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March 12, 2024

The Honorable Pam Beidle
Chair
Senate Finance Committee
Maryland Senate
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: SB 1040 (Gile) - Consumer Protection - Automatic Renewals.

Dear Chair Beidle and Members of the Committee,

On behalf of TechNet, I'm writing to offer comments on SB 1040 related to automatic renewals.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

Consumers sign up for automatic renewals as convenient, easy to use and hassle-free options to continue services they value. We can support legislation where the convenience we seek to ensure is tempered with responsible protections. It is important to establish clear, workable requirements for paid subscriptions that align with most other states' renewal notification obligations in the absence of a national standard. Consumers should be provided a clear, up-front notice of the key terms and conditions of the service agreement for automatic renewals or continuous service programs.

However, this bill contains various provisions that would primarily require revisions and changes to user interfaces and stipulations on when and how some notifications are made specifically for Maryland consumers, rather than giving them meaningfully different protections from the model outlined above. The cancellation methods outlined in the bill are helpful, but we ask that the criteria for the cancellations be aligned with numerous other states that have such laws. Other states require the

method to be cost-effective, timely, and easy to use. We believe these criteria are important for consumers. In addition, the means of communicating information over a computer network seem to require either a direct link or a pre-formatted email. We ask that it be clearer that these are examples, but that any means of communication over a computer network be allowed.

Further, SB 1040 requires additional provisions regarding cancellation that are overly specific and interfere with consumers' ability to receive meaningful warnings about important information critical to their decision making. For example, a consumer needs to know that they may lose information in their account if they cancel and how to deal with this challenge. They should be able to receive increased incentives from the company if the consumer will continue, or warnings that the rates they have been enjoying as a continuing customer may not be available in the future. Marylanders should not be prevented from receiving this important information when evaluating their cancellation choices.

In addition, the enforcement regime is of concern. These provisions are placed into the Consumer Protection Act, which allows for a private right of action. This is an entirely disproportionate enforcement mechanism compared to any potential harm. Studies show that attorneys, not consumers, benefit from such enforcement, with one study showing that attorneys' fees often represent 300-400 percent of the actual aggregate class recovery. As a result, businesses may restrict these popular features rather than increase the likelihood of being the target of potentially frivolous lawsuits and class actions.

Instead, enforcement of any violation of this act should rest solely with the state Attorney General, who is best poised to develop a thoughtful, consistent approach to marketplace regulation. Therefore, we request any bill moving forward clearly states that only the attorney general may enforce violations of the statute.

Consumers want hassle-free services that do not require them to take action at the end of each term. Businesses providing valuable consumer services want consistency in laws concerning automatic renewals and continuous services. In its current form, SB 1040 imposes inconvenience and unnecessary costs on Maryland businesses, while also creating a regime that could be bothersome to consumers. Thank you for your consideration and we look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic