To:      House Economic Matters Committee

From:   Rebecca Snyder, Executive Director, MDDC Press Association

Date:    March 28, 2024

Re:      **MDDC Oppose SB 0541, the "Maryland Online Data Privacy Act of 2024"**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies such as the Washington Post and the Baltimore Sun, to hometown newspapers such as the Star Democrat and Maryland Independent, to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as the Baltimore Banner, MoCo 360, Maryland Matters and Baltimore Brew.

As you reconcile outstanding language differences between the House and Senate versions of the "Maryland Online Data Privacy Act of 2024," we believe these additional modifications are required to avoid significant, and we believe, unintended negative consequences on Maryland's news media entities, which in turn would curtail access to vital journalism resources for the state's residents.

**1. Limiting the collection of personal data to a "specific product or service requested by the consumer" in 14—4607. (B)(1) creates as a *de facto* opt-in for targeted advertising.**

This directly conflicts with the clearly outlined sections in the bill where both the House and Senate deleted the language "unless the controller obtains the consumer's consent" 14—4607. (A)(2),  existing sections that clearly outline opt-out requirements for targeted advertising, including 14–4605. (B)(7)(I) and 14–4607. (E) and the established framework in *every other* state that has passed a comprehensive privacy law. The bill's *de facto* opt-in requirement would  be detrimental to Maryland consumers and create significant operational burdens for local Maryland businesses, including news media publishers. This language would also prohibit well-understood, expected data processing tasks done in service of common activities such as research and development, audience analysis, or marketing.

As a result, we **strongly urge** the Committee to adopt the following language:

14–4607. (B) (1) A CONTROLLER <u>OR PROCESSOR</u> SHALL: (I) LIMIT THE COLLECTION OF PERSONAL DATA TO WHAT IS ADEQUATE, RELEVANT, REASONABLY NECESSARY AND PROPORTIONATE ~~TO PROVIDE OR MAINTAIN A SPECIFIC PRODUCT OR SERVICE REQUESTED BY THE CONSUMER TO WHOM THE DATA PERTAINS~~ IN RELATION TO THE PURPOSES FOR WHICH SUCH DATA IS PROCESSED, AS DISCLOSED TO THE CONSUMER;

**2. The amended language in 14—4607. (A) regarding processing the data of consumers under the age of 18 contradicts the bill's own language establishing COPPA applicability.** This also introduces knowledge concepts and age applicability not found in other Maryland legislation or in the privacy legislation of any other state and

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would consequently be detrimental to Maryland consumers and businesses, including news media entities.

For consistency and workability, we **strongly** recommend that the language be restored to the better known federal knowledge standard "know/knew" instead of "should have known," as these are the only two locations where this standard is set in the bill.

We urge the language in HB 0567T 14—4607. (A)(5) and (6) be corrected as follows:

14–4607. (A) (5) PROCESS THE PERSONAL DATA OF A CONSUMER FOR THE PURPOSES OF TARGETED ADVERTISING IF THE CONTROLLER HAS ACTUAL KNOWLEDGE ~~KNEW OR SHOULD HAVE KNOWN~~ THAT THE CONSUMER IS AT LEAST 13 YEARS OLD AND UNDER THE AGE OF 18 YEARS;

14–4607. (A) (6) SELL THE PERSONAL DATA OF A CONSUMER WITHOUT THE  CONSUMER'S CONSENT IF THE CONTROLLER HAS ACTUAL KNOWLEDGE ~~KNEW OR SHOULD HAVE KNOWN~~ THAT THE CONSUMER IS AT LEAST 13 YEARS OLD AND UNDER THE AGE OF 18 YEARS;

We sincerely appreciate your consideration and urge the adoption of the amendments above.