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January 29, 2023

The Honorable Emily Brewer
Pocahontas Building, Room E414
900 East Main Street
Richmond, Virginia 23219

RE: HB 1688 Consumer Data Protection Act; protections for children

Dear Chairman Brewer and Members of the House Communications, Technology and Innovation Committee,

On behalf of TechNet, I respectfully submit comments on HB 1688, regarding children's data privacy.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

TechNet and its member companies are committed to providing a safe, age-appropriate experience for young people online. TechNet agrees that protecting children's data is a top priority; however, we are opposed to this bill's approach for several reasons.

Existing Law

The Virginia Legislature passed a comprehensive privacy law, the Virginia Consumer Data Protection Act (VCDPA), which went into effect on January 1, 2023. The VCDPA includes numerous new rights for all consumers, including significant rights for teens to know what personal information is collected about them, and teens can correct, delete, or port their personal data. Through this law, teens also can opt-out of targeted advertising, sale of their data, and profiling in furtherance of decisions that produce legal or similarly significant effects concerning consumers. We recommend the legislature let this new law work for a while before amending it. Now is not the right time to change the rules of the game for companies that have just rolled out mechanisms to enable these new rights.

Additional Data Collection

To comply with HB 1688, almost all companies would have to collect more information from all consumers to determine a consumer's age. This will require companies to deploy new systems impacting all data collection on a broad basis. This bill would require parental consent for any collection of data from 14 to 17-year-olds, which means just about every website would require a parent to provide consent just to view it. This would result in an untenable user experience. This would also create delays and impediments for routine purchases or internet services by teens unless a parent is present to verify teens' actions each time.

One-Size-Fits-All

This bill takes a one-size-fits-all approach and doesn't account for developmental differences. Experiences that might be appropriate for a 14-year-old likely differ from those appropriate for a 17-year-old, and the law should account for that and give platforms room to tailor experiences appropriately. The bill's failure to account for these differences means in practice, a 17-year-old might be ready for the responsibility of driving a car or preparing to vote, but under this bill would need parental consent to subscribe to an online newspaper or stream their favorite music.

Recommendations

TechNet recommends that HB 1688 go to the Joint Commission on Technology and Science (JCOTS) as JCOTS has a consumer data protection workgroup.

We recognize the importance of strong protections for young people online, but those efforts should account for teens' autonomy, aim to achieve consistency with emerging norms, and build on implementation of the state's foundational privacy law. For the above stated reasons, TechNet is opposed to HB 1688. We would recommend the legislature focus on the omnibus Virginia privacy law which recently took effect and study this bill in the Joint Commission on Technology and Science, before making additional changes to privacy standards. Thank you for your time and we look forward to continuing these discussions with you.

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