

## Georgia SB 472

## VETO REQUEST

March 28, 2024

Dear Governor Kemp,

We respectfully urge you to **veto SB 472**. While the bill has been marketed as a simple tweak to existing state law, the reality is that it is an attempt to reopen a major, national policy debate. As it stands, the federal INFORM Act preempts the various state iterations of this legislation.

In sum, SB 472 should be vetoed because:

1. The existing state statute being amended is preempted by federal law;
2. Amendments to state statute serve only to create confusion and regulatory chaos; and
3. Such chaos will benefit particular market incumbents to the detriment of competition and the free market.

### **SB 472 Puts Government's Thumb on the Free Market Scale**

SB 472 claims to fill a loophole in the existing statute. However, from a plain reading of the law, there does not seem to actually be a loophole that needs filling. Instead, this is an attempt to relitigate an issue that many parties engaged in good faith in to settle. Indeed, the issue is so settled that there is now a federal statute that supersedes this one. Any change to the Georgia-specific law then is an attempt to construct a state-by-state patchwork. Such a move should be seen for what it is: anticompetitive.

The federal INFORM Act that was passed last Congress was implemented in order to avoid this very scenario. Having 50 different state laws and regularly amending them at the behest of particular competitors would cause chaos and amounts to the state government propping up certain businesses at the expense of others. This is a violation of free market principles and is an altogether misguided policy.

If there exists a genuine issue with the statute—the federal statute—as written, Congress must pass an amendment that fixes it and applies equally and fairly to all parties. As it stands, the federal statute supersedes the Georgia one, and therefore SB 472 would be ill advised.

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NetChoice still holds to its original position from the beginning of the debate around the federal and state INFORM Acts: that this is a law enforcement issue.

*If the goal is genuinely to minimize or eliminate organized retail crime, the focus must be on giving law enforcement officers what they need to combat sophisticated criminal enterprises. Shifting the blame and the policy discussion to small sellers using online platforms misses the mark entirely.*

There is nothing stopping the state from pursuing more aggressive actions against the perpetrators of organized retail crime directly. One has to imagine such an action would be wildly popular and garner the support of every retailer, whether online or offline. Unfortunately, we seem stuck in a debate over which specific companies should be forced to shoulder the burden of enforcement for an entire global market, while their competitors reap the benefits.

Again, we ask that you **veto SB 472** and offer ourselves as a resource to discuss these issues in further detail. We appreciate your attention to this matter.

Sincerely,

Amy Bos  
Vice President & General Counsel  
**NetChoice**

*NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.*