



January 30, 2025

Senate General Laws and Technology Committee
Attn: Committee Clerks Eric Bingham and Andrew Horton
1000 Bank Street
Richmond, VA 23219

Re: SB 1455 – "Online Marketplace Consumer Protection Act" (Oppose)

Dear Chair Ebbin and Members of the Senate General Laws and Technology Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 1455. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members.

SB 1455 is premature given recent developments at the federal level.

Keeping consumers and communities safe online is a universally shared goal. That is why CCIA and the responsible digital services we represent supported the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act ("INFORM"), recently enacted by the U.S. Congress and codified at 15 U.S.C. § 45f. Policymakers should allow this newly enacted and implemented law time to work in order to understand its impact in the real world and determine if any additional legislative responses or course corrections may be required.

The "Relationship to State laws" section in INFORM, codified at 15 U.S.C. § 45f(g), reads: "No State or political subdivision of a State, or territory of the United States, may establish or continue in effect any law, regulation, rule, requirement, or standard that conflicts with the requirements of this section." Congress clearly contemplated and intended to preempt conflicting state regulation. As a federal court held last year when a similar state bill was challenged, "the INFORM Act also includes an explicit preemption clause."²

SB 1455 lacks narrowly tailored definitions, creating serious compliance questions for both businesses and users.

Our members are committed to cracking down on the misuse of online marketplaces under their terms of service and existing law to ensure products sold are safe and they are spending time and significant resources in doing so. Unclear or ambiguous definitions could undermine the legal certainty that presently exists under federal law.

The bill's definitions section begins with the ambiguous phrase, "As used in this chapter, unless the context requires a different meaning," followed by definitions of the key terms. If the bill's

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² *NetChoice, LLC v. Carr*, No. 24-cv-02485, 2024 WL 3262633, at *1 (N.D. Ga. June 30, 2024).



definitions can be altered based on a concept as vague as “context,” a business cannot know in advance whether it is complying with the law or not.

SB 1455 also includes a new prohibition on “facilitating the sale, including through an online marketplace platform or other online website.” It is not clear if this proposed obligation could implicate unrelated third-party websites who may not know that goods are stolen. This is particularly concerning because, unlike INFORM, SB 1455 would impose civil penalties up to \$10,000 for each violation. This may raise conflicts like the state bill struck down by a federal court last year, involving “websites that might facilitate sales, but do not themselves permit or process the exchange of money for products.”³

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While we share the goals of the Patron and the Senate General Laws and Technology Committee about protecting consumers online, we encourage Committee members to resist advancing legislation that is not adequately tailored to this objective. We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the General Assembly considers proposals related to technology policy.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association

³ *Id.* at *2.