



June 8, 2021

The Honorable Alec Garnett
State Capitol, 200 East Colfax Avenue
Denver, CO 80203

Dear Speaker Garnett:

BSA | The Software Alliance¹ strongly supports a comprehensive, national framework that provides consumers with meaningful rights over their personal data, like those outlined in SB21-190, which will be under consideration in conference committee. In BSA's advocacy at the federal and state levels of government, we work to advance legislation that provides concise and consistent language to ensure consumers' rights over their personal data – and the obligations imposed on businesses – function in a world where different types of companies play different roles in handling that data. We appreciate this final opportunity to share our perspective through the attached redlines on your ongoing efforts and wish to serve as a resource by providing valuable feedback as you work to address this important, yet complex policy issue.

BSA is the leading advocate for the global software industry domestically and globally. Our members are business-to-business companies that create the technology products and services that power other companies. They offer tools including cloud storage services, customer relationship management software, human resources management programs, identity management services, and collaboration software. These enterprise software companies are in the business of providing privacy-protective technology products, and their business models do not depend on monetizing users' data. BSA members recognize that they must earn consumers' trust and act responsibly with their personal data.

BSA and its members have been involved in efforts to strengthen privacy protections throughout the world, at the federal level, and in statehouse across the US.

We strongly support SB21-190, which includes recognizing the distinct roles of controllers and processors in today's digital ecosystem. As you are aware, distinguishing between controllers and processors is important from a privacy perspective because it allows legislation to craft different obligations for different types of businesses based on their different roles in handling consumers' personal data. That type of role-based responsibility improves privacy protections for consumers. We appreciate the bill's recognition that processors and controllers both have important

¹ BSA's members include: Adobe, Atlassian, Autodesk, Bentley Systems, Box, CNC/Mastercam, DocuSign, IBM, Informatika, MathWorks, Microsoft, Okta, Oracle, PTC, Salesforce, ServiceNow, Siemens Industry Software Inc., Slack, Splunk, Trend Micro, Trimble Solutions Corporation, Twilio, Workday, and Zoom.

responsibilities to protect consumers' personal data — and that those obligations must reflect their different roles.

While the proposed Act importantly distinguishes between controllers and processors, we are concerned that some aspects of the bill could limit processors' ability to provide consumers and businesses with the latest and safest products and services. We believe provisions concerning the relationship between controllers and processors, and concerning processors' responsibilities under the bill, could be strengthened by better aligning this language with the approach taken by Virginia's CDPA, which provides consumers with meaningful rights in their data and imposes strong obligations on companies without hindering access to products and services for consumers and businesses.

Additionally, it is our hope that the conference committee would support exclusive enforcement by the state attorney general, as provided for in SB21-190. A strong, central regulatory approach— with the state attorney general as the enforcement authority—is the best way to develop sound practices and investment in engineering that protects consumers. State attorneys general have a track record of enforcing privacy-related laws—and do so in a manner that creates effective enforcement mechanisms while providing consistent expectations for consumers and clear obligations for companies. BSA also believes if states enact new comprehensive privacy laws, the state attorney general should be provided with the tools and resources needed to carry out this mission effectively. Additionally, while BSA appreciates the opportunity to cure provided in the amended version of SB21-190, we believe it should be extended to all entities covered by the proposed Act, including processors.

Thank you for your leadership on this important issue and the thoughtful approach in establishing strong consumer privacy protections and for your consideration of our perspective. BSA would be happy to discuss this legislation further as it progresses through the legislative process in Denver.

Sincerely,



Tom Foulkes
Senior Director, State Advocacy