

October 14, 2022

Colorado Department of Regulatory Agencies

Colorado Office of Policy, Research & Regulatory Reform

Rule Number: 2.01 - 02; 3.01 - 02; 4.01 - 09; 5.01 - 09; 6.01 - 11; 7.01 - 09; 8.01 - 06; 9.01 - 06; 10.01 - 02

To Whom It May Concern:

The undersigned organizations represent a broad cross-section of the business community operating in Colorado. Pursuant to the Colorado Administrative Procedure Act, we respectfully request that the Colorado Department of Regulatory Agencies (“DORA”) perform a cost-benefit analysis on the proposed regulations to implement the Colorado Privacy Act (Senate Bill 21-190). An analysis of the draft regulations is necessary to appropriately weigh the significant economic impacts the regulations would have on businesses operating in Colorado, as well as the overall state economy. Due to the complexity of these regulations, they must be examined in their totality and not as individual rules.

If adopted, the proposed regulations, as currently drafted, would require companies operating in Colorado to expend considerable resources, time, and capital on compliance. Many requirements set forth in the draft regulations are novel to in-state businesses and differ or expand upon privacy requirements in other state laws. Additionally, the economic impacts of other significant requirements of the Colorado Privacy Act, such as the requirement to honor universal opt out mechanisms, have never been seriously studied or estimated.¹ The way those requirements are implemented in the rules could have significant impacts on businesses in the state that should be carefully balanced against any benefits to Colorado consumers. To date, states that have performed economic analyses of their own privacy regulations have not studied mandatory adherence to universal choice mechanisms and several other aspects of the proposed regulations, and Colorado should not skip this important step in successfully implementing the Colorado Privacy Act.

Research shows that complying with state privacy laws is an extremely taxing and resource-intensive exercise for businesses of all sizes, and it is a particularly tall order for small businesses. For example, one study conducted by the Information Technology & Innovation Foundation titled [*The Looming Cost of a Patchwork of State Privacy Laws*](#) found that state privacy laws would impose in-state costs of \$5.4 billion annually for Colorado business, with small businesses in the state shouldering approximately \$1.2 billion of that annual compliance burden. Over a 10-year period, the study estimates that businesses’ compliance costs associated with all state privacy laws would exceed \$1 trillion, an astronomical figure for compliance requirements, and one that would impact small businesses disproportionately in comparison to their large business counterparts.

Our organizations strongly agree that Coloradans deserve meaningful privacy protections supported by reasonable laws and regulatory requirements, as well as responsible industry policies. To that end, we ask DORA to complete a cost-benefit analysis of the proposed regulations to implement the Colorado Privacy Act so Colorado stakeholders can understand the significant costs involved in implementing these regulations.

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¹ The California Privacy Protection Agency estimated that the entire cost to implement its recent regulations would be \$127/business, an entirely capricious estimate that in no way represents the tens of millions of dollars the business community will need to comply with the new mandates found within those rules.

Thank you in advance for your consideration of this request.

Sincerely,

Association of National Advertisers (ANA)
Alliance for Automotive Innovation
American Association of Advertising Agencies (4A's)
American Advertising Federation (AAF)
American Advertising Federation – Colorado
Computer and Communications Industry Association (CCIA)
Digital Advertising Alliance (DAA)
Insights Association
Interactive Advertising Bureau (IAB)
National Business Coalition on E-Commerce & Privacy
NetChoice
State Privacy and Security Coalition
TechNet