



February 6, 2024

Representative Amy A. Perruso
Chair of the House Higher Education & Technology Committee
House District 46
Hawai'i State Capitol, Room 444
415 S Beretania St.
Honolulu, HI 96813

Representative Jeanne Kapela
Vice Chair of the House Higher Education & Technology Committee
House District 5
Hawai'i State Capitol, Room 418
415 S Beretania St.
Honolulu, HI 96813

RE: Hawaii HB 1668 – Oppose

Dear Introducers of HB 1668, Chair Perruso, and Vice Chair Kapela:

On behalf of the advertising industry, we write to oppose HB 1668,¹ and below we provide our non-exhaustive list of concerns with this legislation. The bill would stand up a data broker registry in the state and require all registered data brokers to observe a centralized data deletion mechanism to be maintained by the Hawaii Department of Commerce's Office of Consumer Protection ("Office"). As described in more detail below, the proposed deletion mechanism would impede Hawaiians from receiving beneficial services and severely harm small businesses' ability to remain viable. We ask the House Committee on Higher Education & Technology ("Committee") to decline to advance the bill any further in the legislative process.

As the nation's leading advertising and marketing trade associations, we collectively represent thousands of companies across the country. These companies range from small businesses to household brands, long-standing and emerging publishers, advertising agencies, and technology providers. Our combined membership includes more than 2,500 companies that power the commercial Internet, which accounted for 12 percent of total U.S. gross domestic product ("GDP") in 2020.² By one estimate, nearly 20,000 jobs in Hawaii are related to the ad-subsidized Internet.³ We would welcome the opportunity to engage with the Committee further on the non-exhaustive list of issues with HB 1668 that we outline here.

¹ Hawaii HB 1668 (2024 Leg. Sess.), located [here](#).

² John Deighton and Leora Kornfeld, *The Economic Impact of the Market-Making Internet*, INTERACTIVE ADVERTISING BUREAU, 15 (Oct. 18, 2021), located at https://www.iab.com/wp-content/uploads/2021/10/IAB_Economic_Impact_of_the_Market-Making_Internet_Study_2021-10.pdf (hereinafter, "Deighton & Kornfeld 2021").

³ *Id.* at 125.

I. HB 1668 Would Decimate Hawaii Small Businesses' Ability to Enter Markets and Remain Viable

Services provided by data brokers help to create a more level economic playing field so small, mid-size, and start-up companies, many of which are minority and women-owned, can attract customers and compete in the marketplace with larger players. Third-party data sets provided by data brokers are a key data asset that smaller entities use to reach and generate new audiences for their offerings. HB 1668's data broker requirements would virtually ensure that the smallest of Hawaiian companies lose a vital resource for attracting and interacting with a customer base. The bill would stifle the vibrant Hawaiian economy by eliminating datasets that small businesses depend on to enter markets and remain viable. In addition, HB 1668 would severely limit Hawaiians' exposure to new products and services from niche and small businesses that may interest them.

II. HB 1668 Would Hinder Hawaiians' Access to Vital Data Broker Services

HB 1668 would require the Office to maintain an accessible deletion mechanism through which an individual may request that all registered data brokers delete any personal information processed about the individual.⁴ The bill also prohibits the sharing of personal information associated with the consumer after the consumer has submitted such a deletion request.⁵ The proposed data broker deletion mechanism would negatively impact Hawaii consumers and businesses that rely on data broker services. Mass deletion of data from all data brokers through the click of a button would stifle entities' ability to deliver vitally important products, services, and public benefits to Hawaii citizens, such as anti-fraud and identity verification services, marketing services and loyalty programs, cybersecurity services, public interest research, risk management services, state benefit programs, beneficiary location, and more.

Even though the bill provides certain exemptions to the deletion requirement, such as an exemption for use of data for security and integrity purposes, that exemption does not extend to the bill's prohibitions on sharing personal information after submission of a deletion request. Many beneficial data broker services—particularly those that further security and integrity efforts such as anti-fraud mechanisms—depend on the transfer or “sharing” of personal information in order to authenticate consumer identities and root out fraud. As a result, even if a data broker that provides vital anti-fraud services is not required to delete personal information after submission of a request through the Office's mechanism, that data broker will be functionally prohibited from providing critical anti-fraud services the consumer benefits from due to the bill's terms. This result is just one example of the many negative downstream impacts Hawaiians will suffer if HB 1668 is enacted. In addition, the bill as drafted does not provide sufficient protections to prevent entities or individuals from fraudulently making requests purported to be on behalf of consumers.

The deletion mechanism proposed in HB 1668 would also threaten the sustainability of the ad-supported Internet model, which subsidizes the largely free and low-cost availability of online resources, products, and services that Hawaiians enjoy today. According to one study, the free and low-cost products and services consumers access today—due in large part to data processed by data brokers—provides \$30,000 in value to each consumer every year, measured in 2017 dollars.⁶ This significant cost-savings to Hawaii residents would be eliminated if HB 1668 is enacted as presently drafted.

⁴ HB 1668, § -22(a)(2), (b)(1).

⁵ *Id.* at -22(e).

⁶ J. Howard Beales & Andrew Stivers, *An Information Economy Without Data*, 21 (2022), <https://www.privacyforamerica.com/wp-content/uploads/2022/11/Study-221115-Beales-and-Stivers-Information-Economy-Without-Data-Nov22-final.pdf>.

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To avoid the unintended consequences to consumers and small businesses that HB 1668 would create, we respectfully ask the Committee to decline to advance the bill any further in the legislative process. Thank you in advance for your consideration of this letter.

Sincerely,

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CC: Introducers of HB 1668
Members of the House Higher Education & Technology Committee

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