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March 5, 2019

The Honorable W. Briggs Hopson III  
Mississippi Senate  
State Capitol  
Box 1018  
Jackson, MS 39215

Re: House Bill 1152

Dear Chairman Hopson:

We write to respectfully request amendments to House Bill 1152 to ensure consistency and efficiency in the request for electronic communications by law enforcement from service providers. HB 1152 is currently pending in the Senate Judiciary Committee, Division A.

Our organizations represent world leaders in the fields of information technology, consumer and commercial internet access, the sharing and gig economies, cybersecurity, and e-commerce – all of whom care deeply about protecting public safety while also preserving civil liberties. Accordingly, we have concerns with some portions of HB 1152 and are reaching out to work with the legislature on potential amendments.

The requested amendments are as follow:

- Section 1, subsection (I)(i): “[R]emote computing service” should be defined, and we suggest the definition found at 18 USC 2711(2).
- Section 1, subsection (I)(ii): Third party providers of equipment or services should be limited to ones that provide equipment or services directly related to the electronic communication service. Otherwise, for example, a supplier of cleaning products or a vendor who provides lawn services could be captured in the definition.
- Section 2, subsection (4): We have serious concerns over allowing anyone other than a judge to prohibit an electronic communications service provider from disclosures related to the existence of a search warrant, given that a judge will have issued the search warrant in the first place. Similarly, for a subpoena, a court is normally the entity to

issue a gag order, rather than a supervisory official in a law enforcement agency.

- Section 2, subsection (4)(a): We believe there could be a drafting error here, as the bill refers to a “subpoena or search warrant” before then only referencing a “subpoena.” The phrase “or search warrant” should be inserted after the second and third “subpoena” in (4)(a).
- Section 2, subsection (4)(c): We recommend that subsection (4)(c) be struck. For example, an electronic communications service provider should not have to notify law enforcement of the names of outside counsel due to a nondisclosure order. The bill already creates enforcement provisions, including criminal contempt, for failure to comply with the nondisclosure order.
- Section 2, subsection (5): Similar to what is noted above, a judge – rather than a supervisory official – should have to issue a gag order preventing otherwise required notification.
- Section 2, subsection (9): Any request may by an investigative or law enforcement officer should be required to be in writing.

We look forward to working with you on this and other issues important to Mississippi.

Sincerely,

David Edmonson, Executive Director, Texas & Southeast  
TechNet

Sarah Matz, Director, State Government Affairs - Southern Region  
CompTIA

Carl Szabo, Vice President and General Counsel  
NetChoice

CC: Members of the Senate Judiciary Committee, Division A