



New England Connectivity and  
Telecommunications Association

## TESTIMONY OF THE NEW ENGLAND CONNECTIVITY & TELECOMMUNICATIONS ASSOCIATION, INC. REGARDING HB 314

Chair Carson, Vice Chair Gannon and distinguished members of the Judiciary Committee, thank you for the opportunity to address you this afternoon.

On behalf of the New England Connectivity and Telecommunications Association (NECTA), I appreciate the opportunity to submit testimony in opposition to HB 314, *An Act relative to the expectation of privacy in the collection and use of personal information*. NECTA members in New Hampshire include Breezeline (formerly Atlantic Broadband), Charter Communications, and Comcast. Together, our members service approximately 485,000 customers and offer their services to more than 650,000 homes and businesses in 185 New Hampshire communities.

We appreciate the opportunity to provide feedback on HB 314. While this bill began as an effort to limit how the government can access and use private data of New Hampshire residents, its current form reverses that course and will cause unnecessary harm to the state's economy. The bill would serve to undercut the months of work this Senate just finished in passing strong, comprehensive privacy protections in SB 255. HB 314 will result in demonstrable consumer harms leading to heightened privacy risks, diminished cybersecurity, and increased consumer fraud.

The state's just-enacted comprehensive privacy law requires transparency from businesses about their data-management practices and gives residents of New Hampshire control over their most private data and the right to decide what information about them is sold to other companies and how that data is used, and carefully balances those rights against consumers' expectations about how they interact with businesses in the states. HB 314 would undermine much of that careful work and create a complicated, bifurcated data privacy framework different from every federal and state privacy framework in effect in the United States. HB 314 would distinguish not between the kinds of data about consumers a business has or how that data is used (which is SB 255's approach) but based solely on which *business* is collecting it.

HB 314's arbitrary distinction between the identity of the business collecting customer data will provide no additional value to consumers but will instead likely cause a great deal of consumer confusion about which rights they have with which businesses they interact with. As a result of HB 314's complete departure from the consensus state privacy framework (which includes SB 255), businesses will be faced with a great deal of

uncertainty and legal risk that will undermine routine business operations, degrade customers' online experiences, and stifle innovation with no countervailing benefit to consumers.

For example, entities subject to HB 314 would have to obtain "explicit consent" from consumers each time they need to disclose any customer's personal information to another entity, even for routine purposes needed to provide the underlying service. It is important to note that unlike the well-reasoned privacy principles found in SB 255, and every other state privacy law, HB 314 makes no effort to distinguish widely available public information such as a consumer's address, name or telephone number from truly sensitive personal information such as a social security number or health data. As a result, consumers will likely be inundated with disclosure requests for commonplace business operations like storing the customer's information with a cloud provider, sharing information with a business's cybersecurity vendor to help keep their data secure, and sharing information with payment, auditing, and accounting firms. These burdens will severely deteriorate the customer experience with services from businesses that would be covered by HB 314.

Critically, all state privacy laws, including New Hampshire's recently enacted law, and decades old federal government privacy policy link requests to share information to the sensitivity of information such as health, financial or information of highly personal nature such as a social security number. HB 314 ignores this distinction with the likely result being that consumers will decline perfectly reasonable and necessary requests which pose no privacy risk because they don't understand the illogical and arbitrary inconsistencies between HB 314 and all other privacy laws. The resulting harms will include impeding efforts to protect consumer's online safety, security and protection from fraud.

Overall, HB 314 ignores how the modern online ecosystem functions. Every online service (and indeed many services offered in brick-and-mortar businesses) function by disclosing information about customers to other entities that are needed for its business to even function. That's why the approach taken in SB 255 is better for consumers and businesses alike: Comprehensive privacy frameworks like SB 255 allow businesses to continue serving their customers in the ways customers expect, while giving consumers control over the uses of their data they care about most, like its sale and use for targeted advertising. There has been no fact-finding effort to justify such disparate treatment of certain businesses based only on the kinds of services they provide.

We thank you for your time and attention to this testimony and are available to assist the committee as it considers the legislation. We urge you to find this legislation inexpedient to legislate. Please do not hesitate to reach out with any questions.

Sincerely,

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