



April 16, 2019

Chairman Ed Chau
Privacy and Consumer Protection Committee
Room 156A, Legislative Office Building
1020 N Street
Sacramento, CA 95814

Re: AB 1760

Dear Chairman Chau:

The undersigned trade associations, whose members support more than 2 million jobs in California and help generate some \$767.7 billion dollars for the California economy, respectfully oppose AB 1760 as currently drafted. Our members engage in responsible data collection and use that benefits consumers and the economy, and we believe privacy deserves tough meaningful protection in the marketplace.

We write today to focus on one of the most concerning proposals in AB 1760—the opt-in requirement—which will needlessly reduce online content and services that Californian’s enjoy, and have a crippling impact on the state’s economy. We highlight this initial issue because it represents the highest level of concern, but we will continue to engage with you on other concerns with the bill as it is currently drafted.

Overarching Opt-In Consent Requirements Will Frustrate the Online Experience and Hurt Consumers, Businesses, and the California Economy

No other privacy legislation being seriously considered in the rest of the country has as broad an opt-in consent requirement as AB 1760. There are multitude reasons why opt-in consent for data processing has never been broadly adopted in the United States and should not be mandated under California law. First, opt-in consent fails consumers, placing the burden on consumers, forcing them to read pages of terms and conditions and endlessly click “I Accept.” The constant appearances of consent boxes annoy online users and frustrate the consumer experience. Consumers also become desensitized to the constant requests, diminishing their sense of control over their privacy.

Additionally, opt-in consent will remove significant amounts of innocuous data that is used to serve the targeted advertisements that fuel free and low cost products and services. Without the ability to effectively advertise online due to opt-in consent barriers, revenues will be impacted and companies that rely on such revenue may no longer be able to support free and low cost content and services that Californians desire, such as online newspapers, social networking sites, mobile applications, email, and phone services. As a result, companies will be forced to



charge consumers higher prices or create pay-walls that will disproportionately impact less affluent Californians. Opt-in regimes also create major barriers for new companies trying to enter the market as consumers may be reluctant to opt in to companies that are not yet well known to them. This will undermine competition in the marketplace.

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Given the concerns with an opt-in requirement highlighted above, which will create drastic changes to the digital economy and underscore why broad opt-in consent rules always are rejected by legislatures in the United States, we believe it would be ill-advised to pass AB 1760 in its current form. We stand ready to work with you to find solutions to these and other issues with AB 1760.

Sincerely,

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