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January 21, 2025

TO: The Honorable C.T. Wilson, Chair
Economic Matters Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: House Bill 208 – Consumer Protection – False Advertising – Digital
Goods – SUPPORT WITH AMENDMENTS

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 208, sponsored by Delegate Fraser-Hidalgo, which would prohibit advertising of digital goods, such as online games, movies, books and music, unless the seller discloses that the consumer is only purchasing a license to use the digital goods rather than an ownership interest. Many consumers who pay for digital goods believe that they are buying the game, movie, book, or music when in fact they are only paying for the right to use it, a right that may be terminated. House Bill 208 will ensure that the consumer is made aware of the nature of their purchase before they pay.

House Bill 208 is based on a California law that resulted from efforts by Sony and Ubisoft to remove digital content that consumers had paid for. The Division believes that the fact that a consumer is purchasing a license rather than an ownership interest is a material fact that is required to be disclosed under the Consumer Protection Act. HB 208 requires express disclosure language and an affirmative acknowledgment from the consumer and would help to ensure that consumers are aware of the limitations of their purchases. The disclosures and affirmation are not required, however, for a subscription service, free software, or digital goods that allow the consumer to download and keep a copy.

House Bill 208 provides that a violation is a misdemeanor. The Division believes, however, that it would make more sense to make a violation an unfair, abusive or deceptive practice

under the Consumer Protection Act. Accordingly, the Division recommends replacing subsection (G) on page 6, lines 10 through 12, with:

(G) A VIOLATION OF THIS SECTION IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

Since House Bill 208 would help to ensure that consumers of digital goods are made aware of important information regarding their purchases, the Consumer Protection Division requests that the Economic Matters Committee give HB 208 a favorable report with the suggested amendment.

cc: The Honorable David Fraser-Hidalgo
Members, Economic Matters Committee