



August 11, 2023

The Honorable Chris Holden, Chair
Assembly Committee on Appropriations
1021 NO Street, Room 8220
Sacramento, CA 95814

Re: SB 362 (Becker) – *SUPPORT*

Dear Chair Holden,

On behalf of Consumer Reports,¹ I am writing in strong support of SB 362, the California Delete Act, which would enable consumers to request the deletion of their personal information from registered data brokers' records. SB 362 would also require data brokers to report what information they collect on consumers, and would impose civil penalties and fines on data brokers who fail to comply with the deletion requirements.

I am also writing to provide Consumer Reports' rationale on why the Delete Act will provide a straightforward, powerful, and critically important tool for protecting not only the privacy, but the security of Californians.

This bill resolves a significant loophole under CCPA, whereby consumers do not possess the right to request the deletion of their personal information from entities that did not collect it directly from them, exempting data brokers, who obtain data indirectly from other sources. Of course, even though data brokers do not interface with consumers directly, they represent a critical node in the online marketplace for consumers' personal information, eroding privacy and intensifying the risk factor for data breaches manyfold by their very existence. For this reason, most other comprehensive state privacy laws, including those in Connecticut and Colorado, do not contain such an exemption.

Some data brokers, such as Acxiom and Intelius, collect personal details about consumers' behavior online, their income, and addresses, which is used to create a detailed profile about

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

them.² This information is then sold and resold, and often used for marketing and potentially for other purposes.³ All of this is typically done without the consent or even knowledge of the consumer.

Crucially, this bill would require the California Privacy Protection Agency to create a deletion mechanism that allows consumers, via single request, to delete their personal information from every data broker or associated service provider or contractor that has collected it. This is important because without universal privacy controls, opt-out laws make it difficult for consumers to operationalize their rights at scale.

For example, in Consumer Reports's investigation into the usability of consumer privacy rights under the CCPA (before it was amended by CPRA), we found examples of data brokers utilizing onerous opt-out requirements that had the effect of preventing consumers from stopping the sale of their information.⁴ For 42.5% of sites tested, at least one of three testers was unable to even find the broker's do not sell link.⁵ About 46% of the time, consumers were left waiting or unsure about the status of their do not sell request, and 52% of the time, the tester was "somewhat dissatisfied" or "very dissatisfied" with the opt-out processes.⁶

This bill's approach will help reduce such opt-out friction and put control back in the hands of California consumers.

For the reasons listed above, we are proud to support SB 362 and urge the Legislature to pass it.

Sincerely,

Matt Schwartz
Policy Analyst
Consumer Reports

cc: The Honorable Members of the Assembly Committee on Appropriations
The Honorable Josh Becker

² Douglas MacMillan, Data Brokers are Selling Your Secrets. How States are Trying to Stop Them, Wash. Post (Jun. 24, 2019).

<https://www.washingtonpost.com/business/2019/06/24/data-brokers-are-getting-rich-by-selling-yoursecrets-how-states-are-trying-stop-them/>.

³ Big Data, A Big Disappointment for Scoring Consumer Credit Risk, Nat'l Consumer Law Ctr. at 15-16 (Mar. 2014),

<https://www.nclc.org/images/pdf/pr-reports/report-big-data.pdf>.

⁴ Maureen Mahoney, California Consumer Privacy Act: Are Consumers' Rights Protected, Consumer Reports (Oct. 1, 2020),

https://advocacy.consumerreports.org/wp-content/uploads/2021/05/CR_CCPA-Are-Consumers-Digital-Rights-Protected_092020_vf2.pdf

⁵ Id.

⁶ Id.