



State Privacy and Security Coalition, Inc.



May 19, 2015

**** FLOOR ALERT ****

TO: Honorable Members of the Illinois House of Representatives

FROM: Direct Marketing Association (DMA)
Acxiom
American Advertising Federation (AAF)
AAF of Northern Illinois
American Association of Advertising Agencies (4A's)
4A's Chicago Council
AmeriMark
Association of National Advertisers (ANA)
CTIA – The Wireless Association®
Chicago Advertising Federation
Consumer Data Industry Association (CDIA)
DMA Nonprofit Federation
Electronic Retailing Association (ERA)
Electronic Transactions Association (ETA)
Epsilon
Food For The Poor
Interactive Advertising Bureau (IAB)

IHS Inc.
Internet Coalition
GrayHair Advisors
NetChoice
Relevate
Return Path
State Privacy and Security Coalition, Inc.
TechNet

SUBJECT: **SB 1833 as amended in House committee** (Biss); relating to personal information protection – **OPPOSE**

The entities listed above respectfully **OPPOSE SB 1833**, relating to changes to the Illinois Personal Information Protection Act.

The businesses, marketers, advertisers, nonprofits and associations that comprise and support today's data-driven economy take seriously their responsibility to protect consumer data and to report data breaches that pose a threat of identity theft or economic harm to an individual.

Legislative efforts to protect consumers from the negative effects of an illegal cyberattack and data breach are to be applauded. However, we must continue to oppose SB 1833 as amended in House committee because it would foster over-notification; create an overly-broad and unnecessary definition of "personal information;" impose duplicative and vexing reporting requirements; and increase the regulatory burden on businesses that drive the Illinois economy absent a commensurate benefit to Illinois residents.

Below are listed just some of the concerns posed by the bill:

- SB 1833 would require breach notices be sent to Illinois residents *even when the breached information poses no risk of identity theft or economic harm to them*. Requiring those entities suffering a data breach to issue breach notices before determining whether a particular breach creates a potential risk of harm, will result in over-notification to Illinois residents, causing them undue concern. Absent a so-called "harm trigger," SB 1833 would make Illinois an outlier by departing from the breach notification approach taken by the vast majority of states.
- Including "consumer marketing information" and "geolocation" in SB 1833's definition of "personal information" is also a significant departure from the data security provisions required by other states. The unauthorized acquisition of these types of data does not create a risk of identity theft or economic harm, and requiring enhanced security obligations would impose undue costs on companies without significant benefit to Illinois residents. No other state has defined "consumer marketing data" and "geolocation" as "personal information." This radical definition would put Illinois far outside the mainstream of responsible and effective state breach notification laws, while failing to help Illinois residents defend themselves against fraud borne of a data breach.

- California already requires online business to post privacy policies. SB 1833 would create the risk of conflicts of law by requiring the posting of Illinois-specific privacy policies and thereby encourage other states to pass their own particular privacy notice law. Such a “patchwork quilt” of state-specific privacy notice obligations would again impose a costly and unnecessary compliance burden on companies doing business in Illinois.
- SB 1833 would negatively impact Illinois businesses and residents. According to a recent study, the Illinois Data-Driven Marketing Economy (DDME) is responsible for over \$7 billion in revenues and more than 30,000 jobs annually to the state¹. Creating unnecessary compliance burdens on the businesses, marketers, advertisers, nonprofits and associations that drive Illinois’s data-driven economy absent a commensurate benefit to Illinois residents is not sound public policy.

For the foregoing reasons and others, the entities listed above respectfully **oppose SB 1833**.

cc: Senator Daniel Biss
Attorney General Lisa Madigan (c/o Erik Jones, Policy Director and Assistant Attorney General)

¹ Deighton and Johnson, The Value of Data: Consequences for Insight, Innovation & Efficiency in the U.S. Economy (2013), available at <http://ddminstitute.thedma.org/#valueofdata>