January 14, 2019
Comments of Engine regarding the National Institute of Standards and Technology's
Request for Information on Developing a Privacy Framework
(Docket Number: 181101997-8997-01)

I. Introduction

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Engine promotes an environment where technological innovation and entrepreneurship can thrive by providing knowledge about the startup economy and helping to construct smarter public policy. To that end, Engine conducts research, organizes events, and spearheads campaigns to educate elected officials, the entrepreneur community, and the general public on issues vital to fostering technological innovation.

As a non-profit, Engine works with a nationwide network of startups to understand how ongoing policy debates affect new and small high-growth technology companies and how to best advocate on behalf of the ever-changing and growing startup ecosystem in the U.S. Engine appreciates the opportunity to submit comments on the Administration's proposed approach to advancing consumer privacy while protecting prosperity and innovation. The thriving U.S. startup ecosystem is responsible for some of the most innovative products and services as well as the vast majority of net job growth in the U.S.[1] Creating burdens in the name of protecting users' privacy without fully understanding the actual privacy benefits and the very real threats to startups would risk unnecessarily crippling one of the most important sectors in our economy.

II. General Comments

Engine appreciates the opportunity to submit comments in response to the National Institute of Standards and Technology (NIST) Request For Information (RFI) on "Developing a

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[1] Kane, T. (2010). The Importance of Startups in Job Creation and Job Destruction. Retrieved from: https://www.kauffman.org/-/media/kauffman_org/research-reports-and-covers/2010/07/firm_formation_ importance_of_startups.pdf

Privacy Framework." The questions and points raised in the RFI indicate a sincere attempt to have a nuanced conversation about how organizations can internally approach understanding, addressing, and communicating privacy risks. This conversation is especially important for startups, which stand to be disproportionately harmed by the ongoing loss of consumer trust in technology and Internet-enabled products and services.

The national debate over consumer privacy has been largely dominated by discussions about the headline-grabbing missteps of some of the largest Internet companies, but startups stand the most to lose. If consumers lose trust in the Internet ecosystem, startups without established reputations and relationships with consumers will be the first products and services abandoned by a wary public.

At the same time, if valid concerns about consumer privacy prompt reactionary policymaking, startups without the vast legal and budgetary resources of the large technology companies won't be able to afford to navigate complex regulatory and legislative landscapes, effectively solidifying the market power of the very companies that have prompted privacy concerns in the first place. Engine appreciates NIST's apparent recognition of this reality with its effort to put the Privacy Framework in "common and accessible language." Startups, especially in their early stages, often have limited budgets to dedicate toward legal resources, and creating additional responsibilities and obligations that only skilled—and expensive—lawyers understand will ensure that only the companies that can afford those lawyers will be able to comply.

Engine also appreciates NIST's goal of making the Privacy Framework "adaptable to many different organizations, technologies, lifecycle phases, sectors, and uses" and "platform- and technology-agnostic and customizable." Startups can traverse sectors, lifecycle phases, and business models, and no one-size-fits-all approach works for the thousands of small businesses that make up the U.S. startup ecosystem. A photo editing app, an encrypted messaging service, a cloud storage system for financial records, and a biometric data password keeper all have different needs, concerns, and compliance obligations when it comes to consumer data. The Privacy Framework should not treat them all the same.

Finally, Engine appreciates NIST's recognition that the Privacy Framework should be developed "in a manner consistent with its mission to promote U.S. innovation and industrial competitiveness" while being mindful of how the framework will interplay with policymaking at the state, federal, and global level. Thanks to the Internet, a small startup anywhere in U.S. can create and grow a business with users all over the world. As startups expand across state lines and country borders, so too do their obligations to varying, and sometimes conflicting, regulatory and legislative obligations. The

U.S. startup ecosystem and the innovative products and services it produces are the envy of the world, and the federal government can work to keep it that way by ensuring that additional privacy standards, even voluntary ones, can be integrated into existing privacy frameworks.

III. Conclusion

Engine appreciates the opportunity to provide feedback on the questions raised in the RFI. Engine looks forward to working with NIST to develop a privacy framework that protects users' privacy while encouraging innovation and promoting the thriving U.S. startup ecosystem.