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**Report to House Committee on Commerce and
Economic Development on
Data Broker Working Group Recommendations**

Comments of Christopher J. Curtis, Chief, Public Protection Division

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Mr. Chairman and members of the committee, thank you for inviting testimony relating the charge and results of the recently concluded "Data Broker Working Group." Attorney General Donovan, in partnership with the Department of Financial Regulation, issued a report to the Vermont General Assembly on December 15, 2017 that recommends regulation of the data broker industry. I want to thank the General Assembly for tasking our office with this important work. The report balances the twin imperatives of preserving commerce and common sense. The states have a long history and tradition of active engagement in consumer protection. And, balancing the rights and interests of Vermont consumers with industry's interest in a robust and vital e-commerce sector are not mutually exclusive propositions. In fact, they complement one another. We thank you for setting us to this important task.

Data Brokers are businesses that collect personal data in order to resell it to third-parties. Recent incidents involving Data Brokers have raised concerns that businesses collecting vast troves of information about Vermonters are not taking sufficient steps to protect that information, are not providing citizens with enough control over their own personal information, and that Vermonters' personal information is at risk of being captured by criminal elements. Obviously, a

recent example of a data broker failing to properly protect consumer information is the recent Equifax breach.

The Assembly considered legislation (S.72) to regulate the industry in the last legislative session, but opted instead to set up a working group composed of the Attorney General and DFR, to study the issue and issue a report. For the past six months, the two agencies have been diligently researching the industry, reviewing reports of other investigations, and debating possible recommendations. In July, the Working Group held two days of hearings in Burlington in which members of industry, consumer advocacy groups, and human rights groups weighed in on the question of data broker regulation. In November, the Working Group attended the legislature's listening tour and heard concerns from Vermonters who gathered in Brattleboro, Manchester, Barton and Burlington.

The report has been posted to a dedicated website which also collects all submitted comments, video of the hearings, and an archive all documents relied in on the report. The website address may be found through a link on the Attorney General's home page, or located here: <http://ago.vermont.gov/focus/consumer-info/privacy-and-data-security1/data-broker-working-group.php>.

S.72 required the Attorney General and DFR to provide a recommendation or draft legislation reflecting:

1. An appropriate definition of the term "data broker";
2. Whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

3. Additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and
4. Proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

Our report reflects these directives.

The report is divided into five sections, with a bibliography and exhibits. The report contains a preamble, an executive summary, a background section, a review of current state and federal regulatory framework, and finally the recommendations of the working group itself.

The report makes six recommendations for potential legislation:

1. Amend Vermont's credit-freeze law (9 V.S.A. § 2480h) to prohibit credit reporting agencies from charging a fee to freeze or unfreeze consumers' credit reports;
2. Provide consumers with more information about opt-out rights and how to exercise them, by requiring Data Brokers to provide the State of Vermont with certain information;
3. Create new causes of action, enforceable by a consumer or the Attorney General, against those who acquire data with the intent of committing certain wrongful acts;
4. Require data brokers to employ reasonable security methods to protect data;
5. Require data brokers that suffer certain data breaches to quickly provide notice of the breach; and
6. Protect children by prohibiting the sale of data about certain minors without parental consent.

These recommendations, if adopted, fall within the traditional role of state government in protecting citizens through consumer protection initiatives. We thank Vermonters, industry professionals and partner agencies for their participation which resulted in a balanced report and recommendations. And, we urge the legislature to pass legislation consistent with these recommendations to protect Vermonters.

Thank you for your time and consideration.