



Testimony of VPIRG Communications & Technology Director Zachary Tomanelli concerning the draft Data Broker Legislation

Testimony before the House Committee on Commerce and Economic Development
January 19, 2018

I wanted to come back here today, because there's been a lot of discussion, the bill has changed and we've heard from a lot of different sources. We've heard from the data broker industry itself. We've heard from various government agencies. And I wanted to spend just a few moments revisiting this bill from a consumer advocacy perspective.

Just as a reminder – I'm not here on behalf of a business. I'm here trying to view this bill through a consumer protection lens and to see what benefit this bill would present for consumers -- for everyday Vermonters.

Because – at least as I understand it -- that's the primary goal and intent of this bill: how do we better protect consumers and do it in a way that's going to allow for continued commerce, continued economic development?

And I'll just pause briefly to note that today some questions regarding constitutionality on this bill were raised. VPIRG has not conducted a legal analysis, so I'm not going to specifically discuss that – but I will note that I believe the Attorney General's office provided a good answer there – and indicated their willingness to defend this law. And what I will say is – I don't think anyone is going to fault this body for doing the best it can to protect Vermont consumers.

So to me that's really the question here – is this doing legitimate, measurable good to protect consumers? Some have testified or said – “this wouldn't capture the Yahoo breach.” Others have made the point that there's so much data out there already, we're not going to be able to fix everything or protect everyone.

And what I would say to that is, I don't think it was ever the intention of this bill to fix all the problems and issues that comes with data security in the 21st century.

This bill – and the working group – is taking a look at a specific industry – the data broker industry – and asking what can we do in this area that gives Vermonters more information and better protections when it comes to this industry.

So what I'd like to do is take a few moments to look at the status quo – and then review what this bill would do to change the status quo:

- **Free credit freezes:** Right now, if a company like Equifax suffers a breach and I want to freeze my credit history to protect myself against identity theft, Equifax and the other companies can charge me a fee to make that freeze. This bill changes that status quo – it allows consumers to freeze their credit history for free. That's a measurable consumer good.

- **Make it illegal to acquire data for illegal purposes:** Right now, if someone acquires data and uses it to harass, stalk, etc. – the acquisition of that data for that purpose is not illegal. It’s illegal to stalk and harass – but getting the data to do that is not illegal. This bill changes that. Again, this is a measurable good.
- **Create a clearing house with opt-out instructions:** Right now, say a domestic violence survivor wants to opt-out of data broker lists. That person needs to go through a byzantine process to find out who even has their data and then understand if they can opt out. This bill changes that. It creates a list of data brokers and lays out their opt-out processes. This radically simplifies things for a domestic violence survivor, or any other Vermonter for that matter, trying to get their arms around their personal data.
- **Require minimum data security standards:** Right now, under Vermont law at least, a data broker that potentially has our names, addresses, purchase histories, confidential documents, etc. does not have to adhere to any minimal security standards. Many probably are – but this bill changes the status quo. It requires these companies to adhere to some security standards. Again – this a measurable consumer good, to protect Vermonters.
- **Data security breach notification:** Under current law, if a data broker loses my name and social security number together they *do* need to notify me. However, if they lose just my social security number – or if they lose my name and address and purchase history, there is no requirement to report that breach. This bill changes that status quo. It requires them to report those breaches that don’t rise to the level of “Personally Identifiable Information.” I would want to know that. That is a measurable consumer good.

So just circling back – the goal of this is not to solve all data problems. But that doesn’t mean we do nothing. This body has the opportunity to do something tangibly good for Vermont consumers. So VPIRG and our membership would urge you to move forward with this bill and do just that.