



March 20, 2024

Senator Pamela Beidle
Chair of the Maryland Senate
Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Senator Katherine Klausmeier
Vice Chair of the Maryland Senate
Finance Committee
123 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: HB 567 – Maryland Online Data Privacy Act

Dear Chair Beidle and Vice Chair Klausmeier:

On behalf of the advertising industry, we write to ask the Senate Finance Committee (“Committee”) to align **HB 567**¹ with the version of SB 541 the Committee approved and the full Senate passed on March 14, 2024.² As described in more detail below, this action would align HB 567 with data privacy laws enacted in other states. We provide this letter to offer our non-exhaustive list of concerns about this legislation.

As the nation’s leading advertising and marketing trade associations, we collectively represent thousands of companies across the country. These companies range from small businesses to household brands, advertising agencies, and technology providers. Our combined membership includes more than 2,500 companies that power the commercial Internet, which accounted for 12 percent of total U.S. gross domestic product (“GDP”) in 2020.³ By one estimate, over 160,000 jobs in Maryland are related to the ad-subsidized Internet.⁴ We would welcome the opportunity to engage with you further on the non-exhaustive list of issues with HB 567 we outline here.

I. A Consent Requirement for Content Personalization and Marketing Would Negatively Impact Maryland Residents and Hinder Economic Growth

SB 541 was amended to remove a requirement to acquire consent from consumers before collecting data for the purpose of content personalization or marketing.⁵ No other state privacy law imposes an opt-in consent requirement for such marketing uses. The Committee decided to excise this consent requirement from SB 541, and we ask it to do the same when it considers HB 567.

Rather than providing consumers meaningful new privacy protections, an opt-in consent requirement would hinder Marylanders’ ability to seamlessly engage online. If enacted, this

¹ Maryland HB 567 (Gen. Sess. 2024), located [here](#).

² Maryland SB 541 (Gen. Sess. 2024), located [here](#).

³ John Deighton and Leora Kornfeld, *The Economic Impact of the Market-Making Internet*, INTERACTIVE ADVERTISING BUREAU, 15 (Oct. 18, 2021), located at https://www.iab.com/wp-content/uploads/2021/10/IAB_Economic_Impact_of_the_Market-Making_Internet_Study_2021-10.pdf.

⁴ *Id.* at 127.

⁵ See SB 541 § 14-4607(A).

requirement would exacerbate notice fatigue for Maryland consumers, who would be inundated with consent requests to collect data for routine, responsible uses as consumers navigate the Internet. Such a shift would virtually ensure Maryland residents have a vastly different online experience than consumers in neighboring or nearby states, such as Virginia, Delaware, and New Jersey, and would not receive the same opportunities to access resources available due to the ad-subsidized Internet as consumers from all other states. Maryland should not proceed with a blanket opt-in approach for content personalization and marketing that starkly diverges from the approach in all other states that have enacted consumer data privacy legislation.

II. An Opportunity to Cure Violations Would Encourage Compliance with Law

As passed by the Senate, SB 541 would permit entities to take steps cure alleged violations until April 1, 2027, if a cure is deemed possible.⁶ We ask the Committee to similarly amend HB 567 to permit this cure opportunity. The ability to cure allows well-meaning businesses to take steps to rectify alleged violations before being subject to monetary penalties. This opportunity would benefit small and mid-sized businesses in particular, as such entities may have fewer resources to dedicate to compliance and thus could be caught up in lawsuits alleging technical violations of the law. A cure opportunity would allow these businesses to fix alleged violations and could potentially save them from the need to pay enterprise-threatening penalties that could put them out of business.

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⁶ SB 541 at § 14-4614.

We and our members strongly support meaningful privacy protections for consumers supported by reasonable and responsible industry practices and support a national standard for data privacy accordingly. We therefore respectfully ask you to amend HB 567 to match SB 541, and we would welcome the opportunity to engage further and work with you to hone a workable privacy framework that benefits Maryland businesses and consumers alike.

Thank you in advance for your consideration of this letter.

Sincerely,

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CC: Members of the Senate Finance Committee

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