



April 26, 2019

The Honorable Thomas G. Carmody, Jr.
Chairman, House Commerce Committee
Louisiana House of Representatives
900 North Third Street
Baton Rouge, LA 70804

Dear Chairman Carmody:

On behalf of CTIA, the trade association for the wireless communications industry, I write in opposition to House Bill 465, which would create an inconsistent and confusing privacy regime. From the outset, it is important to note that there is no gap in privacy protections that must be filled at the state level. The Federal Trade Commission (FTC) has oversight and enforcement authority over consumer data practices. For over 20 years, the FTC has developed and enforced an effective privacy framework that applies to all players who handle consumer data.

The FTC is an active consumer privacy enforcer. It has brought over 500 enforcement actions protecting consumer privacy and data security. Most recently, the FTC, with 32 state attorneys general, brought an action against a large computer manufacturer alleging that it "preinstalled software that interfered with how a user's browser interacted with websites."¹ The Commission also brought charges against a ride sharing company alleging that it failed to "live up to its claims that it closely monitored employee access to consumer and driver data."² These are just two examples of more recent FTC privacy enforcement actions.

Neither consumers nor businesses benefit from the fragmentation that additional privacy laws at the state level introduce. HB 465 raises particular concerns not only because it adds to this fragmentation but also because it refers to many specific technologies and activities to define its coverage, which creates gaps and virtually assures that the bill's obligations will be uneven and protections inconsistent. For these reasons, CTIA opposes this bill.

¹ See "Federal Trade Commission Privacy & Data Security Update: 2018," *available at*: <https://www.ftc.gov/system/files/documents/reports/privacy-data-security-update-2018/2018-privacy-data-security-report-508.pdf>.

² *Id.*



Consumer privacy protections should apply consistently across all industry sectors, and protections should be consistent for any given type of information. HB 465 fails to provide this consistency in at least two significant ways. There is no justification for distinguishing broadband internet access service (BIAS) providers from other types of entities that collect personal information online as HB 465 would do. Congress has already rejected this approach by disapproving of the Federal Communications Commission rules that created privacy obligations specific to BIAS providers. In addition, the definitions of other entities that HB 465 would cover, including “online service,” “operator,” and various “social media” entities introduce distinctions that could leave some significant forms of online personal data collection outside the scope of HB 465, including those companies that track consumers across applications and websites for advertising purposes.

Moreover, the seemingly blanket opt-in requirement in HB 465 is unduly restrictive. This general opt-in requirement is inconsistent with FTC standards and defies a broad consensus in favor of imposing more stringent requirements on sensitive personal information than on non-sensitive information. Moreover, in many situations, consumers expect companies to share information that they collect. For example, consumers who order goods online expect the retailer to send their addresses to shippers to fulfill the orders. HB 465 would require “express consent” before making such a disclosure.

Additionally, HB 465 includes a private right of action, which will harm businesses of all sizes without commensurate consumer benefits. The bill also does not include any applicable thresholds, which will impose substantial burdens on small and medium sized businesses. Finally, the geographic scope in this legislation is extremely broad as it does not limit its reach to Louisiana residents and will impact businesses well beyond the state’s borders, including every internet website or online services that operates for commercial purposes.

CTIA strongly supports ongoing efforts within the federal government to develop a uniform national approach to consumer privacy.³ Several federal agencies, including the FTC, the National Telecommunications and Information Administration (NTIA), and the National Institute of Standards and Technology (NIST) are involved in these efforts. More than 200 organizations and individuals filed comments with NTIA last November, and these comments expressed broad support for federal privacy legislation. The stakes involved in consumer privacy legislation are high. Taking the wrong approach could

³ See *generally* Comments of CTIA, Developing the Administration’s Approach to Consumer Privacy, NTIA Docket No. 180821780-8780-01 (Nov. 9, 2018).



have serious consequences for consumers, innovation, and competition. Moving forward with HB 465 would only complicate these efforts.

For these reasons, CTIA opposes HB 465 and would respectfully request that you not move this bill. Thank you for the opportunity to raise our concerns with this legislation.

Sincerely,

Gerard Keegan
Vice President
State Legislative Affairs

cc: Members, House Commerce Committee