February 28, 2025

Delegate CT Wilson
Chair
House Economic Matters Committee
Maryland House of Delegates
230 Taylor House Office Building
Annapolis, Maryland 21401

Chair Wilson, Vice Chair Crosby, and Members of the Committee:

On behalf of the Consumer Data Industry Association (CDIA), I write to raise our concerns regarding HB 1477, a broad and confusing proposal to regulate the use of algorithms by consumer reporting agencies that will disrupt existing systems established to comply with federal and state laws, introduce significant compliance challenges, and unleash unintended consequences for Maryland consumers, lenders, employers and other lawful users of consumer reports. CDIA believes that many of the underlying concepts from HB 1477 would be better dealt with as part of the Artificial Intelligence workgroup proposed by HB 956 to ensure the appropriate scope and focus of regulation in this space and as such, respectfully requests the committee issue an unfavorable report on this bill.

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.

It is critical we note at the outset that the consumer reporting agencies HB 1477 targets do not make determinations or decisions as it relates to the provision of financial services, housing, or employment. Further, most of the entities that create, sell, or provide credit and other scoring tools this bill attempts to regulate do not meet the definition of consumer reporting agency and would not be covered by the bill.

For CRAs who are covered, the consumer reports, credit reports, and other products we offer that utilize algorithmic systems are but one component of multi-faceted, multi-pronged, individual assessment of each consumer's unique circumstances that inform human-driven decisions made by lenders, employers, landlords, or other users of consumer reports. The same is true of credit scores and other products offered by companies included or excluded from HB 1477. Nothing in HB 1477 would create greater transparency into those decisions for Maryland consumers.

Setting those considerations aside, CDIA members and their products are already heavily regulated at the federal level through multiple, well-established laws. These laws include the Fair Credit Reporting Act (FCRA) and the Gramm-Leach-Bliley Act (GLBA), and the Equal Opportunity Credit Act (EOCA) to name a few. Notably, much of the Fair Credit Reporting Act (FCRA) is also incorporated into Maryland's Commercial Law Article, recreating the FCRA's robust consumer protections at the state level.

The FCRA not only requires our members maintain reasonable procedures to ensure maximum possible accuracy but also includes a robust dispute resolution process through which consumers can seek to correct any incorrect or incomplete information furnished to CRAs. Beyond statute, CRAs and their products are also subject to a wide array of federal regulations promulgated by a variety of agencies including the Federal Trade Commission, Federal Housing Finance Authority, and Consumer Financial Protection Bureau.

While CDIA and its members take our accuracy and compliance obligations extremely seriously, we are concerned that the broad scope of HB 1477 misconstrues the consumer reporting ecosystem, establishing unreasonably burdensome obligations in an unnecessarily broad manner that will create unintended consequences for consumers, lenders, employers, and other legitimate users of consumer reports. HB 1477

relies on multiple undefined terms, including "algorithmic systems", "algorithmic evaluation", and "automated evaluation".

While CDIA has difficulty understanding the intended scope or limit of these terms, taken at face value, it appears the requirements of HB 1477 would apply to any algorithm used by any consumer reporting agency for any purpose, including verifying the submission of data from a furnisher, processing the data, linking the data to the appropriate consumer files, or performing functions related to regulatory exams or other authentication. This creates multiple problems for consumer reporting agencies that would severely hinder the system, to the detriment of consumers who rely on access to credit.

Taken to a narrower focus, consider the following example. Consumer reporting agencies may use an algorithm to compile a consumer's report from a variety of their databases, pulling information regarding a mortgage, credit cards, public records, and other sources. HB 1477 appears to require that any algorithmic application—even for the simplest of applications—have a "at least 1,000 data points per category", possibly prohibiting the inclusion of any information category below that threshold.

For most consumer accounts, information is furnished to a consumer reporting agency on a monthly basis. In relation to individual consumers, HB 1477 appears to suggest that categories with fewer than 1,000 data points be excluded. While it may not be the intent, the application of this standard would prohibit the inclusion of any account information less than 83 years old, assuming monthly reporting. For comparison, a standard, 30-year mortgage, assuming it is not refinanced, would have only 360 reportable payments.

This would also severely disrupt the dispute resolution process and error correction procedures. Consider a circumstance under which a furnisher, in this case a bank who issued a consumer a credit card, misreports an account balance or payment. While their normal monthly report to the consumer reporting agency could contain thousands of records related to thousands of individual consumer's separate accounts, a correction to this error would come through as a single data point. That data point would be processed by the same algorithms to end up on the appropriate place and correct an error on a consumer report. However, HB 1477 could frustrate those efforts given the exceedingly small sample size.

Lastly, we would also like to note that HB 1477 would require that CRAs provide "alternative, nonalgorithmic assessment options for consumers who opt out of automated decision making." This specifically contradicts Maryland's existing data privacy law, which includes an exemption for entities, activities, and data governed by the FCRA from a similar requirement that applies to CDIA members.

While we can understand the intent behind HB 1477, by attempting to layer additional, complicated, and duplicative regulation on an already highly-regulated industry misses the mark and could disrupt the consumer reporting system to the detriment of consumers and our customers alike. To the extent the General Assembly believes Maryland needs to regulate the application of algorithms, other proposals, like HB 956, are better positioned to address these topics. With that in mind, we respectfully encourage the committee to issue an unfavorable report on HB 1477. Thank you for your time and consideration.

Sincerely,

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