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May 1, 2020

The Honorable Ed Chau, Chair
Privacy and Consumer Protection Committee
Room 156A, Legislative Office Building
1020 N Street
Sacramento, CA 95814

Re: AB 3119 (CCPA)—Support

Dear Assemblymember Chau:

The undersigned organizations write in support of AB 3119, which will uphold and expand privacy protections provided by the California Consumer Privacy Act (CCPA). Consumers are constantly tracked: online, through apps, and in the physical world.¹ Though the CCPA gives adult consumers the right to opt-out of the sale of their information, companies can still collect and share unnecessary and excessive data. This bill will ensure that all consumers' data will be protected by default, guarding against the widespread dissemination of their personal information—often in ways that can be harmful and discriminatory.

Now more than ever, consumers need strong rules to ensure their privacy. Tech companies are working to create new tools to help counter the COVID-19 crisis, such as contact-tracing apps and COVID screening services, but consumers shouldn't have to give up their right to privacy to protect their health.² For example, a number of apps are in development to help public health agencies and consumers to engage in accelerated contact-tracing, based on Apple and Google's proposed Bluetooth-based API.³ There should be, at the very least, reasonable limits on companies' data collection and sharing of consumers' sensitive data pursuant to these services, limits that are backed up by law.⁴ Such limits will not only protect consumers but also enhance their trust in any technologies rolled out to fight the pandemic. Currently, a majority of Americans don't trust companies to protect their health data, which could pose a barrier to consumers' use of contact-tracing technology.⁵

¹ Donna Rosato, *What Your Period Tracker App Knows About You*, CONSUMER REPORTS (Jan. 28, 2020), <https://www.consumerreports.org/health-privacy/what-your-period-tracker-app-knows-about-you/>.

² Darius Tahir and Mohana Ravindranath, *How the Coronavirus Is Upending Medical Privacy*, POLITICO (Apr. 28, 2020), <https://www.politico.com/news/2020/04/28/coronavirus-medical-privacy-217671>.

³ Kaveh Waddell, *Tracking Everyone With Coronavirus Is a Huge Task. These Systems Could Help*, CONSUMER REPORTS (Apr. 24, 2020), <https://www.consumerreports.org/public-health/tracking-coronavirus-is-a-huge-task-these-systems-could-help/>.

⁴ Andrew Crocker, Kurt Opsahl, and Bennett Cyphers, *The Challenge of Proximity Apps For COVID-19 Contact Tracing*, ELECTRONIC FRONTIER FOUNDATION (Apr. 10, 2020), <https://www.eff.org/deeplinks/2020/04/challenge-proximity-apps-covid-19-contact-tracing>.

⁵ Craig Timberg, *Most Americans Are Not Willing or Able to Use an App Tracking Coronavirus Infections. That's a Problem for Big Tech's Plan to Slow the Pandemic*, WASH. POST (Apr. 29, 2020), <https://www.washingtonpost.com/technology/2020/04/29/most-americans-are-not-willing-or-able-use-an-app->

Without appropriate protections, companies will likely collect, use, share, and retain more data than they need. For example, Verily, a subsidiary of Alphabet, Google’s parent company, has launched a new service in California to help consumers determine whether or not coronavirus testing is appropriate, and requires consumers to login with their Google accounts.⁶ Since this information is not covered by HIPAA, the companies involved can do whatever they like with the data.⁷ Despite letters from Congress calling on Verily to put limits on this data use, the company has thus far refused to make meaningful changes—and right now no law requires it to do so.⁸

The CCPA offers important protections, but it is not sufficient to ensure that consumers are in control of their data. The CCPA does not restrain companies’ collection of data, and it leaves adult consumers to identify every company that is selling their information and submitting an opt-out request. This is an overwhelming task, especially because companies have thrown up roadblocks to consumers seeking to enjoy their privacy rights—and many have declined to comply at all.⁹ Consumers need data minimization—meaning data collection that is reasonably necessary to operate the service requested by the consumer, in addition to greater control over data sharing—which is included in this bill. These protections are incredibly popular: a recent survey found that 94% of likely California voters think companies should get your permission before sharing your data.¹⁰

This bill advances protections at a time when consumer privacy is most under threat. However, the bill has been denied a hearing despite the urgent need to address the issue. We urge your

tracking-coronavirus-infections-thats-problem-big-techs-plan-slow-pandemic/. (“A major source of skepticism about the infection-tracing apps is distrust of Google, Apple and tech companies generally, with a majority expressing doubts about whether they would protect the privacy of health data.”)

⁶ Julia Carrie Wong, *Google’s Coronavirus Testing Website Arrives – With Serious Privacy Concerns*, THE GUARDIAN (Mar. 16, 2020), <https://www.theguardian.com/us-news/2020/mar/16/coronavirus-testing-website-trump-promised-verily>.

⁷ Katie McInnis, *Privacy Concerns Raised by Verily’s Baseline COVID-19 Pilot Program*, CONSUMER REPORTS (Mar. 23, 2020), <https://advocacy.consumerreports.org/wp-content/uploads/2020/03/Consumer-Reports-letter-to-Verily-Alphabet-3.23.20.pdf>.

⁸ Letter to Mr. Sundar Pichai from Senators Menendez, Brown, Blumenthal, & Harris regarding the COVID-19 Screening Portal (Mar. 18, 2020), <https://www.menendez.senate.gov/news-and-events/press/menendez-colleagues-warn-trump-admin-google-of-privacy-concerns-in-covid-19-screening-website>; Letter to Mr. Andrew Conrad from Senators Menendez, Brown, Blumenthal, & Harris regarding the COVID-19 Screening Portal (Mar. 31, 2020), <https://www.menendez.senate.gov/imo/media/doc/Letter%20to%20Verily%20on%20COVID-19%20website%20privacy.pdf>.

⁹ Geoffrey Fowler, *Don’t Sell My Data! We Finally Have a Law for That*, WASH. POST (Feb. 19, 2020), <https://www.washingtonpost.com/technology/2020/02/06/ccpa-faq/>; Maureen Mahoney, *Many Companies Are Not Taking the California Consumer Privacy Act Seriously—The Attorney General Needs to Act* (Jan. 9, 2020), <https://medium.com/cr-digital-lab/companies-are-not-taking-the-california-consumer-privacy-act-seriously-dcb1d06128bb>.

¹⁰ *California Statewide Survey Re: Poll Results of Likely 2020 Presidential Voters*, DAVID BINDER RESEARCH (Mar. 2019), https://www.aclunc.org/docs/20190327_DBR_Voter_Support_for_Consumer_Privacy_final.pdf.

support to help push the bill through the legislative process, as we work with the author to improve it even more.

Respectfully submitted,

Access Humboldt
ACLU of California
Brave
Campaign for a Commercial-Free Childhood
Center for Digital Democracy
Common Sense
Consumer Action
Consumer Federation of America
Consumer Reports
Electronic Frontier Foundation
Indivisible Sacramento
Media Alliance
Oakland Privacy
Privacy Rights Clearinghouse
X-Lab

cc: The Honorable Buffy Wicks
Members, Committee on Privacy and Consumer Protection
Nichole Rapier Rocha, Chief Counsel