



AD TRADE COMMENTS REGARDING NORTH DAKOTA HB 1330

We are leading national advertising and marketing trade associations comprised of the Association of National Advertisers (ANA), the American Association of Advertising Agencies (4A's), the American Advertising Federation (AAF), the Interactive Advertising Bureau (IAB), and the Network Advertising Initiative (NAI). We collectively represent thousands of companies across the country, from small businesses to household brands, advertising agencies, and technology providers. Our combined membership includes more than 2,500 companies, is responsible for more than 85 percent of U.S. advertising spend, and drives more than 80 percent of our nation's digital advertising spend.

COMMENTS ON HB 1330: As described in more detail in the attached letter, we and the companies we represent strongly believe consumers deserve meaningful privacy protections. We also believe in the importance of maintaining a thriving Internet and information-driven economy, where robust innovation drives strong economic growth, employing millions of Americans and providing transformative benefits for consumers. Throughout the past three decades, the U.S. economy has been fueled by the free flow of data. One driving force in this ecosystem has been data-driven advertising. Advertising has helped power the growth of the Internet for years by delivering innovative tools and services for consumers and businesses to connect and communicate. Digital advertising benefits consumers and fuels the economy. It is in this spirit—preserving the ad-supported digital and offline media marketplace while helping to design appropriate privacy safeguards—that we provide these comments.

- **HB 1330 SHOULD NOT ADOPT AN OPT-IN CONSENT REQUIREMENT.** North Dakota should not adopt a one-size fits all consent requirement for the sale of protected data. Doing so would create the most restrictive privacy law in the United States, thereby hindering legitimate business—particularly small businesses—and harming North Dakotans as consumers. We ask the legislature to instead initiate a study to examine potential approaches to data privacy so North Dakotans can benefit from a careful analysis of proposed privacy provisions as well as experiments in other jurisdictions.
- **ENFORCEMENT FOR VIOLATIONS OF HB 1330 SHOULD BE VESTED IN THE ATTORNEY GENERAL ALONE.** HB 1330 should not include a private right of action or allow for class action lawsuits. Incorporating a private right of action in HB 1330 would encourage frivolous lawsuits by opportunistic trial lawyers, hinder innovation and economic development in North Dakota, and create a complex and flawed enforcement scheme without providing tangible privacy benefits for consumers. Such an approach would also create an anti-business environment in North Dakota by exposing companies to potentially enterprise-threatening costs for mere technical violations of the bill. Adopting an Attorney General enforcement framework instead would provide more consistent and reliable protections for North Dakotans and more clear rules of the road for businesses. We ask the legislature to modify HB 1330 to remove the private right of action and class action provisions.