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January 23, 2019

The Honorable Drew Perkins
President, Wyoming State Senate
200 West 24th Street
State Capitol
Cheyenne, WY 82002

RE: Opposition to SF 76 - mandatory warrant response times

Dear President Perkins and Members of the Wyoming State Senate,

Thank you for the opportunity to share our organizations' collective **OPPOSITION** to **SF 76**, which, as amended, would require providers to comply with government data requests pursuant to search warrants within ten business days without exception. Our organizations collectively represent hundreds of the country's leading technology companies, and we are concerned that such a strict statutory deadline would have significant negative ramifications for government, the private sector, and individuals.

Our member companies take very seriously their responsibility to respond to investigating law enforcement agencies and have a long, positive history complying with lawful requests in a timely fashion.

All providers receive many varied requests on a daily, weekly and monthly basis, ranging from subpoenas for subscriber information, court orders, warrants for the contents of accounts, Title III wiretaps and requests regarding matters of national security. In addition to these common orders, providers are regularly required to dedicate resources to serious emergency situations.

SF 76 would require providers to produce the records sought pursuant to the warrant within ten business days. Such a mandate would force providers to treat all requests, whether kidnapping or trying to find stolen retail merchandise, as though it has the same level of urgency. Ten days can also be difficult to meet when there are unexpected major incidents which require service provider cooperation, such as investigating mass shooting incidents or acts of terrorism.

There is also insufficient evidence to suggest such a "shot clock" is needed. Subpoenas and court orders issued across the country today include return-by dates. As a general practice, companies complete service by the requested return date. In many instances, service is responded to quickly, even before the date due. Our member response times have a very high positive rate of return within days of receipt of legal requests. We recommend that data needed in an especially timely manner be noted as such on the order itself.

Companies maintain constantly updating queues for law enforcement response today, including urgent matters like emergencies or matters of national security. Providers must maintain the

flexibility to work with law enforcement on legal compliance. The staff who handle compliance know their services and systems best and must be able to manage the constantly updating queue of nationwide legal requests. Forcing a ten-day deadline on Wyoming data requests will disrupt this appropriate and necessary prioritization, and encourage other states to pass their own shorter deadlines in hopes of getting their data requests processed even faster.

We agree that certain situations do arise that require prompt responses. Today, providers regularly work to accommodate such requests. Mandating a “shot clock” of 10 days could actually prevent that kind of cooperation from taking place going forward as it could cause a long queue of legal orders that providers must immediately respond to before addressing other requests. Wyoming’s investigations, while legitimate, should not take precedence over any other state, nor should they precede certain other emergencies such as investigations involving children or matters of national security. By placing certain situations above others, Wyoming law enforcement may unintentionally be tying their own hands in other urgent, time-sensitive investigations.

Failure to respond should be addressed directly, rather than through a broad, statutory mandate. Law enforcement agencies with timely response issues should escalate the matter with the particular provider involved. Chronic failures by individual providers can be addressed in a more targeted and efficient way than by imposing blanket requirements on an entire industry, which is comprised of multiple varied providers who have invested heavily and successfully in methods, procedures, and tools enabling them to work efficiently with the law enforcement community.

To improve response times, law enforcement should target accuracy in requests. As with all compliance requests, orders can be processed much more quickly and efficiently if errors are minimized. Lack of uniformity and common mistakes made by requesting officers directly contribute to the length of time in response. It is not uncommon for providers to see the following mistakes on orders: to receive an order intended to be served on another provider; typos and misspellings on the request; orders with incomplete information, such as an IP address without a date, time stamp or time zone; subpoenas requesting information that requires a court order; serving process after the due date on the order; serving process with a due date of the next day; serving process through a public address on a corporate web site as opposed to sending through proper law enforcement response contact. These and other common errors significantly slow response time and can result in not being able to identify the account in question.

We understand the legislative goal of granting a quicker response time to search warrants and are willing to working with you to ensure that all urgent search warrant requests are dealt with expertly and with the appropriate administration.

Thank you for your consideration of our concerns.

Sincerely,

CompTIA
Internet Association
Internet Coalition
NetChoice
TechNet

cc: Senate Sponsor Tara Nethercott
Members, Wyoming State Senate