



The Honorable Anne Carney
The Honorable Matt Moonen
Committee on the Judiciary
Maine State House, Room 438
Augusta, ME 04333

March 18, 2024

Dear Chair Carney & Chair Moonen,

BSA | The Software Alliance¹ supports strong privacy protections for consumers and appreciates the Judiciary Committee's work to improve consumer privacy through the Maine Data Privacy and Protection Act. In our federal and state advocacy, BSA works to advance legislation that ensures consumers' rights — and the obligations imposed on businesses — function in a world where different types of companies play different roles in handling consumers' personal data.

We appreciate the revisions reflected in the majority's draft bill and commend your efforts to harmonize many of its provisions with the Connecticut Data Privacy Act. BSA supported Connecticut's privacy law and has supported strong state privacy laws across the country that build on the same structural model of privacy legislation enacted in Connecticut.

As you consider advancing a comprehensive consumer data privacy bill, BSA urges you to focus on prioritizing privacy protections that are interoperable with other state laws. A harmonized approach can support strong consumer protections that work in practice across state lines. This is particularly important with regard to the bill's data minimization requirements. While we appreciate the committee's focus on creating privacy protections that are right for Maine, we are concerned that the majority's revised draft creates a data minimization requirement that departs from existing state privacy laws in ways that do not provide clear benefits to Maine's consumers. The majority draft's language, which limits the processing and transferring of personal data "to what is reasonably necessary and proportionate to provide or maintain a specific product or service" has the potential to significantly impact companies' ability to perform activities reasonably expected by consumers. Most notably, the draft language does not clearly account for companies' need

¹ BSA's members include: Adobe, Alteryx, Asana, Atlassian, Autodesk, Bentley Systems, Box, Cisco, CNC/Mastercam, Databricks, DocuSign, Dropbox, Elastic, Graphisoft, Hubspot, IBM, Informatica, Kyndryl, MathWorks, Microsoft, Okta, Oracle, PagerDuty, Palo Alto Networks, Prokon, Rubrik, Salesforce, SAP, ServiceNow, Shopify Inc., Siemens Industry Software Inc., Splunk, Trend Micro, Trimble Solutions Corporation, TriNet, Twilio, Workday, Zendesk, and Zoom Video Communications, Inc.

to process data to improve existing products or to create new products that address future consumer needs.

In other states, thirteen state privacy laws require controllers to limit the collection of personal data to what is “adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer.” California’s privacy law similarly requires that a business’ “collection, use, retention, and sharing of a consumer’s personal information shall be reasonably necessary and proportionate to achieve the purposes for which the personal information was collected or processed.” In contrast, the majority draft’s proposed standard does not clearly recognize that companies will need to use personal data to improve existing products and services that consumers rely on — and to develop new technologies that will benefit consumers. Without clearly permitting these uses of personal data, the draft risks freezing existing technologies as they exist today — limiting companies’ ability to improve the functionality of those products and curtailing their ability to develop new products as current technologies become outdated or obsolete. We urge the committee to reconsider its approach to data minimization so that consumers in the state can continue to benefit from improved products and services.

While states will naturally develop laws that are different in how they protect consumers, we want to emphasize the value of building a set of state privacy laws that work together. This approach not only helps businesses understand how their obligations change across jurisdictions — and map those obligations to one another — but also creates a broader set of shared expectations among consumers.

Thank you for your leadership in establishing strong consumer privacy protections, and for your consideration of our views. We welcome an opportunity to further engage with you or a member of your staff on these important issues.

Sincerely,



Olga Medina
Director, Policy

CC: The Honorable Lisa Keim
The Honorable Rachel Henderson