



Consumer Data Industry Association
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Senator Guy Guzzone
Chair
Senate Budget & Taxation Committee
3 West Miller Senate Office Building
11 Bladen St
Annapolis, Maryland 21401

Chair Guzzone, Vice-Chair Rosapepe, Members of the Committee:

On behalf of the Consumer Data Industry Association (CDIA), I write to respectfully oppose SB 904, which would establish a new gross receipts tax on large swaths of data-driven transactions and activities that Marylanders depend on to complete transactions, access services, evaluate products, and compete in the marketplace. This tax on the free flow of data across local, state, and national boundaries will raise costs for consumers, small businesses, and institutions that rely on data-driven products and services that make much of our modern digital economy possible and will make Maryland less competitive.

CDIA, founded in 1906, is the trade organization representing the consumer reporting industry, including agencies like the three nationwide credit bureaus, regional and specialized credit bureaus, background check companies and others. CDIA exists to promote responsible data practices to benefit consumers and to help businesses, governments and volunteer organizations avoid fraud and manage risk.

Aside from being contrary to the state's economic policy goals and purposes in relation to the modern digital economy, the tax levied by SB 904 would also be duplicative. To the extent that CDIA member company activities are captured by the proposal, those businesses, as well as all others, are already subject to Maryland corporate taxes for their Maryland business activities contemplated by this proposal. Layering yet another tax on top of already taxed activity will trigger market adjustments, ultimately increasing the cost of services and products paid for by Maryland consumers, small businesses, and institutions.

However, to the extent that the General Assembly wishes to move forward with unwise economic policy, CDIA would like to acknowledge the importance of maintaining the existing construction and scope as it relates to the definition of Data Broker. This committee no doubt will hear from many interests suggesting that Maryland should instead adjust the definition and scope of SB 904 to refocus on certain business models over others. This would be picking winners and losers in the marketplace and exacerbating the negative consequences of the tax policy included in the bill, once again to the detriment of Marylanders.

While this tax would be the first of its kind in the nation, SB 904 would also be the first to rightly focus on data brokering as an activity as opposed to drawing an arbitrary line in the normal data flow process after which otherwise normal business activity become "data brokering". This is not to say that the existing exemptions for certain, highly-regulated, data-driven processes should not be included, preserved, or even expanded on a case-by-case basis.

On the contrary, the current exemptions for entities regulated by the Fair Credit Reporting Act and the Gramm-Leach-Bliley Act underscore the disruptive risks posed by SB 904's novel tax scheme. These exemptions must and should be maintained and if the committee chooses to move this proposal forward. Further, the committee would be well-served consider additional, activity-driven exemptions to avoid unnecessary cost increases for Maryland consumers who depend on data-driven services that are not already exempt.

The insertion of additional exemptions is particularly important given that many entities work across multiple different data flows, combining exempt activities with nonexempt activities or sharing data between exempt and non-exempt entities, but related entities for a variety of processes. That SB 904

functions as a data tax creates risks not only compliance but also operational problems given the complexities of many CDIA members' businesses that facilitate and support other critical services like identity verification, fraud detection, product recalls, benefit eligibility verification and administration or similar screenings.

Without additional refinement to SB 904's reach, these critical, data-driven services could become more expensive for Maryland users. As a result, some users may opt to discontinue their use, which could create additional unintended consequences for Maryland consumers, small businesses, and institutions. This would, in turn, expose them to greater risk of fraud, complicate identity verification for transactions, and frustrate the administration of product recalls to keep consumers safe.

Setting aside the operational issues with SB 904, CDIA remains concerned about the precedent of states creating new taxes on the flow of data that support a variety of products and services Marylanders depend on every day. Both the complexities of implementing and administering such a complex proposal and the significant risk of unintended consequences for businesses and cost increases for consumers, small businesses and other institutions underscore that the risks of SB 904 outweigh any estimated revenue increases.

Instead of pursuing a novel, disruptive, and complex data tax, CDIA encourages Maryland to look to other approaches to address any budgetary challenges the state may face instead of picking winners and losers in the modern, data-driven economy. With all this in mind, CDIA respectfully requests the committee issue an unfavorable report on SB 904.

CDIA and its members stand ready to serve as a resource to this committee and the General Assembly as they work to better understand how the free flow of data supports Maryland's continued economic growth. Thank you for your time and consideration and please reach out to me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zachary W. Taylor', with a stylized flourish extending to the right.

Zachary W. Taylor
Director, Government Relations
Consumer Data Industry Association