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April 18, 2017

The Honorable William Botzow, Chair
House Commerce and Economic Development Committee
Vermont State House
115 State Street
Montpelier, VT 05633-5301

RE: Statement in Opposition to HB 467, An Act Relating to the Regulation of Data Brokers

Dear Chairman Botzow:

On behalf of RELX Inc. (RELX), part of the RELX Group, I am writing to express our strong opposition to House Bill 467.

RELX Group, through its LexisNexis Risk Solutions and other businesses, is a global provider of information and analytics for professional and business customers across industries. We operate in four major market segments: [Scientific, Technical & Medical](#); [Risk & Business Analytics](#); [Legal](#); and [Exhibitions](#). RELX solutions support the government, law enforcement, insurance, financial services and healthcare industries. Our customers use the data we harness and the insights derived from it to accomplish a variety of consumer, business and legal transactions. We assist government in rooting out fraud, waste and abuse in public benefit programs. Law enforcement utilizes our tools for investigating crime and locating missing children. Insurance companies use our data to assess risk, issue policies and settle claims in an expedient manner, while real estate brokers and title agents rely on us to verify real property ownership and lien information. While the list of business and consumer transactions that we support is lengthy, these customers depend on the availability of data through our products.

Unfortunately, HB 467 creates an unnecessary and burdensome layer of state regulation that seems to ignore many laws and regulations already governing the data industry and without a clear nexus between it and the alleged problems it seeks to solve. For the following reasons, we urge the committee not to adopt it.

The Definition of “Data Broker” is Overly Broad

HB 467 broadly defines a “data broker” in such manner that practically every business in Vermont could fall within it. Specifically, a “data broker” is

“...any commercial entity that collects, assembles, or maintains personal information concerning individuals residing in Vermont who are not customers or employees of that entity for the purposes of selling or offering for sale, or other consideration, the personal information of a third party.”

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In addition to defining data brokering to include an array of common, everyday data collection and sharing practices, HB 467 also requires data brokers to:

- register and divulge their sources, collection practices and trade secrets;
- implement a customer identification program;
- explain their procedures for vetting data purchasers and prevent illegal use of the information; and
- it grants the state discretion to pursue data brokers that do not register.

The above requirements cover an extremely broad range of information that is in many cases publicly available, not sensitive and poses no risk of harm to Vermont residents. Under these mandates, businesses both large and small will be affected. For example, if a local charity seeks to expand its network of support by acquiring new lists of potential donors it is a “data broker.” When a small town merchant collects data on potential customers to advertise their products, it would have to register with the state and divulge the nature of its data collection practices. As drafted, the bill captures a huge range of businesses that are not typically deemed “data brokers” and subjects them to cumbersome and expensive regulation simply for engaging in interstate commerce. Clearly, not all data collections are the same, so they should not be treated as such under HB 467.

Data Collection is Already Highly Regulated by Federal Law and Industry Best Practices

This unprecedented legislation disregards the many laws already governing commercial data collection and sharing. RELX is a global leading provider of business and professional information. We must comply with a myriad of laws including the Fair Credit Reporting Act (FCRA) which regulates how consumer reporting agencies use consumer information; the Driver’s Privacy Protection Act (DPPA) governs the use and disclosure of motor vehicle records; the Gramm-Leach-Bliley Act (GLBA) requires financial institutions to provide their customers with notice of their information sharing practices; and a host of laws governing internet privacy and electronic communications. Accordingly, we take consumer privacy very seriously and we have adopted high standards possible to ensure the accuracy and integrity of our data. Regarding privacy safeguards, we expend significant time and fiscal resources to ensure that our data collection practices comply with all applicable laws and industry best practices. In failing to acknowledge the existing legal framework already governing the data collection industry, HB 467 would essentially treat all data collectors as unregulated and potential bad actors. We are not aware of any news, specific incident, or legal violation in Vermont warranting this additional layer of state regulation, so this legislation is unnecessary.

A Registry Creates Negative Exposure for Businesses and Does Not Deter Bad Actors

The purported intent of HB 467 is to shine a light on bad actors by forcing businesses to self-identify as “data brokers,” register with the state and provide an annual report on their activities. Once registered, the report will be subject to the Freedom of Information Act so registrants risk exposing trade secrets and proprietary information, leading to negative public attention and unfair competition. Presumably, state regulators will then review company practices in search of potential

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wrongdoing. This standard creates a rebuttable presumption of impropriety in an already well-regulated industry without justification or due process. Additionally, the registry and customer identification mandates will not deter bad actors, as they are unlikely to report and will remain in the shadows. A more effective approach would be to utilize existing statutory and law enforcement resources to target those already alleged to be engaged in illicit practices rather than undertake a fishing expedition with law-abiding companies.

Businesses Today Must be Data-Driven and Technology Savvy

In today's digital age, data and data analytics are no longer luxuries- they are essential for business and commercial viability. As commerce continues to move from brick and mortar operations into the digital realm, businesses require more data-driven solutions to reach their customers and HB 467 may impede that objective by penalizing data collection and sharing.

Though well-intentioned, HB 467 is without a compelling public policy justification to support it; it ignores existing resources for targeting industry bad actors and it exposes legitimate business practices to unnecessary government intrusion. In short, HB 467 is a solution to a problem that doesn't exist at a time when companies and state economy of Vermont can least afford it. These impacts must be fully understood and avoided before the bill moves forward, so we stand ready to work with you to achieve your legislative goals without hampering the valuable services that we provide to our customers.

Sincerely,



Kia D. Floyd