

## LB1188 — Feb 28, 2022 1:30 PM Room 1507

Gregory Dean  
1735 K Street, NW  
Washington DC, 20006  
Feb 23, 2022 3:15 PM  
kyle.innes@finra.org

### **Opponent**

Representing **Financial Industry Regulatory Authority**

FINRA appreciates the opportunity to comment on LB 1188, which would provide broad data privacy protections for Nebraskans and place certain privacy-related obligations on a wide variety of entities.

FINRA is a mission-driven organization dedicated to investor protection and market integrity. Pursuant to the Securities Exchange Act of 1934 (“Exchange Act”), FINRA regulates broker-dealers and their associated persons doing business in the United States – including the more than 121,000 individuals registered to do business in Nebraska and the more than 1,200 broker-dealer offices in the state. FINRA writes rules, examines for and enforces compliance with both FINRA Rules and federal securities laws. FINRA rules are reviewed and approved by the U.S. Securities and Exchange Commission, as part of their broad oversight of FINRA.

FINRA also registers broker-dealer personnel, administers licensing examinations, provides and administers continuing education to securities industry professionals and delivers important information to the investing public. As part of this work, FINRA regularly collaborates with the Nebraska Bureau of Securities in the Department of Banking and Finance (“Bureau”) to register<sup>[2]</sup> broker-dealer agents and oversee brokerage firms and their agents who fall under the jurisdiction of both FINRA and the Bureau. In addition to our own investigations into violations of federal securities law, FINRA also refers relevant matters to the Bureau.

FINRA only collects and shares data – including personal information – for regulatory purposes. This includes sharing such information with law enforcement and other regulators, such as the SEC or the Bureau, in connection with our oversight and enforcement efforts. FINRA does not sell this information or use it for marketing purposes.

We are concerned that FINRA, a 501(c)6 not-for-profit entity that regulates the brokerage industry pursuant to the Securities Exchange Act of 1934<sup>[3]</sup> may unintentionally be covered by certain restrictions in LB 1188, as it is currently drafted. These restrictions could interfere with FINRA’s ability to protect Nebraska investors and share information with the Bureau of Securities.

To make certain that FINRA can continue to protect Nebraska investors and fulfill its regulatory mission as set out in the Exchange Act, FINRA respectfully urges you to consider adding the following language to Section 3(b):

“[...] or a National Securities Association as defined in Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o-3), as amended, or regulations adopted thereunder.”

We are more than happy to discuss any or all these issues in greater detail. Thank you in advance for your time and consideration, and if you have any questions or need additional information, please contact Kyle Innes of FINRA at kyle.innes@FINRA.org or (646) 315-7367.

[1] For more information, please visit [www.FINRA.org](http://www.FINRA.org).

[2] FINRA facilitates the processing of state broker-dealer and investment adviser registrations through our CRD and IARD platforms, including the collection and disbursement of fees, review of qualifications and a review of applications for completeness and accuracy.

[3] See Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o-3).

---

Chris Oswald  
2020 K Street, NW , Suite 660  
Washington DC, 20006  
Feb 25, 2022 11:06 AM  
austin@leoninefocus.com

### **Opponent**

Representing [**Advertising Industry (the Association of National Advertisers, the American Association of Advertising Agencies, the Interactive Advertising Bureau, the American Advertising Federation, the Network Advertising Initiative, and the Digital Advertising All**

The 4A's, AAF, ANA, DAA, IAB, and NAI, representing the advertising industry, oppose LB 1188. Below we offer our primary, non-exhaustive list of concerns with the legislation.

#### I. Nebraska Should Harmonize Its Approach to Privacy With Other States

Harmonization across state privacy laws benefits consumers and businesses. Uniformity helps ensure consumers have similar protections and businesses can take a holistic approach to compliance. We caution Nebraska from adopting the UPDPA, as drafted by the Uniform Law Commission ("ULC"). Despite the ULC's mission to promote uniformity, the UPDPA resembles no other state privacy law that has been enacted. The UPDPA is an entirely new approach that would add to the growing list of varying standards for privacy across the states.

We encourage Nebraska to align its approach with the Virginia Consumer Data Protection Act. Compliance costs associated with divergent privacy laws are significant. An assessment of the California Consumer Privacy Act of 2018 concluded that initial costs to California firms would be \$55 billion. Additionally, a recent study on a privacy proposal in Florida found that it would have generated a direct initial cost of \$6.2 to \$21 billion and ongoing annual costs of \$4.6 to \$12.7 billion for the state. Another report found that state privacy laws could impose out-of-state costs between \$98 and \$112 billion annually, with costs exceeding \$1 trillion dollars over 10 years and small businesses shouldering most of the cost burden. Nebraska should consequently opt to harmonize its approach with existing state privacy laws.

#### II. Broad Regulatory Authority Leads to Divergent State Privacy Standards

The UPDPA would grant the Nebraska Attorney General ("AG") broad regulatory authority, which would run contrary to the goal of fostering uniformity. Nebraska's privacy law could diverge even more dramatically from privacy laws in other states, as the AG would be able to promulgate regulations that differ from other states' standards. This would deprive consumers of consistency and would impede companies from taking a holistic compliance approach across the country. We encourage the legislature to remove the bill's regulatory authority.

#### III. Data-Driven Advertising Provides Significant Benefits to Nebraskans, the Economy, and All Consumers

For two decades, data-driven advertising has enabled innovation and tremendous growth opportunities. A study found that the Internet economy's contribution to U.S. GDP grew 22 percent per year since 2016 in a national economy that grows between two to three percent per year. In 2020 alone, it contributed \$2.45 trillion to the U.S.'s \$21.18 trillion GDP (an eightfold growth from the Internet's contribution to GDP in 2008). Additionally, more than 17 million U.S. jobs were generated by the commercial Internet in 2020, 7 million more than four years ago. More Internet jobs (38 percent) were created by small firms and self-employed individuals than by the largest companies (34 percent). The same study found that the ad-supported Internet generated 36,246 full-time jobs across Nebraska, approximately double the number of Internet-driven jobs from 2016.

Thank you for considering these comments. We look forward to working with you.

---

Korby Gilbertson  
625 S. 14th Street  
Lincoln NE, 68 508  
Feb 25, 2022 11:12 AM  
korbyg@rgblobby.com

**Opponent**

Representing **American Property Casualty Insurance Association**

I am writing today on behalf of the American Property Casualty Insurance Association (APCIA) in opposition to LB 1188. We have expressed our concerns with Senator Flood and it is our understanding that he will not be pursuing the legislation due to concerns similar to ours.

While on the surface, the proposal seems to provide protections to entities that must already comply with federal privacy mandates, the language is somewhat vague. By stating that a controller is in compliance with the proposed law if the “processing is subject to the Gramm-Leach-Bliley Act.” In contrast, other states that have adopted similar laws expressly state that they do not apply to entities subject to GLBA.

The difference between being subject to the state law but deemed to be in compliance with it versus not being subject to the state law at all is of concern. Because the enforcement power being given to the Attorney General, parties could find themselves having to argue the meaning of the exemption. Further, we believe that it would be best to continue having this subject enforced only by insurance regulators.

Thank you for your consideration of our comments. We hope that the Committee will see fit to hold this legislation.