



October 13, 2021

Senator Barry Finegold
Senate Chair
Joint Committee on Advanced Information
Technology, the Internet and Cybersecurity
State House, Room 507
Boston, MA 02133

Representative Linda Dean Campbell
House Chair
Joint Committee on Advanced Information
Technology, the Internet and Cybersecurity
State House, Room 238
Boston, MA 02133

Dear Chairs,

On behalf of the Greater Boston Chamber of Commerce and our 1,300 members, I write to submit testimony on data and information privacy legislation before the Committee. The Chamber believes protecting consumer data and privacy is paramount, but there are significant concerns about policy approaches that authorize private rights of action and create a second standard for entities covered under existing federal laws. Furthermore, instead of a state law, the Chamber prefers federal legislation to create a single, national standard.

The Chamber strongly opposes any legislation, including S. 46, that allows for a private right of action related to data use or privacy, particularly when the action would be coupled with potentially exorbitant awards like 0.15% of global revenue. Furthermore, there are vague and subjective terms that would create a maelstrom if private rights of action were to be litigated. For example, S. 46 prohibits covered entities from using personal information in a way that is "highly offensive" and that they must be "loyal to the individuals whose personal information is processed." The vagueness of these terms, combined with the potential for tens of millions in awards, risks a tsunami of lawsuits.

In addition, several bills before the committee create a second standard for entities covered by federal data privacy and protection rules. Virginia's recently adopted law includes more than 10 exemptions for entities already regulated under federal statute for data privacy and data security standards. For example, financial institutions are already required by the Gramm-Leach-Bliley Act to provide data collection notice requirements, establish institutional privacy policies, and collect consumer third-party data processing consent, among additional requirements. Other instances in which the state should defer to federal law would include, but is not limited to, health information that already is required to be de-identified in accordance with HIPPA and public health data.

In general, and because of the issues described in this letter, the Chamber strongly prefers federal legislation for addressing consumer data protection and privacy. A single, national standard would make compliance simpler and avoid confusion for both covered entities and consumers about individual data rights.

On behalf of the Chamber's members, thank you for considering our positions. We look forward to continuing conversations with the Committee on this subject.

Sincerely,

A handwritten signature in cursive script that reads 'James E. Rooney'.

James E. Rooney
President and CEO

CC: Members of the Joint Committee on Advanced Information Technology, the Internet and Cybersecurity