



July 30, 2019

The Honorable Toni Atkins
President Pro Tempore
California State Senate
State Capitol Building
Room 205
Sacramento, CA 95814

RE: Creation of Senate Privacy Committee

Dear Pro Tem Atkins:

After working diligently this year on important clean-up legislation to clarify and remove unintended negative consequences in the California Consumer Privacy Act (CCPA), The Nonprofit Alliance respectfully asks you to consider creating the Senate Privacy Committee.

Although meaningful and key pieces of CCPA clean-up legislation passed easily off the Assembly Floor and had majority support of the greater Senate body, these bills were either killed or gutted by the Chair of the Senate Judiciary Committee, Senator Jackson.

While adhering to her own personal convictions, we do not believe her actions are in alignment with the Legislature's desire to make the CCPA workable, meaningful, and without unnecessary harm. Our concern is that her strident and uncompromising position on privacy-related legislation makes Senate Judiciary Committee an inhospitable environment for discussion and respectful consideration of this issue area.

By way of background, when the CCPA was being negotiated and drafted last year, legislators exempted nonprofits from the bill.

We are grateful to the Legislature for recognizing the clear intent to exclude nonprofits from the *direct* hit of the costly impact of this legislation. We are nevertheless vulnerable to consequential negative effects if the CCPA is not narrowed and clarified. The law's current status contains many unnecessarily broad, confusing, and difficult to implement sections and definitions that will drive up the cost of data to the point where nonprofits cannot afford to keep their programmatic missions in place, or they may have to close their doors altogether.

www.TNPA.org

1319 F St. NW, Suite 402 | Washington, DC 20004

Nonprofits are reliant on access to data.

We use consumer data and third-party data providers to ensure our marketing messages are delivered to those most likely to benefit—and, likewise, not to those who will not. If, for example, a consumer purchases a pair of hiking boots from an outdoor sports retailer, we know they may be inclined to support environmental and nature conservancy efforts. Without this data, nonprofits cannot effectively connect with donors.

Special Olympics relies on data-driven acquisition of new supporters. In 2018, more than 9,000 Californians became first-time donors to Special Olympics in response to data marketing outreach, contributing more than \$425,000. Special Olympics provides sport and health programs to children and adults with intellectual disabilities at no cost to the athletes. The expense of one year of sport training is about \$250 per athlete. Those 9,000 new donors supported a year of programs for 1,700 Californians with intellectual disabilities, and because many of them will now continue to support Special Olympics – both as donors and as volunteers and advocates – that single year of data marketing outreach translates to enormous impact on families and communities in this state.

AARP is a good example of nonprofits using data to fulfill their missions. When seniors are in crisis, they tend to remove themselves further and further from society. Often due to a life-changing event such as death of a spouse, a health diagnosis, or loss of a driver's license, seniors can become suddenly socially isolated and may be unlikely to raise their hands and ask for help. Instead, seniors in crisis need to be found, and data is used for this purpose. Changes in consumer behavior can trigger a red flag to the AARP, an organization that has the expertise and resources to appropriately approach the individuals and connect them to vital services like transportation, healthy meals, access to medical care, and companionship.

The nonprofit community's strong concerns about increased costs and decreased access to consumer data is not simply about the bottom line sum of dollars on a nonprofit's annual report. We must protect every person who receives life-changing services and support that otherwise do not exist.

We rely on commercial data companies to maintain our data in secure environments at a level that many nonprofits could not afford to maintain on our own, certainly not without significantly reducing the funds we spend on direct mission work.

The legislative exemptions, therefore, while wonderfully well-intentioned, inadequately protect us from the impact of the CCPA.

In fact, we may be the first to suffer the full impact of the changes when our commercial partners are forced to give us an ultimatum due to the increased costs of complying with the CCPA: pay us more or cease entirely your outreach to 12% of the U.S. population residing in California.

Interestingly, and perhaps not surprisingly to those of us that live in this state—Californians are especially charitable and represent as much as 20% of the fundraising support to national

organizations. Their proportional value to smaller state and regional organizations is naturally even greater.

It is not an exaggeration to say that restricting the ability to reach California donors, due to cost impacts of the CCPA, will be devastating to the U.S. nonprofit sector.

Without significant clarity on the scope of obligations and fixing faulty definitions in the CCPA, the state is unnecessarily driving up the cost of data. Several of the CCPA clean-up bills killed by Senator Jackson sought to improve the CCPA so that consumers are given meaningful disclosures and choices without extreme levels of expense to nonprofits and charities.

Beyond the price of data, The Nonprofit Alliance is concerned with the anti-privacy elements to the CCPA. For example, the law requires disclosure about a consumer to other consumers in that same household.

This is not always safe.

Someone may have a search history regarding the LGBT community, but perhaps being out is not safe in that household.

Further, someone in the household may google information about abortion or birth control services or spousal abuse shelters or support groups—again, that may not be safe information to disclose to others in a household.

We appreciate and respect the intent of the CCPA and do not wish to unravel it. Nonprofits are and historically have been good stewards of personal information. Privacy and donor trust with data are priorities to us. It is for this reason we believe the household issue can be fixed, as well as clarifying provisions on “deidentified information,” and the definition of “personal information” as this balance accomplishes the goal of consumer protection in the CCPA and clarifies the law so that it helps resolve the problems of confusion and workability that would otherwise result in the increased cost of data.

The Nonprofit Alliance represents a diverse landscape of causes. We feed the hungry, shelter the homeless, rescue the lost, stand up for our veterans, advocate for the neglected, search for cures, protect the threatened, and help piece together communities after disasters. Public support from individual donors represents almost 80 percent of philanthropic funding in the United States, and with every contribution, our donors affirm their faith that we will adhere to the highest standards of trust and effectiveness. We take their trust and their generosity very seriously, for it is through this partnership of donors and nonprofits that we make a meaningful difference in our world.

We are nonprofit organizations, and we are the expert partners that help nonprofits in their public outreach, fundraising, and resource development. We care about accountability to a society that understands and values the vital role of nonprofits in our world today. We care about responsible use of technology and data that enable nonprofits to provide relevant, timely outreach to people who care about our missions. We care about donors and supporters as

individuals who are as invested in our work as we are. And we care about the future of our sector. The Nonprofit Alliance is committed to doing what is needed today to ensure that nonprofits continue to have the resources and influence they need to thrive.

With great respect, we ask that you please consider removing the jurisdiction of privacy-related bills from Senate Judiciary Committee and create the Senate Privacy Committee.

Please do not hesitate to call if you would like to discuss this matter further. It would be an honor and pleasure to speak with you.

Sincerely,

A handwritten signature in black ink that reads "Shannon McCracken". The signature is written in a cursive, flowing style.

Shannon McCracken
Chief Executive Officer