

Small Business Notes

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Federal Trade Commission (FTC) Seeks Comments on the Need for Regulation of Consumer Privacy and Data Security

On August 21, 2022, the FTC posted an Advance Notice of Proposed Rulemaking (ANPR) listing ninety-five questions the FTC seeks to address in determining whether the agency should promulgate rules or use “other regulatory alternatives” regarding the ways in which commercial companies “collect, aggregate, protect, use, analyze, and retain consumer data” as well as how those companies “transfer, share, sell, or otherwise monetize that data in ways that are unfair or deceptive”

The ANPR is an extremely thorough and comprehensive description of the kinds, amounts, and uses of consumer personal data now regularly collected by commercial companies, and the agency is explicit that it is concerned with identifying potential harms to consumers and, especially, potential harm to children and teenagers through “dark patterns” through which companies use information to influence consumer choices and purchases, and through “surveillance creep” by which companies change and expand their privacy policies after a consumer has signed up for a product or service.

Among other questions addressed in the ANPR are consumer consent, use by companies of automated decision systems, discrimination based on protected status revealed in data collection, and methods of collection, use, and transfer of consumer data.

The FTC is holding a virtual public form on September 8 from 2:00PM to 7:30 PM (Eastern Time); and comments are due to FTC by October 21, 2022. See the procedures in the ANPR which is available on the FTC website at [Trade Regulation Rule on Commercial Surveillance and Data Security](#). The ANPR ID number is FTC-2022-0053-0001.

For a basic primer on the topic of privacy and data practices see DEED’s publication [A Legal Guide to Privacy and Data Security 2022](#).

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President Signs New Inflation Reduction Act

On August 16, 2022, the President signed The Inflation Reduction Act (P.L. 117-169). While no part of the Act targets small businesses specifically, all businesses should be aware of some provisions that may affect their business – especially provisions relating to tax credits. In looking at these provisions it is important to remember that operational details and rules and regulations are yet to be developed by the appropriate federal agencies. Businesses are advised to consult with their tax and legal advisors to determine specific impacts and timelines.

Electric vehicles. With the goal of having more American made parts in electric vehicles, the bill amends Internal Revenue Code Section 30D to require that new vehicles subject to the credit must have all American parts and assembly as of August 16, 2022.

Clean Energy. The Act contains \$60 billion for clean energy manufacturing and \$30 million in production tax credits for wind, solar and nuclear power.

Research and development. The R&D credit against the employer's share of Social Security taxes is increased from \$250,000 to \$500,000, beginning in 2023.

Healthcare. The Act authorizes the Center for Medicare and Medicaid Services to negotiate prices directly with pharmaceutical companies for the major drugs covered by Medicare the federal government's marketplace will have their premiums subsidized at COVID-19 levels for three more years.

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