



Testimony of VPIRG Communications & Technology Director Zachary Tomanelli on S.110 Data Privacy Bill

Testimony before the House Committee Commerce and Economic Development
April 10, 2019

Introduction

Good morning. My name is Zachary Tomanelli and I am the Communications & Technology Director of VPIRG, the Vermont Public Interest Research Group. For over 45 years, VPIRG has advocated for the public interest in policy debates concerning the environment, health care, consumer protection, and democracy, and so I thank you for this opportunity to share our thoughts on S.110 the data privacy bill.

VPIRG was very supportive of the data broker law enacted last year which this committee was instrumental in shaping – and we're happy to see that law already providing useful information to consumers.

As this committee knows, the enacted data broker law also required the Attorney General's office to further study the issue of data privacy and make further recommendations on policies the state could adopt to better protect consumers. VPIRG participated in that process – we delivered prepared comments and attended all three hearings on the issue. Several of our members also attended the hearings and hundreds more submitted comments to the AG's office online. Ultimately, we were pleased to see many of our proposals incorporated into the AG's final report, which has served as the basis for the legislation you're currently considering.

Let me start by saying that VPIRG broadly supports all the sections of S.110 and believes that every component will advance the cause of better protecting Vermonters' personal information, provide more transparency around what actors (including the state) are collecting and selling Vermonters' data and give Vermonters more information and recourse when their information falls into the wrong hands.

I'd like to briefly touch on the various aspects of the proposed legislation and give a little more rationale on our support for the specific sections of this bill, while also highlighting some of the areas where we see room for improvement.

State Privacy Report

During the discussion around the data broker bill last year there seemed to be widespread agreement that the state should be doing all that it can to "get its own house in order" as it pertains to safeguarding Vermonters' personal information. We certainly agree with that sentiment, however, it seems clear that the first step in "getting our house in order" would be to determine how messy the house is.

A privacy report as outlined in the bill would be a useful first step to doing that. Heading into the hearings last year, VPIRG was planning to make recommendations on changes the state could make with

regards to the data it is currently collecting and distributing. However, when we set out to research that we found it extremely difficult to determine the scope data the state actually collects and distributes. This opaqueness has led to confusion and, in some cases, the proliferation of unverified anecdotes of the state selling Vermonters' data to all kinds of third parties.

This privacy report – would give consumers, advocacy organizations and policymakers more information and determine what, if any, steps the state should take to rein in the proliferation of Vermonters' data.

I will note that VPIRG did support the creation of a Chief Privacy Officer in earlier versions of this bill – and we still do, but we do not object to taking a wait-and-see approach with the creation of that office. In fact, we believe that creating a CPO that is under-resourced and whose authority is ill-defined, is actually worse than having no CPO at all – so this is a case where “doing it right” is definitely more important than “doing it quickly.”

Student Online Privacy Protection

VPIRG is very supportive of the student online privacy protections contained in this bill. Since California enacted its SOPIPA law, several other states have followed suit with similar laws. It's time Vermont bring our laws up to date and extend these commonsense protections to our students. In fact - The Parent Coalition for Student Privacy and the Network for Public Education recently released its 2019 State Student Privacy Report Card – Vermont was one of only 11 states that received an “F”.

VPIRG supports extending digital privacy protections to all Vermonters – but recognizes the importance and urgency of extending protections to our most vulnerable populations. This certainly includes our students. When our children are using the latest technology to enhance their learning (as they should), neither they nor their parents should be concerned that doing so will lead to their sensitive personal information falling into the hands of bad actors. Likewise, the information they provide in an educational setting should not be used for advertising purposes. This legislation takes steps to prevent that from happening.

VPIRG is supportive of the current language contained in the bill – as we believe it does provide additional clarity to the California version of the law and gives parents more flexibility in safeguarding their children's personal information.

We would suggest a few improvements that the committee may want to consider – recognizing that the tech industry would not likely look favorably on these additions, and thus would not be likely to support a bill that includes these. Those improvements include:

- Extending these protections to every student -- including college and post-graduate students
- Including a private right of action against companies that misuse student data
- Removing the exemption for so-called “general Internet audience websites”

Security Breach Notification Changes

VPIRG supports this bill's expansion of the definition of “Personally Identifiable Information” (the class of information that, if exposed, triggers a breach notification to consumers). This bill would expand that universe of information to include things such as biometric data and user names and passwords. With modern computing methods, nefarious actors are able to commit fraudulent activity with disparate data points. If a hacker gains an individual's name, username and password for a single site – that's enough

information to do tremendous damage to that individual. It would stand to reason that if that information is breached, a consumer deserves to know about it. This legislation accomplishes that.

Conclusion

In summary, VPIRG appreciates the Committee's time and attention to this matter, and we broadly support the reforms put forth in this proposed legislation. Thank you for the opportunity to present this testimony.