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INNOVATION ECONOMY

TechNet Mid-Atlantic | Telephone 717.585.8622  
www.technet.org | @TechNetMidAtla1

September 6, 2023

The Honorable John Galloway  
Chair  
House Commerce Committee  
Pennsylvania House  
301 Irvis Office Building  
Harrisburg, PA 17120

*RE: HB 1201 (Neilson) - Protecting Consumer Information and Privacy.*

Dear Chairman Galloway and Members of the Committee,

On behalf of TechNet, I respectfully submit comments on HB 1201 related to 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 4.5 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 recognize the importance of personal data privacy and consumer protection. TechNet believes that privacy laws should provide strong safeguards for consumers, while allowing companies to innovate, provide security, and create jobs. Consumer trust and transparency are top priorities for our members, and this includes transparency on methods used to collect and use personal data.

In the absence of a federal privacy standard, TechNet suggests that the committee look to legislation that closely aligns with other model states, such as Virginia and Connecticut. We suggest that all definitions in HB 1201 align with these other states' models and remove extraneous definitions. For example:

- TechNet requests the addition of an "Affiliate" definition to read:
  - "Affiliate" means a legal entity that shares common branding with another legal entity or controls, is controlled by or is under common control with another legal entity. For the purposes of this subdivision,

"control" or "controlled" means (1) ownership of, or the power to vote, more than fifty per cent of the outstanding shares of any class of voting security of a company, (2) control in any manner over the election of a majority of the directors or of individuals exercising similar functions, or (3) the power to exercise controlling influence over the management of a company.

- We also request that the definition of "Personal data" be pared down to read:
  - "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include de-identified data or publicly available information.

For duties of controllers, TechNet recommends adding to Section 5(4) other lawful basis after "consumer's consent or". We would ask that the committee strike the provision regarding controllers must publicly commit to maintaining and using de-identified data without attempting to re-identify the data. We see this as a prescriptive provision that is unnecessary when other conditions are being met.

TechNet thanks the sponsor for placing exclusive enforcement authority with the Attorney General and further making it clear that nothing in the act shall be construed as providing the basis for a private right of action. Our members appreciate the opportunity to cure any alleged mistakes and would ask that the opportunity for the cure period continue after January 1, 2026, and be changed to a "shall" provision.

Under the section on Nonapplicability, TechNet requests that the financial institution exemption include affiliates. As an example, some money management applications that consumers use to manage finances are not covered by the Gramm-Leach Bliley Act; however, a consumer doing business with one company that has a suite of services has an expectation of shared data. When affiliates are unable to share data, this creates a disjointed process for the consumer that should be seamless.

Suggested language:

- Section 11(a)(5)
  - Financial institution or an affiliate of a financial institution governed by, or personal data collected, processed, sold, or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. 6801, et seq.

Finally, if this bill was to be enacted, our members would need time to implement the numerous changes required in this bill. As such, we ask for a delayed implementation date, as opposed to effective immediately as currently drafted.

TechNet joins industry partners and strongly encourages the Commonwealth to look to the protections for consumers included in other states' omnibus privacy laws to avoid a patchwork of state laws that are difficult to comply with and confusing for

consumers. We would welcome the opportunity to work with you to address issues of privacy protection without unintended consequences. Please consider TechNet's members a resource in this effort. Thank you for your time and we look forward to continuing these discussions with you.

Sincerely,

*Margaret Durkin*

Margaret Durkin  
TechNet Executive Director, Pennsylvania & the Mid-Atlantic