

May 26, 2021

The Honorable Kevin Thomas
Chairman, Senate Consumer Protection Committee
Legislative Office Building 947
Albany, NY 12247

Dear Senator Thomas:

The New York News Publishers Association, The News Media Alliance and MPA – The Association of Magazine Media recognize the importance of privacy legislation that balances foundational consumer privacy protections with the challenges faced by businesses to operationalize compliance and we are supportive of policies that strike that balance and sustain the free press and quality journalism. This commitment to our readers' privacy protections underscores the importance of workable privacy legislation in New York, the "home state" to the media industry that employs thousands of people and is vital to the state economy.

We urge additional consideration of the recently introduced New York Privacy Act. S. 6701, and we respectfully request the opportunity to discuss our concerns in detail over the summer. As an overview, the proposed operational requirements of S. 6701 would have a disproportionately harmful effect on newspaper and magazine readers online and in print. As currently drafted, the bill would penalize good-faith compliance efforts, create confusing and negative experiences for consumers, and limit New Yorkers' access to the vital public information that our members provide.

The bill's broad definition of "sell" and strict opt-in requirements, which are not seen in any other federal or state privacy legislation, are likely to result in significant consumer confusion. Consumers who did not expect or understand the opt-in interface could find their access restricted to standard, expected services, including access to news media content. This is not merely a frustrating consumer experience but also creates an unnecessary obstacle to the public's access to critical news information and independent journalism.

S. 6701 proposes blanket limitations on a wide range of standard advertising practices, including those based on a direct publisher-to-consumer relationship, that would imperil a revenue source that sustains the cost of journalism and publishing in a changing media landscape. Consumers of news media understand that they benefit from publishers' use of advertising revenue, which funds public interest investigations, develops engaging interactive online features, and keeps subscriptions affordable. The broad limitations in the bill could limit the availability of the vital journalism and media content that New Yorkers trust.

The private right of action in S. 6701 goes far beyond any existing consumer privacy regulations in its breadth and inclusion of statutory (no harm required) damages. If passed, the bill would expose businesses – including newspaper and magazine publishers – to potentially catastrophic liability and significant costs in defending against lawsuits for minor, technical infractions that

impose no harm on consumers and which are typically quickly rectified by the business. News media and journalism entities are particularly vulnerable to frivolous class action lawsuits based on technical violations. The overall complexity of data protection, coupled with the bill's newly created duties of care and loyalty, exacerbates this risk.

Upholding consumer privacy is a critical priority for media and journalism entities, and we welcome the opportunity to engage with you on these issues. We strongly urge you to continue the conversation before proceeding on deliberation of the bill.

Sincerely,

Diane Kennedy
President
New York News Publishers Association

Rita Cohen
Senior Vice President
MPA – The Association of Magazine Media

Danielle Coffey
SVP & General Counsel
News Media Alliance

Emily Emery
Vice President, Digital Policy
MPA – The Association of Magazine Media