

May 3, 2023

Representative Paul Renner
420 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1100

Representative Michael Grant
322 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1100

Representative Chuck Clemons
422 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1100

Representative Fentrice Driskell
316 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1100

Representative Fiona McFarland
212 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1100

RE: Oppose – SB 262 as amended by Engrossed Amendment 703943

Dear Speaker Renner, Majority Leader Grant, Speaker *pro tempore* Clemons, Democratic Leader Driskell, and Representative McFarland:

On behalf of the advertising industry, we write to respectfully ask you to **reject SB 262** in its current form. The bill, as amended on May 2, 2023 by Engrossed Amendment 703943 (the “Amendment”),¹ would make Florida’s approach to privacy requirements even more of an outlier than it presently is in comparison to other state privacy laws, and it would make the state more unfriendly to businesses than California. The Amendment changed the bill’s definition of “targeted advertising” to apply the term to first party data uses to present consumers with advertisements. If this definition of “targeted advertising” becomes law, it would have a devastating impact on the Florida economy, in particular for small businesses that rely on the entities that would be covered by this bill to market new products and services to Floridians.

Specifically, the Amendment altered SB 262’s definition of “targeted advertising” to remove language that cabins the definition to data collected “across *nonaffiliated* websites or online applications to predict the consumer’s preferences or interests.” The language the Amendment excised from SB 262’s present definition of “targeted advertising” is included in virtually every other state privacy law’s definition of the term, and it serves the important purpose of ensuring first party data collection and use activities for advertising can persist. The bill, as updated by the Amendment, would make Florida the most onerous and restrictive state beyond the restrictions imposed by California with respect to legitimate and responsible uses of data for advertising. The Florida legislature should not make such a significant and detrimental change to its privacy bill so late in the session; this material change deserves a fulsome debate and discussion that is simply not possible to achieve in the next three days before adjournment.

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

¹ Engrossed Amendment 703943 to Florida SB 262, Reg. Sess. (2023), located [here](#).

household brands, long-standing and emerging publishers, advertising agencies, and technology providers – including many in the travel, hotel, hospitality, real estate, retail, wholesale and other industries important to Florida’s economy. 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, over 370,000 jobs in Florida are derived from the ad-subsidized Internet.³ Our group has more than a decade’s worth of hands-on experience it can bring to bear on matters related to consumer privacy and controls. We would welcome the opportunity to engage with you further on our issues with SB 262, as updated by the Amendment outlined here.

* * *

We and our members support protecting consumer privacy. We believe, however, that the bill, as updated by the Amendment, would drastically and detrimentally impact Florida businesses and could force smaller enterprises out of the marketplace entirely. In practice, if the Amendment’s definition of “targeted advertising” becomes law, Floridian small and medium-sized businesses and consumers would be worse off than their Californian peers who are already subject to a prescriptive and burdensome privacy law. We therefore respectfully ask you to reject SB 262, as updated by the Amendment.

Thank you in advance for your consideration of this letter.

Sincerely,

Christopher Oswald
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Association of National Advertisers
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CC: Florida House of Representatives

Mike Signorelli, Venable LLP
Allie Monticollo, Venable LLP

² John Deighton and Leora Kornfeld, *The Economic Impact of the Market-Making Internet*, INTERACTIVE ADVERTISING BUREAU, 124-125 (Oct. 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 132.