

Alaska Telephone Association

Ed Cushing
President

201 E. 56th Avenue, Suite 114
Anchorage, AK 99518
(907) 563-4000
www.alaskatel.org

Christine O'Connor
Executive Director

April 28, 2017

The Honorable Sam Kito
Chair, House Labor & Commerce Committee
State Capitol, Room 403
Juneau, AK 99801

Dear Chair Kito and Members of the Committee,

We are writing to express our concern with HB 230 "An Act relating to the collection of customer information by telecommunications and Internet service providers; and establishing an unfair trade practice under the Alaska Unfair Trade Practices and Consumer Protection Act."

Privacy is a serious and legitimate concern in the online world we all depend on, but HB230 will not provide new protections. Instead it threatens to disrupt essential broadband service for consumers, mandates highly disruptive and burdensome consent requirements for internet users, and will confuse consumers.

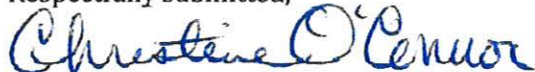
This proposed legislation would frustrate, rather than help consumers, and is unnecessary. The reality is that Alaska's telecommunication/ISPs do not sell customer's personal web browsing history. To the contrary we are deeply conscious of the sensitivity of the private information inherent in communications services and are vigilant to protect it. Our privacy policies are posted online and we are available at all times to answer questions from customers. (URLs listed below.) Further, the Federal Communications Commission ("FCC") continues to apply protections under the Communications Act to the privacy practices of ISPs. In 2015, the FCC issued enforcement guidance under section 222 of the Communications Act. This guidance, which continues to apply today, ensures that ISPs are held accountable for unreasonable privacy practices.

HB 230's requirements are not necessary and would annoy consumers by requiring affirmative consent for routine internet functions, and may actually prevent the provision of broadband service. Some level of customer information is required to allow a company to provide and support broadband service. Without personal details needed to provision, support and troubleshoot service, a provider would be unable to deliver broadband despite the proposed statutory language mandating service.

Privacy is a critical priority for customers, providers and policy makers. As the FCC's privacy rules had never gone into effect, the actions taken recently by Congress just maintained the status quo. Following enactment of the congressional resolution, the chairs of the FCC and Federal Trade Commission committed to work together to adopt a consistent federal policy on Internet privacy.

ATA member companies have always been and will continue to be vigilant to protect our customers' privacy. Our customers are our communities, our neighbors and our families and we consider it a privilege to provide broadband service to them. We are excited about the many benefits broadband service brings to Alaskans and ask that HB 230 not be adopted. HB 230 would obstruct our ability to service our customers and communities. We respectfully ask that HB 230 not be advanced.

Respectfully submitted,



Christine O'Connor
Executive Director



Ed Cushing
President



April 28, 2017

The Honorable Representative Sam Kito
Alaska House of Representatives
Chair, House Labor & Commerce Committee
State Capitol Room 403
Juneau AK, 99801

RE: Opposition to House Bill 230

Dear Chair Kito:

On behalf of CTIA, the trade association for the wireless communications industry, I write in opposition to Alaska House Bill 230, which would restrict how telecommunications and internet service providers (ISPs) operate in Alaska.

Any suggestions that ISPs, including CTIA members, have unique access to consumer data online are unfounded. A comprehensive study by veteran Clinton and Obama Administration privacy expert Peter Swire showed that ISPs actually have limited insight into the online activity of consumers.¹ HB 230 unnecessarily targets one set of providers - telecommunications providers and internet service providers - and treats them differently than others operating in the internet ecosystem.

The wireless industry takes a proactive approach to protect consumer privacy. Our members provide consumers with detailed privacy policies, which clearly describe how providers protect consumer data. Current federal and state statutes also provide additional layers of protection for sensitive consumer information. In addition, telecommunications providers and ISPs, including CTIA members, have recently recommitted to principles that maintain privacy protections consistent with the Federal Trade Commission's effective privacy framework, covering transparency, consumer choice, security, and data breach notifications.²

It is important to note that recent Congressional action did not change privacy protections for wireless consumers. The Federal Communications Commission (FCC) rules had not taken effect, so nothing changed from the regulatory framework that has existed for the past two years. Moreover, the framework advocated for by ISPs aligns with that of the Obama Administration, which noted that, "uniform consumer data

¹ "Online Privacy and ISPs: ISP Access to Consumer Data is Limited and Often Less than Access by Others," http://www.isp.gatech.edu/sites/default/files/images/online_privacy_and_isps.pdf, Swire, Peter, last accessed 4/28/2017: "ISP access to user data is not comprehensive – technological developments place substantial limits on ISPs' visibility. [And] ISP access to user data is not unique – other companies often have access to more information and a wider range of user information than ISPs."

² "Protecting Consumer Privacy Online," <http://www.ctia.org/docs/default-source/default-document-library/final---protecting-consumer-privacy-online.pdf>, last accessed 4/28/2017.



privacy rules are necessary to create certainty for companies and consistent protections for consumers.”³ The current FCC Chairman has also clearly stated that, “[i]nternet service providers have been – and will continue to be – obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.”⁴

HB 230 imposes unjustified restrictions on ISPs and deviates from the privacy framework and standards that have been in place for decades. The proposed language would make it very difficult for ISPs to operate in Alaska and would create inconsistent privacy standards for different parts of the internet ecosystem, which will ultimately confuse consumers and have a host of unintended consequences.

CTIA member companies have long recognized the importance of protecting consumer data and respecting consumer privacy. In 2003, CTIA and the wireless carriers that are signatories to the "Consumer Code for Wireless Service," including AT&T, Sprint, T-Mobile, and Verizon Wireless, made a commitment to help consumers make informed choices.⁵ The tenth point of the Code provides that signatory carriers agree to abide by policies for the protection of customer privacy. As part of that commitment, carriers follow policies regarding the privacy of customer information in accordance with applicable federal and state laws and make available privacy policies concerning information collected online. The wireless industry recognizes the importance of customer privacy and takes strong measures to protect customer data.

HB 230 would create two sets of rules that are different for various entities within the internet ecosystem - harming competition and creating consumer uncertainty about which rules apply to their data. Survey results submitted to the FCC last year showed that 94 percent of internet users believe all companies touching their online data should follow the same privacy rules.⁶ These findings indicate that HB 230, which targets only ISPs, would not effectively protect consumer privacy because many other companies would continue to collect and use consumer data without being subject to the express written approval requirement.

CTIA members are absolutely committed to protecting consumer information as they value consumer trust. Existing federal and state laws and protections remain intact today rendering the bill unnecessary. Moreover, CTIA members have committed to a

³ "Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy," <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1096&context=jpc>, last accessed 4/28/2017.

⁴ Letter from FCC Chairman Ajit Pai to Sens. Markey, Blumenthal, Warren, Franken at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0317/DOC-343949A1.pdf, last accessed 4/28/2017.

⁵ CTIA Consumer Code for Wireless Service, <http://www.ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service>, last accessed 4/28/2017.

⁶ The Progressive Policy Institute, "Consumers Want One Set of Rules Protecting Their Information," <http://www.progressivepolicy.org/press/press-releases/press-release-consumers-want-one-set-rules-protecting-information/>, last accessed 4/28/2017.



framework to protect consumer information and privacy. For these reasons, we respectfully ask that you not move HB 230.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard Keegan", written over a light blue horizontal line.

Gerard Keegan
Assistant Vice President
State Legislative Affairs

cc: Members, House Labor & Commerce Committee
The Honorable Harriet Drummond
The Honorable Scott Kawasaki
The Honorable Les Gara
The Honorable Chris Tuck
The Honorable Justin Parish



April 27, 2017

Honorable Sam Kito
House Labor and Commerce Committee, Chair
Barnes 124
Juneau, AK 99801

Honorable Harriet Drummond
HB 230, Sponsor
Room 108
Juneau, AK 99801

[Sent Electronically for Distribution]

RE: **HB 230** relating to protecting the privacy and security of internet users – **OPPOSE**

Dear Chair Kito and Representative Drummond:

The undersigned associations write to respectfully **oppose HB 230**. This bill, if passed, creates serious unintended consequences and would negatively impact consumers, business and the Internet. It would foster a complicated regulatory structure at the state level for a sector that is best addressed via a national approach. HB 230 would make Alaska a far more difficult place to innovate on the Internet, ultimately hurting the information economy that has become an important part of the state's economy.

The undersigned associations oppose this legislation because it would contribute to an unworkable "patchwork" of state privacy laws, and risks unnecessary harm to the information economy.

Consumers and Businesses Can Rely on the Federal Approach to Privacy. The recent repeal of the Federal Communication Commission's ("FCC") Broadband Privacy Rules does not mean that consumers will be left unprotected. In fact, Internet Service Providers ("ISPs") have been and will continue to be substantially regulated at the federal level. Prior to the FCC's decision to adopt the Broadband Privacy Rules, it issued a wide-ranging enforcement advisory opinion, making it clear that the Communications Act (Section 222) applies to ISPs. This guidance continues to apply today. The recent action by Congress and the President does not change or alter the obligations of ISPs under Section 222, or the FCC's ability to enforce noncompliance. Nor does the recent repeal of the Broadband Privacy Rules create new rights or powers for ISPs because the rules never went into effect. As such, consumers continue to be protected under existing FCC authority.

Following the decision to repeal the FCC’s Broadband Privacy Rules, FCC Chairman Ajit Pai announced that the FCC would be working with the Federal Trade Commission (“FTC”) to restore the FTC’s authority over ISP privacy practices.¹ Chairman Pai reiterated that the FTC is and has been the regulatory leader with respect to privacy, and that we need to “end the uncertainty and confusion that was created in 2015 when the FCC intruded in this space.”² As indicated by Chairman Pai, consumers need greater certainty and clarity with respect to privacy regulation, and this certainty and clarity will be achieved at the federal level. Greater certainty and clarity will not be achieved through states entering into a regulatory space that has been historically addressed through a national approach.

HB 230 Would Disrupt the Internet and Harm Consumers. HB 230 would greatly exacerbate the growing “patchwork” of state laws on privacy practices. Unlike in other areas, state laws regulating the privacy practices of ISPs would be very difficult for companies to implement and would affect how consumers experience the Internet. This patchwork would force consumers to face a constant drumbeat of confusing and frustrating requests for consent to use the Internet for routine purposes that would vary depending upon the state where the consumer lives. A state-by-state approach, which will vary as each state debates and passes legislation, will inevitably be worse for consumers and organizations. The Internet cannot function as it has if each state is individually regulating how the Internet operates. Such state-by-state legislation would be incredibly disruptive.

The unprecedented growth and success of the Internet over the past two decades, and the high rate of consumer adoption that goes along with it, demonstrates that consumers are pleased with the Internet that has developed under current law. They are increasingly relying on the free and low-cost access to entertainment, news, and financial services, and other useful content that the Internet offers. By destabilizing the ecosystem, HB 230 threatens the “free Internet” that has become part of the daily lives of millions of American consumers.

Advocates for HB 230 and similar bills in other states have failed to identify a single, concrete harm that would be remedied through it. Instead, HB 230 proponents have offered a speculative “parade of horrors” without justification or evidence.

HB 230 Has Not Undergone Adequate Review or Analysis. HB 230 is attempting to regulate in a complicated, highly technical area despite the fact that it has not received sufficient analysis. Prior to enacting the Broadband Privacy Rules, the FCC underwent an extensive rulemaking process, receiving comments from organizations, building a record, and contemplating stakeholder concerns. After a year of regulatory consideration, the FCC released the final Broadband Privacy Rules. HB 230, however, is merely a reaction to the decision to repeal the FCC’s Broadband Privacy Rules, and is not the product of a deliberative, thoughtful legislative process.

HB 230 was hastily drafted, was not properly vetted, and, as a result, is poorly constructed. HB 230 has been introduced at the end of Alaska’s legislative session, forcing members to move forward without fully understanding the impact of the legislation, and without giving members adequate time to address issues with the language in the legislation.

¹ FEDERAL COMM’N COMM’N, Statement of Chairman Pai on President Signing Cong. Resolution of Disapproval (April 3, 2017), available at <https://www.fcc.gov/document/statement-chmn-pai-president-signing-cong-res-disapproval>.

² *Id.*

HB 230 Would Stifle Economic Growth and Innovation. According to the [Value of Data](#) report commissioned by the DMA in 2015, the Data-Driven Marketing Economy generated \$202 billion in revenue and 966,000 jobs in 2014. Similarly, the Interactive Advertising Bureau (“IAB”) commissioned a [study](#), which revealed that the advertising supported Internet ecosystem generated \$1.121 trillion for the U.S. economy in 2016, accounting for 6% of U.S. GDP, double its contribution in 2012. The IAB study also noted the advertising-supported Internet ecosystem created 10.4 million jobs in the United States, a 104% increase from 2012. The regulatory landscape for the Internet that existed prior to the FCC’s rules helped facilitate these significant economic developments. HB 230 would stifle that growth. A recent Zogby Analytics poll commissioned by the Digital Advertising Alliance (“DAA”) shows that consumers assign a value of almost \$1,200 a year to ad-supported online content. Ad-supported online content is the backbone upon which the Internet as we know it is built. Altering it or disrupting it would be very harmful to the Internet’s role as an economic engine for the American economy.

We have already seen the disruptive effects of restrictive requirements for the Internet in other regions, including Europe. It is no coincidence that the major Internet and technology companies in the world were developed in the United States, under the privacy regime that existed before the FCC’s Broadband Privacy Rules were adopted. A state-by-state approach on privacy, such as the one set forth in HB 230, would put the United States in an inferior competitive position and harm the American economy as a result.

Because it is unnecessary for consumers as they already receive significant protections under federal rules, unduly burdens Alaska’s businesses (both small and large), and negatively impacts Alaska’s tech and data-driven economy, the undersigned associations respectfully oppose HB 230.

Sincerely,

DMA – Data & Marketing Association
 4A’s – American Association of Advertising Agencies
 AAF – American Advertising Federation
 ANA – Association of National Advertisers
 IAB – Interactive Advertising Bureau
 Internet Association
 Internet Coalition
 NetChoice
 TechNet

cc: Honorable Members of the House Labor & Commerce Committee