



February 21, 2025

House Economic Matters Committee
Maryland General Assembly
90 State Circle
Annapolis, MD 21401

Re: H.B. 1089 – “Building Information Guardrails Data Act of 2025” (Oppose)

Dear Chair Wilson and Members of the House Economic Matters Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose H.B. 1089. We are grateful for the opportunity to share our concerns with the House Economic Matters Committee.

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 can therefore significantly impact CCIA members. While CCIA supports strong privacy protection measures, the proposed data broker tax is broad enough to impact virtually all businesses in the state, even those entirely outside the technology industry. This bill would give Maryland a competitive disadvantage in attracting and retaining businesses across a wide array of industries. Specifically, the bill raises the following concerns:

H.B. 1089 affects almost all Maryland businesses

As written, H.B. 1089 covers almost every Maryland business. Any business that engages in “The act of collecting, aggregating, analyzing, buying, selling, and sharing brokered personal data” is subject to this bill, except certain credit reporting and financial institutions. The definition of “brokered personal data” includes such broad categories of information as “personal data of the resident individual” and “other information that, alone or in combination with other information that is sold or licensed, can reasonably be associated with the resident individual.” Taken together, these provisions encompass any business that collects personal data apart from the covered financial/credit institutions. As it is virtually impossible to sell products online without collecting personal data (e.g. shipping addresses or payment information), the proposed regulations would apply to nearly every Maryland business with a website, regardless of whether its products and services are physical or digital. Consequently, the bill places almost all Maryland businesses at a competitive disadvantage.

Legislators should instead consider using a narrower definition of “data broker” that aligns with generally accepted definitions of the term. Usually, the term concerns businesses that assemble, buy, and sell profiles of individuals with whom the businesses do not have a direct

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>.



relationship.² This narrower definition focuses on those entities who trade on user data rather than those who merely process it. Since nearly every business processes data, the current definition is effectively a 6% general business tax.

H.B. 1089 applies to businesses outside Maryland

The bill’s definition of “business entity” is limited to Maryland residents when the business is also an individual (Section 7.3–101(E)(1)(I)). However, the resident limitation is not present when the business is a corporation, partnership, or joint venture (Section 7.3–101(E)(1)(I)). Consequently, the bill would tax businesses outside Maryland who serve Maryland residents. Such a tax would discourage businesses outside Maryland from serving Maryland consumers. Additionally, this section conflicts with the federal Internet Tax Freedom Act (ITFA), which prohibits states from imposing “discriminatory taxes on electronic commerce,” as well as the Constitution’s Dormant Commerce Clause. When Maryland enacted the “Digital Advertising Gross Revenues Tax” (DAGRT) in 2021, the law was challenged at both the state and federal levels. A Maryland state court struck down the law, citing several unconstitutional provisions,³ including discrimination against out-of-state commerce. CCIA therefore recommends adding a provision to this section limiting its scope to Maryland businesses.

H.B. 1089 would place Maryland businesses at a competitive disadvantage

H.B. 1089 violates many economic principles that should guide tax policy design. The guiding star of tax policy is that revenue should be raised efficiently. Imposing taxes tends to create incentives that distort behavior and produce deadweight losses for the economy, so taxes should be designed to minimize the size of those deadweight losses and harmful distortions. To this end, well-designed taxes usually focus on income or profits rather than intermediate flows like revenue.

Taxes on revenues hit firms with thin profit margins much harder than highly profitable firms with wide margins. In particular, taxes on revenues tend to be particularly harmful for startups that are still growing, as many such startups are not yet profitable and are operating on a fixed capital runway. By focusing on revenues or transactions rather than profits, H.B. 1089 stands to drain the resources of these businesses, which often means the difference between successful scaling or premature shutdowns.

In combination, the design failures of H.B. 1089 would generate enormous inefficiencies for Maryland consumers and businesses and would make the state much less appealing for startups and other businesses in the innovation space.

* * * * *

² See, e.g., Texas Data Broker Act, Tex. Bus. & Com. Code Ann., art. 11A, § 509.001(4) (2023) (defining “data broker” as “a business entity whose principal source of revenue is derived from the collecting, processing, or transferring of personal data that the entity did not collect directly from the individual linked or linkable to the data”); Vermont Data Broker Act, Vt. Stat. Ann. tit. 9, § 2430(4)(A) (2018) (defining “data broker” as “ a business... that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship”).

³ *Comcast of Calif., LLC v. Comptroller of the Treasury of Maryland*, No. C-02-CV-21-000509, 2022 WL 20359237 (Md. Cir. Nov. 17, 2022), available at <https://www.mdcourts.gov/data/opinions/coa/2023/32a22.pdf>.



While we share the concerns regarding the importance of data privacy and consumer protection, we encourage the legislature to resist advancing legislation that disadvantages Maryland consumers and businesses alike.

We appreciate your consideration of these comments and welcome opportunities to provide additional feedback on this and other technology policy matters.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association