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March 6, 2023

The Honorable Melony Griffith
Miller Senate Office Building, 3 East Wing
11 Bladen Street, Annapolis, MD 21401

RE: SB 698 Consumer Protection - Online and Biometric Data Privacy

Dear Chair Griffith and Members of the Committee,

On behalf of TechNet's member companies, I respectfully submit this letter of opposition to SB 698.

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 five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

We appreciate your leadership and thoughtful approach to consumer data privacy. The technology industry is fully committed to securing privacy and security for consumers and engages in a wide range of practices to provide consumers with notice, choices about how their data is used, as well as control over their data. TechNet believes that any consumer privacy bill should be oriented around building consumers' trust and fostering innovation and competitiveness. New privacy laws should provide strong safeguards to consumers while also allowing the industry to continue to innovate. These new laws should be based upon a uniform set of standards to avoid imposing a patchwork of policies across jurisdictions. Specific requirements on data collection, use, or retention should be narrowly focused on personally identifiable, highly sensitive, or proprietary information. Privacy laws should be limited to specific practices tied to specific harms and should also apply to government entities.

Undoubtedly, biometrics has a critical role to play in the security and anti-fraud spaces, and its protections are a top priority for our members; however, the language in this bill is reflective of the Illinois Biometric Information Privacy Act (BIPA). BIPA is outdated and has led to several hundred frivolous lawsuits in Illinois. TechNet would suggest shifting the focus from biometrics to other language in SB 698 which reflects the Connecticut model and incorporates biometrics protections under the omnibus privacy umbrella. These protections include affirmative opt-in consent requirements, the ability for consumers to correct, delete, or port their data, among several other provisions. This approach provides more protections to Maryland consumers and allows for flexible interoperability across state lines.

TechNet opposes the inclusion of a private right of action because any unintentional or perceived violation could result in damaging liability for companies. PRAs are not effective methods of enforcement, as they can very easily be misused and lead to frivolous lawsuits. Litigation leads to uneven and inconsistent outcomes. In turn, some business may choose to stop doing business in Maryland or be forced to cease operations altogether. The Attorney General is the only appropriate entity to enforce such action. By shifting the focus away from the threat of civil suits, companies will be able to devote resources to complying with privacy laws, as opposed to dealing with frivolous litigation.

TechNet joins industry partners and strongly encourages Maryland to look to the protections for consumers included in other states' omnibus privacy laws to avoid a patchwork of state laws that are difficult to comply with and confusing for consumers. We would welcome the opportunity to work with your office to address issues of privacy protection without unintended consequences. Please consider TechNet's members a resource in this effort. Thank you for your time and we look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

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