulemaking on Personal Financial Data Rights Reconsideration. If we can provide any additional information or otherwise assist your office as it continues to engage in the rulemaking process, please do not hesitate to contact us.

Respectfully Submitted,

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