



**\*\*UPDATED\*\***

April 25 2016

TO: Members, Assembly Committee on Privacy and Consumer Protection

FROM: California Chamber of Commerce  
 American Insurance Association  
 California Bankers Association  
 California Cable & Telecommunications Association  
 California Community Banking Network  
 California Financial Services Association  
 California Manufacturers and Technology Association  
 California Retailers Association  
 Computing Technology Industry Association (CompTIA)  
 CTIA – The Wireless Association  
 Direct Marketing Association  
 Greater Conejo Valley Chamber of Commerce  
 Interactive Advertising Bureau  
 Internet Association  
 MPA – The Association of Magazine Media  
 Personal Insurance Federation of California  
 State Privacy and Security Coalition, Inc.  
 TechNet

**SUBJECT: AB 2623 (GORDON) INTERNET PRIVACY POLICY: COMMERCIAL OPERATOR:  
SHORT FORM  
OPPOSE**

The California Chamber of Commerce and the organizations listed above must **OPPOSE AB 2623 (Gordon)**, as amended on March 18, 2016, which would force companies to provide incomplete privacy disclosures that will result in consumer misunderstanding and unnecessary concern.

#### **AB 2623 Will Result in Incomplete and Potentially Inaccurate Privacy Disclosures**

**AB 2623** attempts to model California privacy policy requirements after a federal law that requires a brief table of certain financial data for credit card agreements and marketing – commonly known as a “Schumer Box.” Privacy policy information, however, is inherently different than financial data. The Schumer Box terms are quantitative and include annual fees, interest rates, finance calculation methods, and transaction fees – terms that are easily and precisely defined by numbers. In stark contrast, a privacy policy contains qualitative descriptions about the different types of personally identifiable information and how that information is collected, utilized and/or shared – this information cannot be accurately distilled to numbers or a few words.

Yet, **AB 2623** would require companies to describe entire privacy policies using a limited, statutorily prescribed list of rigid terms in a new, short form privacy disclosure. In doing so, **AB 2623** will harm consumers by compressing important information into inflexible definitions that will be incomplete and potentially inaccurate. Moreover, a very real risk exists that **AB 2623** will entice consumers to only read this incomplete summary with the false belief that it sufficiently describes the privacy policy, leaving the reader with a misunderstanding of the disclosure, in direct contrast to the purported purpose of the bill.

#### **AB 2623 Will Create Unnecessary Concern for Consumers**

Many of **AB 2623’s** mandated terms lack a legal definition, are open to debate, or are overly broad. For example, there is no consensus among stakeholders about what information constitutes “biometrics” and the term “health, medical or therapeutic information” is expansive and may include information that is not traditionally considered individual health information.

Forcing companies to describe their privacy practices with only the mandated terms could lead to unnecessary concern among consumers. For example, if an e-commerce site sells bandages to a customer and ships those bandages to the customer’s home address, **AB 2623** would require the company to state on the short form that it collects “health, medical and therapeutic information” and “location” data about shoppers; the short form would not provide further explanation or context. In this scenario, **AB 2623** would require the benign collection of data to appear on the short form as “health” and “location” data. The limited terms would create unnecessary consumer concern about the collection of sensitive data that simply does not exist in this scenario.

#### **AB 2623 Fails to Advance Privacy Disclosures**

Our organizations continue to develop innovative approaches and best practices for providing consumers meaningful privacy disclosures, including providing multiple just-in-time disclosures made at relevant times to consumers. These disclosures vary by industry based on consumer needs and interactions with different products and services, requiring privacy disclosure rules and regulations to remain flexible.

Despite its commendable goal, **AB 2623** fails to advance privacy policies for consumers. It simply creates another rigid requirement that decreases comprehension and lengthens privacy disclosures while further exposing companies to penalties and litigation risk.

For those reasons, we must **OPPOSE AB 2623**.

cc: Tom Dyer, Office of the Governor  
The Honorable Richard Gordon

Hank Dempsey, Assembly Committee on Privacy and Consumer Protection  
Jared Yoshiki, Assembly Republican Caucus  
District Offices, Members, Assembly Committee on Privacy and Consumer Protection