

From: Keith Scarborough [mailto:kscarborough@ana.net]

Sent: Tuesday, April 17, 2018 1:58 PM

To: Michael Sirotkin; Alison Clarkson; Philip Baruth; Becca Balint; David Soucy; Kayla Dewey

Cc: Joshua.Diamond@vermont.gov; Christopher.Curtis@vermont.gov; ryan.kriger@vermont.gov; Gavin.Boyles@vermont.gov; ted.brady@vermont.gov; Dan Jaffe; Christopher Oswald

Subject: ANA Opposes H.764

Dear Chairman Sirotkin and Members of the Senate Committee on Economic Development, Housing and General Affairs:

On behalf of the Association of National Advertisers (ANA), I am writing to express our strong opposition to H.764, the data broker bill. We urge you not to pass the bill.

ANA is the marketing community's oldest trade association. Our membership is comprised of more than 750 client-side marketers and 350 associate members, including leading agencies, law firms, suppliers, consultants and vendors. Data is critical to the success of every marketer and our industry has created a strong and effective self-regulatory program, the Digital Advertising Alliance (DAA), to promote the responsible use of consumer data in the online marketplace.

We believe that H.764 creates serious unintended consequences for both companies and consumers in Vermont. While intended to regulate data brokers, the extremely broad definitions in the bill and the data breach provisions could sweep in a wide range of other companies who have traditionally not been considered data brokers.

The bill also raises serious First Amendment concerns and could invite a legal challenge if passed. Striking down a Vermont law restricting the use of certain pharmacy records, the U.S. Supreme Court held in 2011 in *Sorrell v. IMS Health, Inc.*, 564 U.S. 552, that the First Amendment protects the creation and dissemination of information as protected speech. The overreach of H.764 would likely lead to a similar effective challenge to its provisions.

We urge you not to pass H.764. Thank you for your consideration.

Sincerely,

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