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January 17, 2025

The Honorable C.T. Wilson
Chair
House Economic Matters Committee
Maryland House of Delegates
Taylor House Office Building, Room 231
6 Bladen Street, Annapolis, MD 21401

RE: HB 208 (Fraser-Hidalgo/Pruski) - Consumer Protection – False Advertising – Digital Goods - Oppose

Dear Chair Wilson and Members of the Committee,

On behalf of TechNet, I'm writing to provide remarks on HB 208 related to false advertising and digital goods.

TechNet is the national, bipartisan network of technology CEOs and senior executives 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 over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

While the stated goal of this legislation is to clarify what customers get when they buy a license to a digital good, compliance with the bill's requirements could result in more confusion for consumers because of the broad language in the bill text. The requirements on sellers of digital goods are not just operationally challenging, but they are also possibly incongruent with how consumers engage with digital goods. For example, the requirements in this bill may mean listing the complete scope of a license on the product page, or in a check-out pop-up, which is simply not practical given limited available space, especially on mobile.

Our members' sellers have high standards when dealing with consumers. The affirmative acknowledgement requirement that is "distinct and separate from any other statement that the purchaser acknowledges" is unnecessary and creates a mandate that could be difficult for some sellers to comply with, especially smaller sellers.

We agree that consumer transparency is critical. Customers should feel informed and confident when making purchasing decisions. As such, we propose the following change:

- Change AND to **OR** on page 4, line 21
- Change AND to **OR** page 5, line 12

This change would give the seller two different avenues to comply and make for a better customer experience.

Regarding enforcement, HB 208 creates new criminal penalties, which seem to be outsized if the bill is seeking to clarify how digital goods are sold and owned. From our understanding of the text, the bill seeks to create better transparency between sellers and customers around digital goods. Beyond the criminal penalties, the text of the bill could be understood to create a private right of action under Maryland's Consumer Protection Act. Enforcement of any violation of this act should align with the State's existing online consumer protections. We believe the Attorney's General Office, with their jurisdictional expertise around consumer protections, is best poised to develop a thoughtful, consistent approach to marketplace regulation. If this honorable committee votes to favorably report this bill, we ask that you consider the following amendment language:

- **There shall be no private right of action for a violation of this act, and a violation of this act shall not serve as the basis for a private right of action under any other provision of law.**

We also note that HB 224 related to false advertising deals with civil penalties enforced by the Attorney General. Again, we believe that the AG is best poised to enforce the penalties in HB 208.

Thank you for your consideration and we look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic