



TECHNET
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INNOVATION ECONOMY

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February 19, 2020

Sen. Delores Kelley, Chair
Senate Committee on Finance
Maryland General Assembly
Miller Senate Office Building, 3 East
Annapolis, MD 21401

Re: SB 957- Maryland Online Consumer Protection Act

Dear Sen. Kelley and member of the Committee:

TechNet is the national, bipartisan network of over 80 technology companies that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50 state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than three million employees in the fields of information technology, e-commerce, clean energy, gig and sharing economy, venture capital, and finance. TechNet is committed to advancing the public policies and private sector initiatives that make the U.S. the most innovative country in the world.

TechNet respectfully submits these comments in opposition to SB 957 (Lee) pertaining to the collection of personal information by businesses. We appreciate the desire of the Sponsor to address consumer privacy protections. However, we urge Maryland to support federal efforts to create a comprehensive privacy law instead of contributing to a growing patchwork of state legislation.

As you are likely aware, on June 28, 2018, California enacted California Consumer Privacy Act (CCPA), a well-intentioned, but materially flawed new law, that seeks to protect the data privacy of technology users and others by imposing new rules on companies that gather, use, and share personal data. Unfortunately, CCPA was rushed through the California legislative process to avoid a potential ballot fight. Due to a hard deadline to withdraw the initiative, there was little time for substantive policy negotiations about a law that has a tremendous impact on businesses not only in California but across the nation. This has resulted in a law that was enacted just 18 months ago being amended via eight different legislative vehicles. And it is still not final.

While California has worked to address some of problematic provision included in the initial version of CCPA, many challenges remain. One example of a problematic provision is the CCPA's

reference to households and devices in the definition of personal information. This reference run counter to the CCPA's privacy protective goals and should be removed. As drafted, one member of a household – whether they are an abusive spouse or a roommate – has the ability to request access to all of the specific pieces of personal information – including credit card account information, precise geolocation data, or even shopping records – about another member of their household. This has anti-privacy consequences for mundane, everyday behavior, such as requesting information from a grocery delivery store which could inadvertently expose a household member's purchase of birth control or a pregnancy test. As another example, if one household member makes a request to delete all data associated with a household, another household member would be subsequently unable to access their household information. This is just one example of many.

An additional problem with the legislation as drafted is that SB 957 is nearly identical to the original version of CCPA which passed the Legislature in 2018. As such, the bill does not conform to the most recent version of CCPA today, which is likely to significantly change at least twice between now and November of 2020. In addition to amendments that passed the legislature last year, the Attorney General has engaged in a rulemaking procedure which may reinterpret key provisions of the law and add new obligations. Further complicating matters, this fall the sponsor of the 2018 ballot initiative has filed a new privacy ballot initiative, to correct perceived errors in the law and impose new obligations on businesses. This suggests that the privacy debate will continue to change over the next several years, and the true impact of the CCPA will not be known for some time. It is clear that California is not a workable model for other states to pass at this time.

TechNet is also concerned with a patchwork approach that imposes different privacy and security obligations in different states. Privacy laws can be difficult and costly for some of the largest businesses to comply but it's even worse for small businesses and start-ups. If you also factor in multiple states with multiple different laws, the end result can be crippling. The California Attorney General's office estimated that initial, direct compliance costs for CCPA to be \$55 billion, with up to another \$16 billion over the next decade (2020-30), depending on the number of California businesses coming into compliance, and with smaller firms likely facing a disproportionately higher share of compliance costs relative to larger enterprises. These numbers should be a warning to lawmakers as they consider any data privacy legislation.

TechNet ask you to consider holding SB 957 as California continues to implement CCPA. It is important to wait and learn of any unintended consequences that California will likely face as the first state to pass consumer data privacy legislation. Additionally, Maryland should avoid creating a separate and conflicting privacy law that would only increase compliance costs on businesses and start-ups.

Thank you for the opportunity to weigh in on SB 957 and as the Committee deliberates, please consider our organizations and our member companies a resource. Thank you in advance for your consideration on these matters. Please do not hesitate to reach out with any questions.

Sincerely,



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