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TECHNET THE VOICE OF THE INNOVATION ECONOMY



Internet Association

STATE PRIVACY & SECURITY COALITION



April 14, 2021

Honorable, Dylan Roberts, Chair
House Business Affairs and Labor Committee
Colorado General Assembly
200 E Colfax Avenue
Denver, CO 80203

RE: Oppose HB 1239, prohibiting contract renewals without consent

Dear Chairman Roberts:

The undersigned associations represent hundreds of the country's leading technology companies in the high-tech manufacturing, computer networking and information technology, clean energy, life sciences, ecommerce, on and off-line media and entertainment, education and sharing economy sectors. Our member companies are committed to advancing public policies and private sector initiatives that make the U.S. the most innovative country in the world.

Oppose HB 1239 in its current form

We are respectfully opposed to Section 6-1-732 of HB 1239, as it proposes an unnecessary and burdensome regime upon companies that offer Colorado residents contracts for services with automatic renewals. This would adversely impact Colorado consumers and the businesses that serve them by essentially requiring provisions that negate lawful contracts and impose challenging if not impossible-to-prove usage of products and services. As a result, consumers could be denied a range of options for contracts at better prices for longer commitments, free trial offers, or could be inundated with various and duplicative reminders about their services.

Our member companies comply with other state and federal laws and obtain affirmative customer consent for automatic renewals and other material terms and conditions. This is done in a clear and conspicuous way at the time the customer signs up for the service. This gives customers the option to conveniently continue the service without the need to take further action unless they want to make changes, upgrades or to terminate.

Invalidating Contracts and Terminating Consumer Services

This bill and amendments to be offered in committee would require companies to terminate service simply because a company cannot show whether the consumer used the service in the previous month before the renewal in some cases, or for a six-month stint in others. All of this despite the fact that the consumer has already given consent to the automatic renewal contract.

Aside from the challenges for some business models of knowing whether or not a consumer is actually using their product, it is unconscionable that the state would take the position that contracts to which consumers have legally agreed can be set aside. Seasonal services such as lawn care, landscaping, or snow plowing, home maintenance plans where the consumer is guaranteed lower prices and priority service, bi-monthly publications, or credit monitoring services where a consumer may not interact with the service unless there is fraudulent activity are all examples where such gaps in usage are likely to occur. Further, there are many legitimate reasons a consumer may stop using a service for a period and still not want the contract to end such as locking in a preferred rate or receiving discounted purchases over time.

This, frankly, defeats the purpose of signing up for automatic renewals. Consumers want hassle-free services that do not require them to take action at the end of each term. In all likelihood, this bill would confuse and frustrate consumers that sign up for services to automatically renew if their services are terminated while they happen to be on travel, are taking a break from a service, or the service is similar to those described above. In some cases, there could be reconnection fees or price changes, prohibiting that customer from taking advantage of previous preferred or grandfathered rates. While we understand that some consumers may forget that they are signed up for a service, invalidating contracts is not the appropriate way to address this issue. We strongly urge you to protect consumers in ways that do not eliminate contracts for periods of non-use, which is not an approach used in any other state automatic renewal law. Instead, lawmakers chose to mandate clear upfront notifications and reminders to address potential problems.

Unique, Outlier Provisions

HB 1239 imposes other entirely new concepts not part of any other state automatic renewal law without evidence that there has been a problem for such contracts. No other state requires notifications for simple month-to-month contracts. In fact, these are just the kind of contracts that consumers are *less* likely to forget and that can be readily canceled.

Similarly, the provisions regarding free trials or trial offers require new actions not required elsewhere – again with no record or evidence of abuse that warrants such novel approaches. The requirement for entities to provide reminders to consumers before the end of the trial during a set window of 10-30 days makes no sense if the trial period is only 7 days – a frequently offered trial term. It is common practice for consumers to receive confirmation of the terms and conditions of the automatic renewal contract, including the trial offer, following the sale. Requiring a second notice soon after the confirmation will put a significant burden on companies and cause confusion for consumers. No reminders should be necessary for short trials a month or less in duration.

Unfriendly Colorado Business Environment

There is no reason to disrupt the operations of thousands of companies offering services in Colorado based on theoretical or anecdotal scenarios. In fact, these provisions make Colorado a hostile business environment by requiring outlier provisions specific to the state. These businesses would be forced to implement and maintain a costly and unique system that would apply only to companies located in the Centennial State or those that transact with Colorado residents. Small and medium sized Colorado companies would be hit the hardest if required to change their business practices, which may prove difficult for companies that already may be

struggling to stay financially viable in these particularly challenging financial times. Such companies and their national counterparts may choose to eliminate offers to Colorado residents that provide the benefits of automatic renewals broadly, and beneficial trial offers more narrowly.

Support for Strong Automatic Renewal Laws

Our companies support strong automatic renewal laws where consumers are given clear information and control over their choices, resulting in ongoing convenience. We seek to work with you as you design a new law to protect Colorado consumers. However, in its current form, the undersigned associations believe this bill is unworkable, unnecessarily burdensome, imposes unique costs on Colorado businesses, would annoy customers with increased communications, and could cause unexpected termination of their services, resulting in potential price increases for ever-more-popular automatic renewal services.

Please feel free to contact Tammy Cota, Executive Director of the Internet Coalition at 802-279-3534 or tammy@theinternetcoalition.com with questions or if you would like to discuss these issues in more detail.

Sincerely,

Internet Coalition
Association of National Advertisers
Entertainment Software Associaton
Internet Association
MPA, the Association of Magazine Media
State Privacy and Security Coalition
TechNet

cc: House Business Affairs and Labor Committee members