



**Computer & Communications  
Industry Association**  
Open Markets. Open Systems. Open Networks.

April 8, 2024

The Honorable Josh Becker  
1021 O Street, Room 7250  
Sacramento, CA 95814

**RE: SB 1223 (Becker) – Neural Data Privacy – Oppose unless Amended**

Dear Senator Becker,

TechNet and the following organizations are respectfully opposed unless amended to SB 1223 (Becker), which would add neural data to the category of sensitive personal information under the California Consumer Privacy Act (CCPA).

TechNet is the national, bipartisan network of technology companies that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Our member companies place a high priority on consumer privacy. The technology industry is fully committed to securing privacy and security for consumers and engages in a wide range of practices to provide consumers with notice, choices about how their data are used, and control over their data.

We have a concern about the breadth of technologies that could be included under the definitions of "neural data" and "neurotechnology" and have suggested amendments to tailor them to technologies that directly measure brain activity.

The fundamental challenge with the existing definitions is that they include references to the "peripheral nervous system" ("PNS") – all nerves in parts of the body other than the brain and spinal cord. There are two problems with these references. First, information about activity of the PNS simply is not capable of revealing someone's inner thoughts and mental processes, which this bill seeks to protect. Those result from activity of the brain, not the PNS. Many scientists argue that even information about brain activity does not and will not permit decoding complex thoughts, and [recent research](#) has described attempts to argue otherwise as alarmist.

Second, regulating activity of the PNS would sweep too broadly and ensnare nearly any technology that records anything about human behavior, because all outwardly observable human behavior results from activity of the PNS. Every time you speak, move, or perform any other action, your central nervous system sends signals to

the PNS, which then brings about the action, such as by stimulating your muscles. This means that any measurement of outwardly observable human behavior could be deemed a “measurement of the activity” of the PNS.

As a result, the definitions of “neural data” and “neurotechnology” would ensnare vast swaths of technology that have nothing to do with mental privacy. For example, they could mean that any data about how someone moves a mouse is sensitive, because, to move a mouse, someone’s brain sends a signal to the nerves in their hand, part of the PNS. As another example, it would disincentivize innovation in vehicular safety features, such as systems that monitor drivers’ eye movements and body positions to detect fatigue. Both of those kinds of data could be considered measurements of the activity of the PNS.

We have suggested the following changes to this bill to maintain its focus on the riskiest kinds of information—information about the brain itself—without unintentionally stifling other kinds of low-risk, beneficial technologies:

(t) “Neural data” means information that is generated by the direct measurement of the activity of an individual’s central ~~or peripheral~~ nervous systems that can be processed by, or with the assistance of, neurotechnology.

(u) “Neurotechnology” means a device, instrument, or a set of devices or instruments, that allows a connection with a person’s central ~~or peripheral~~ nervous system for ~~various the~~ purposes ~~of, including, but not limited to,~~ reading, recording, or modifying a person’s brain activity ~~or the information obtained from a person’s brain activity~~.

This is a quickly developing area of new policy and TechNet and our member companies hope to be a resource to lawmakers on this issue.

Thank you for your consideration. If you have any questions regarding TechNet’s position, please contact Dylan Hoffman, Executive Director, at [dhoffman@technet.org](mailto:dhoffman@technet.org) or 505-402-5738.

Sincerely,



Dylan Hoffman  
Executive Director for California and the Southwest  
TechNet

Ronak Daylami, California Chamber of Commerce  
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