



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 5, 2021

The Honorable Jerry Klein
Chair, North Dakota Senate Committee on Industry, Business and Labor
North Dakota State Senate
Bismarck, ND 58505

RE: TechNet opposition to SB 2333

Dear Chairman Klein:

I write on behalf of TechNet to express our opposition to SB 2333. The bill would undermine the entire app delivery and development ecosystem while placing consumer data and privacy at considerable risk.

TechNet is the national, bipartisan network of technology CEOs and senior executives 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 more than three 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.

SB 2333 would destroy the existing app ecosystem that has allowed developers to access billions of global users while providing consumers with a safe, secure, and convenient place for users to search for apps. The benefits that app stores provide to developers and consumers include not only immediate access to global users, but also the infrastructure necessary to support regular malware scanning, prevent restricted content like hate speech and sexual content, prevent spamming apps, and manage safe and secure payment activities. Without these resources that are available to all developers, the app market would be balkanized, confusing, and expensive for both developers and users.

In addition to the concerns regarding undermining the operation of app stores generally, each provision of the bill is of concern. The restriction on the use of exclusive modes of distribution would essentially mandate "sideloading", which is the practice of downloading unvetted applications on to a connected device. While not all platforms require exclusivity in distribution, removing it for those that do would undermine the platform's ability to provide a secure environment for its developer and user communities and threaten the security and privacy of their consumers.

Sideloads circumvent a device's operating system and adds an application that has not necessarily been approved for that operating system. All applications on leading app stores, for example, are carefully vetted to eliminate security risks, which successfully prevents the vast majority of malicious apps from entering the environment and reaching the end-user. By contrast, sideloading allows access to apps that are unavailable in official app stores for any of a number of reasons, including those that risk a user's privacy and security. Once these malicious apps are installed, they expose users and their broader connected networks to nefarious threats.

Prohibiting in-app payment systems creates a situation that might not appear acceptable in other scenarios. What other business is expected to provide technical assistance, distribution, and marketing to a global customer base for free? Should a Major League Baseball ballpark be required to build bleachers outside of the stadium so fans can watch a baseball game from there? Perhaps the local hot dog stand should be required to allow patrons of a food truck to come and use their tables, condiments, and facilities to enjoy a Cobb salad during the lunch hour.

Finally, it is unclear how North Dakotans would benefit from the bill. Should North Dakota take this route of specifying how app stores can operate, it would undoubtedly lead to other states doing the same, but states rarely do things exactly the same. A foreseeable conclusion of this process would be a country of mini-app stores providing fewer choices, less safety, and more complexity for developers looking to launch their own apps.

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 control over their data. The success of our member companies hinges on their ability to build and maintain trust from their consumers, and choosing partners and platforms that ensure a secure environment is of paramount importance. SB 2333 would completely undercut those critical efforts and open up North Dakotans to new privacy and cybersecurity risks.

Today's software ecosystems depend on strong privacy, security, and IP protections at the platform level. Proposals that require platforms to allow circumvention of these protections through sideloading would harm consumers and app economy competitors alike. We strongly urge you to oppose SB 2333 and any similar attempts to undermine these critical protections.

Sincerely,

A handwritten signature in black ink, appearing to read "Santana Kersul". The signature is fluid and cursive, with a large, stylized "Q" at the end.

Samantha Kersul
Executive Director, Northwest

Cc: The Honorable Doug Larsen
The Honorable Randy Burckhard
The Honorable Curt Kreun
The Honorable Richard Marcellais
The Honorable Shawn Vedaa