

February 16, 2021

Speaker of the House Kim Koppelman
513 First Avenue NW
West Fargo, ND 58078-1101

The Honorable Tom Kading
7205 County Road 31
Fargo, ND 58102-6117 203

The Honorable Jim Kasper
P.O. Box 9016
Fargo, ND 58106-9016

The Honorable Matthew Ruby
315 Fourth Street NW
Minot, ND 58703-3129

The Honorable Nathan Toman
203 Fourth Avenue NW
Mandan, ND 58554-3135

Re: Opposition to North Dakota HB 1330

Dear Speaker Koppelman and Representatives Kading, Kasper, Ruby and Toman:

MPA – The Association of Magazine Media, recognizes the importance of privacy legislation that balances foundational consumer privacy protections with businesses’ needs to operationalize the legislation’s requirements. In order to achieve that balance, MPA urges the North Dakota legislature to continue its privacy study efforts. MPA respectfully opposes HB 1330.

MPA’s membership includes more than 500 magazine media brands that span a vast range of genres across print, digital, mobile and video media. Our members provide trusted, edited and curated content that informs, inspires and entertains more than 90 percent of all U.S. adults. North Dakotans receive nearly 1 million magazine subscriptions, representing an average of 2.2 subscriptions per household. Our readers depend on our publications for reliable news and information – needed by society now more than ever. Further, magazines are an important part of the North Dakota economy, and are part of the arts, sports and media industry that employs more than 5,000 people in North Dakota.

We respectfully raise the following concerns with HB 1330:

First, consumers benefit from privacy legislation only when it can be successfully operationalized by businesses. Unfortunately, the definitions included in HB 1330 for the key phrases “protected information,” “sell,” and “collect” each differ dramatically from all other state laws in the nation, and in practice, make the law exceedingly difficult for businesses to implement.

Second, no other state has considered an exclusive opt-in consent requirement for the sale of protected data. Indeed, many consumer privacy advocates advise against a broad opt-in framework because it would create “decision fatigue” by requiring the display of a virtual avalanche of opt-in notices to consumers, which makes it harder for consumers to distinguish

between normal business transactions and transactions that have higher privacy threshold, such as the use of sensitive information.

Third, including a broad private right of action in HB 1330 would have a negative impact on businesses, including magazine publishers, by creating a significant risk of damaging financial outcomes and requiring overcaution in using consumer data in useful, productive ways that consumers support, all while creating a regulatory requirement that in practice fails to provide any additional privacy protections for consumers.

Magazine publishers recognize that consumers benefit from strong data privacy protections and that consumer privacy protections can be effective without inhibiting consumers' ability to connect with magazines and access content they value. The threat of private lawsuits could undermine readers' access to the trusted, insightful, meaningful, and world-changing content they expect while imparting no tangible improvements to consumer data privacy.

For these reasons, MPA opposes HB 1330. We respectfully request that the bill not advance.

Sincerely,

Brigitte Schmidt Gwyn
President & CEO

Emily Emery
Director, Digital Policy