



December 6, 2013

The Honorable Jeff Morris  
Chair, Washington State House on Technology and Economic Development  
225A John L O'Brien  
P.O. Box 40600  
Olympia, WA. 98504-0600

**RE: H-2771 (Morris): Enacting the Digital World Privacy Act – OPPOSE**

Dear Representative Morris:

On behalf of the Washington Technology Industry Association (WTIA), and in response to your request for input, I am writing in opposition to your draft bill language in H-2771 (Enacting the Digital World Privacy Act). We sincerely appreciate your outreach to the stakeholder community for comments and we are grateful for your open telephone conferences and the recent working meeting in Olympia. While we support the individual right to privacy online, the language in this bill is technically challenging and would introduce a significant barrier to conducting business on the Internet.

We must therefore oppose H-2771 as written. The draft bill includes broad sweeping language that introduces a number of problems that I'd like to address here briefly for your benefit:

- **This draft bill is unnecessary.** Social media sites already permit registered users to delete their own posts, thereby meeting the presumed intent of H 2771.
- **H 2771 applies to chat and email messages.** The takedown requirement for "posts" that only go to one other user would also apply this statute to chat and email messages. This drafting is problematic in that it permits the sender to delete a sent message from another person's inbox. This is both a technical challenge and a philosophical problem. Once a message is in your inbox, is it not your property? Do you want the sender to enter into your inbox at will and delete messages you have saved? The US Postal Service does not allow a person to retrieve a letter from a recipient's mailbox, nor to break into a person's house to search a box of letters, and the same logic applies here.
- **The responsibility of a news organization or blog is unclear.** The bill draft raises the question of when a post contributed "on the record" to news organization becomes part of the news. Once a user posts a comment on a news site, it becomes public record and a part of the public discourse. It is unclear from the language in H 2771 if the user would be able to redact their own comments after entering them into an online discussion forum.
- **Multistate regulation of interstate commerce.** Multiple states enacting differing takedown requirements for website contributors will require website operators to collect more data about users, create privacy policies that are different for each State, and offer different

functionality in each State based on those regulations. This would be true for all websites – not just social media. Imagine using a website in Washington, then traveling to visit friends in Oregon only to find that the site has a different privacy policy, different privacy tools, different rules of engagement, and different functionality. This is not only highly problematic for the website operator, but it renders the user experience confusing, misleading, and in our view intolerable.

- **Technical implementation of the draft bill leads to ownership challenges.** Section 3 introduces a number of confusing concepts that all seem to put the burden of redaction onto the website operator, yet implies that any registered user of a site can remove content from the site of any registered user. This clearly is not a desirable outcome.

Thank you for taking the time to thoughtfully consider the best approach to privacy policies for the great State of Washington. Privacy is a complex topic with a range of ramifications for our citizens and is well worth our time to consider carefully. The WTIA believes in individual privacy rights and recognizes that current news reports of NSA activities could motivate legislators to act.

We encourage you to continue the dialogue on this topic and to please remember how rapidly the IT markets move. Very often proposed regulation is already outdated by the time it can be implemented. Also, please keep in mind the critical economic role that the IT sector plays in Washington. Any misguided increase in the cost of operating a website, no matter how well intentioned, will put our State at a competitive disadvantage and hinder innovation. Let's make sure that any regulation we do enact provides clear and substantial benefits to both the users of a web service and the companies who provide that service. We stand ready to help you in this endeavor.

Sincerely,



Michael Schutzler  
CEO  
Washington Technology Industry Association

CC: Jasmine Vasavada, Committee Counsel  
Committee Members