



February 16, 2024

Chair Michael Marcotte
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cc: ahegarty@leg.state.vt.us

Re: Additional Concerns with Vermont H. 121

We are writing to express the Software & Information Industry Association's (SIIA's) concerns with the current draft of H. 121. By way of background, SIIA is a trade association representing roughly 375 companies across the broad and diverse landscape of digital content providers and users in academic publishing, education technology, and financial information; creators of software and platforms used by millions worldwide; and companies specializing in data analytics and information services. Our mission is to protect the three prongs of a healthy information environment essential to that business: creation, dissemination and productive use.

SIIA supports meaningful privacy protections for consumers as well as workable compliance requirements for businesses. We appreciate the sponsor's willingness to amend the definition of publicly-available information, or PAI, in this bill to avoid running afoul of the First Amendment and maintain the health of the online information ecosystem and productive uses of data.

We believe, however, that the bill would benefit from additional clarity, specifically with regard to the second section that addresses "data brokers." This section includes definitions, data breach requirements, and opt-out and deletion language. Unfortunately, the data broker definitions do not align with the general consumer privacy definitions contained in the first section of the bill. This would cause needless compliance challenges for those businesses which may have obligations under both sections.

Furthermore, the opt-out and deletion requirements imposed on data brokers should cross-reference the general consumer privacy requirements. This is not only important to avoid confusion among consumers and well-intentioned businesses alike, but to incorporate the specific compliance requirements with these measures described in the previous section. Cross-referencing these mandates is also crucial so that businesses maintain the same productive exemptions the legislature intended that are contained in the first section. Those exemptions will help to further key public policy interests and enable the bill to pass constitutional muster.

Protection of privacy is a legitimate legislative priority, and one we believe must be balanced with clarity and workable compliance requirements for businesses operating in Vermont. We thank you very much for your consideration, and would be happy to discuss any of these issues further with you, if helpful.

Respectfully submitted,

Anton van Seventer
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Software & Information Industry Association

