

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Monday, February 4, 2013
2:30 pm
State Capitol, Conference Room 325
In consideration of

HB 39 RELATING TO THE INTERNET PRIVACY.

Chair McKelvey, Vice Chair Kawakami, and Members of the House Committee on Consumer Protection and Commerce.

The High Technology Development Corporation (HTDC) respectfully **offers comments** on HB39 requiring commercial websites to post their privacy policies.

HTDC agrees with the intent of protecting consumer privacy. HTDC suggests that national policies would be best suited to address this issue as online presence is a global business. It is not clear that the requirement to post privacy policies will help protect consumers and also unclear how the policies will be enforced globally. The bill could unnecessarily burden Hawaii based companies with a requirement that is difficult to enforce on global competitors.

Thank you for the opportunity to submit testimony on this bill.

**Testimony of
Mihoko E. Ito
on behalf of
Consumer Data Industry Association**

DATE: February 4, 2013

TO: Representative Angus McKelvey
Chair, Committee on Consumer Protection & Commerce
Submitted via e-mail CPCtestimony@capitol.hawaii.gov

RE: **H.B. 39 – Relating to Internet Privacy**
Hearing Date: Monday, February 4, 2013 at 2:30 p.m.
Conference Room 325

Dear Chair McKelvey and Members of the Committee on Commerce and Consumer Protection,

I am Mihoko Ito testifying on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 200 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA **opposes** H.B. 39, which requires operators of commercial websites or online services that collect personally identifiable information through the Internet about consumers in the State who use the websites or online services to conspicuously post their privacy policies on their websites or through any other reasonably accessible means.

This bill attempts to regulate Internet notices that are seen in all 50 states and around the world. It would require all operators of websites who collect personal information from Hawaii consumers to adhere to a state-specific privacy standard and notice, which could easily lead to consumer confusion on websites that are seen worldwide.

Moreover, the bill does not acknowledge or exempt information that is controlled by federal law including the Fair Credit Reporting Act (FCRA), Gramm Leach Bliley Act (GLBA), and Health Insurance Portability and Accountability Act

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(HIPAA) or Children's Online Privacy Protection Act (COPPA). CDIA members, who are regulated by these and other federal laws already have privacy policies in place that properly provide notice to and inform consumers of how information is treated.

The FTC and the U.S. Department of Commerce have been leaders in Internet privacy issues, and have issued papers and reports that offer suggested practices for businesses to follow.

We are happy to provide more information, but believe that this bill is unnecessary and should be held.

Thank you very much for the opportunity to testify.

**Testimony of
Mihoko E. Ito
on behalf of
USAA**

DATE: February 4, 2013

TO: Representative Angus McKelvey
Chair, Committee on Consumer Protection & Commerce
Submitted Via Capitol Website

RE: **H.B. 39 – Relating to Internet Privacy**
Hearing Date: Monday, February 4, 2013 at 2:30 p.m.
Conference Room: 325

Dear Chair McKelvey and Members of the Committee on Commerce and Consumer Protection,

I am Mihoko E. Ito, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA **opposes** H.B. 39, which requires operators of commercial websites or online services that collect personally identifiable information through the Internet about consumers in the State who use the websites or online services to conspicuously post their privacy policies on their websites or through any other reasonably accessible means.

USAA posts its privacy promise on its website. The placement of the notice is two clicks away, but the proposed bill seems to require it to be one click away. If an organization has several privacy promises (e.g., one that applies to all data collection, one that applies to only online data collection, one that is required by GLBA, etc), then it is not feasible to have them all one click away. USAA has a Security and Privacy Center, which is linked from its homepage that contains links to USAA's privacy and security information. At a minimum, we suggest amending (3) to something like...“to a webpage on which the actual privacy policy is accessible, if the text link is...”

Thank you for the opportunity to submit testimony on this measure.

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**HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE**

February 4, 2013

House Bill 39 Relating to the Internet Privacy

Chair McKelvey and members of the House Committee on Consumer Protection and Commerce, I am Rick Tsujimura, representing T-Mobile USA, Inc.

T Mobile opposes House Bill 39 and offers the following observations.

Our primary but not singular concern with this measure is the definition of “conspicuously post” on page 1, line 7. This is problematic, and T-Mobile is concerned that it could even meet these definitions. We have a consistent look across all our websites and we definitely post a link to our privacy policy on the home page in a manner we consider to be “conspicuous”. But, for instance, we don’t believe we would satisfy the typography requirements. Attached is a screen shot of our home page showing the link to our Privacy Policy, as well as to Privacy Resources. You can see that it is visible, “conspicuous”, and yet probably wouldn’t meet even the definitional requirements of the bill.

We have worked hard to develop a consistent look and feel to our website, including consistent placement of links to our privacy policy to make it easy for our customers to find the information they are looking for. Furthermore, designs and consumer expectations change over time and such rigid requirements can lead to an overall creative constraint that is inappropriate. We want our customers to be able to find our privacy policy and information about our programs, but we don’t believe that government should be dictating how that should look.

In general, we oppose legislation that is this prescriptive and this directive, particularly at the state level. We are concerned that we will have to conform our website to meet conflicting requirements of multiple states and other jurisdictions. For a national company, this is a nightmare. We believe that by doing so the state may be interfering in interstate commerce by establishing what would be national web requirements. If permitted in this state, all other states might begin to engage in similar practices, leaving providers having to guess which state law applies and/or supersedes.

Finally, the fines that would be imposed are excessive. We oppose legislation of this type that would impose fines of this nature on companies doing business in Hawaii.

The bottom line is that we’re concerned about this bill moving forward. We would be less concerned if it didn’t include the onerous definitions of “conspicuously”, but we would still oppose the bill.

Thank you for the opportunity to present this testimony.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 6:02 PM
To: CPCtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB39 on Feb 4, 2013 14:30PM*

HB39

Submitted on: 1/31/2013

Testimony for CPC on Feb 4, 2013 14:30PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual | Support | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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