



February 25, 2021

The Honorable James Maroney, Co-Chair  
The Honorable Mike D'Agostino, Co-Chair  
Joint Committee on General Law  
3500 Legislative Office Building  
Hartford, CT 06106-1591

SB 893 - An Act Concerning Consumer Privacy

Dear Chairpersons:

BSA | The Software Alliance<sup>1</sup> strongly supports a comprehensive, national framework that provides consumers with meaningful rights over their personal data similar to those outlined in SB 893, currently under consideration by the Joint Committee on General Law. In BSA's advocacy at the federal and state levels of government, we work to advance legislation that provides concise and consistent language to ensure that consumers' rights over their personal data – and the obligations imposed on businesses – function in a world where different types of companies play different roles in handling that data.

BSA is the leading advocate for the global software industry domestically and globally. Our members are business-to-business companies that create the technology products and services that power other companies. They offer tools including cloud storage services, customer relationship management software, human resources management programs, identity management services, and collaboration software. These enterprise software companies are in the business of providing privacy-protective technology products, and their business models do not depend on monetizing users' data. BSA members recognize that companies must earn consumers' trust and act responsibly with their personal data.

BSA and its members have been involved in efforts to strengthen privacy protections throughout the world. At the state level, BSA has most recently supported legislative efforts in Virginia and Washington this session to ensure effective privacy frameworks in those states that create meaningful rights for consumers and require businesses to handle personal data in ways that consumers expect.

We are writing specifically to express our support for the Committee's clear recognition of the unique role of data processors in SB 893. Worldwide effective privacy laws reflect the

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<sup>1</sup> BSA's members include: Adobe, Atlassian, Autodesk, Bentley Systems, Box, CNC/Mastercam, DocuSign, IBM, Informatica, MathWorks, Microsoft, Okta, Oracle, PTC, Salesforce, ServiceNow, Siemens Industry Software Inc., Sitecore, Slack, Splunk, Trend Micro, Trimble Solutions Corporation, Twilio, and Workday.

fundamental distinction between data processors, which handle a consumer's personal data on behalf of other businesses, and data controllers, which decide how a consumer's personal data will be collected and used. For example, the Virginia privacy bill passed by both chambers and awaiting signature from Governor Northam imposes different obligations on data processors than on data controllers, in light of their different roles in handling personal data. Similarly, there is an active bill in Washington State awaiting a senate vote that creates this very distinction, among several other bills across the country. The definitional difference between data processors and data controllers is foundational not only to privacy laws across the globe, but also to leading international privacy standards and voluntary frameworks that promote cross-border data transfers.<sup>2</sup> BSA and its members applaud you for incorporating this necessary global standard into SB 893, which clearly distinguishes between controllers and processors.

As you may be aware, distinguishing between controllers and processors is important from a privacy perspective because it allows legislation to craft different obligations for different types of businesses based on their different roles in handling consumers' personal data. That type of role-based responsibility improves privacy protections for consumers. We appreciate the bill's recognition that processors and controllers both have important responsibilities to protect consumers' personal data — and that those obligations must reflect their different roles. For example, BSA agrees that both processors and controllers must implement reasonable security measures to protect the security and confidentiality of data they handle. At the same time, we appreciate the bill's recognition that consumer-facing obligations like obtaining and responding to consumer rights requests are appropriately placed on controllers, since those obligations can create privacy and security risks if applied to data processors handling data on behalf of those controllers.

Thank you for your thoughtful approach in working to establish strong consumer privacy protections, and for your consideration of our perspective. It is our hope that these important efforts at the state level will ultimately lead to a national data privacy standard. BSA and its members encourage you and your colleagues on the Joint Committee on General Law to support this important legislation and would be happy to provide further perspective on this legislation as it progresses through the legislative process in Hartford.

Sincerely,



Tom Foulkes  
Senior Director, State Advocacy

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<sup>2</sup> For example, privacy laws in Hong Kong, Malaysia, and Argentina distinguish between “data users” that control the collection or use of data and companies that only process data on behalf of others. In Mexico, the Philippines, and Switzerland, privacy laws adopt the “controller” and “processor” terminology. Likewise, the APEC Cross Border Privacy Rules, which the US Department of Commerce has strongly supported and promoted, apply only to controllers and are complemented by the APEC Privacy Recognition for Processors, which help companies that process data demonstrate adherence to privacy obligations and help controllers identify qualified and accountable processors. In addition, last year the International Standards Organization published its first data protection standard, ISO 27701, which recognizes the distinct roles of controllers and processors in handling personal data.