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ACLU OF RI POSITION: AMEND

TESTIMONY ON 24-H 7787, AN ACT RELATING TO COMMERCIAL LAW – RHODE ISLAND DATA TRANSPARENCY AND PRIVACY PROTECTION ACT March 28, 2024

Consumer data privacy is both a pressing contemporary issue and a topic for which there is a dearth of robust statutory and legal protections and guidelines. We therefore strongly appreciate the attention that this legislation is giving to the institution of a statewide framework for the regulation of consumer data and applaud the sponsor's efforts to have state law address this important topic.

Since this legislation is lengthy and complex, our testimony does not reflect a comprehensive examination of all its provisions. However, we wish to offer brief commentary on some aspects of the legislation that we believe could be strengthened to better reflect the critical goal of this bill.

- This legislation requires that consent be a “freely given, specific, informed, and unambiguous agreement” to allow the “processing of personal data relating to the customer.” [Page 3, lines 2-4] This language importantly centers autonomy of the consumer and knowledgeable consent for the sale of data. For the sake of clarity, and to better reflect both the legislative findings of the bill – which reference both opt-in and opt-out procedures – we urge that the definition of consent be amended to explicitly include the requirement that consent be given on an opt-in basis.
- The bill provides that a customer may exercise their rights “by a secure and reliable means established by the controller and *described to the customer in the controller's privacy notice.*” (emphasis added) [Page 9, lines 8-9] However, anyone who has looked at the privacy notice for any company knows that these documents are often extremely long, fairly esoteric, and very complex. In order to appropriately ensure that customers exercise the rights given to them under this legislation, we believe that bill should spell out how a customer may do so in ways ensuring it is accessible and simple to both understand and execute.
- Under the language of this bill, customers may exercise a number of important rights, including correcting inaccuracies in customer data; obtaining a copy of their data that is being processed; and opting out of the processing of their personal data for the purposes of targeted advertising. However, controllers appear to have wide flexibility to deny these

rights to a customer. For example, if a customer seeks to act on their rights, a controller may “decline to act” and only must “inform the customer without undue delay...of the justification for declining to act and instructions for how to appeal the decision.” [Page 9, lines 23-25] Instead of leaving this important act to the discretion of the controller, the bill should provide guidelines establishing permissible reasons for denying a customer these rights.

- The penalties for violations are fairly weak – with the monetary penalty maxing out at \$500 dollars per violation of the chapter. [Page 15, lines 25-27] We strongly urge the additional inclusion of a private right of action as a remedy for violations in order to ensure that strong and meaningful recourse is available for violations of the important privacy rights this bill seeks to protect.

We note again that this is not a comprehensive analysis of the legislation, but we hope that it provides useful recommendations on how it may be strengthened to better achieve its goal. Thank you in advance for your consideration.