

February 27, 2023

The Honorable Senator Matt D. Klein, Chair
Senate Commerce and Consumer Protection Committee
St. Paul, Minnesota 55155

RE: Opposition to HF SF 1598 (as drafted)

Dear Chair Klein, Vice Chair Seeberger, and members of the Senate Commerce Committee:

ACT | The App Association (App Association) respectfully **opposes SF 1598**. The App Association is a global trade association for small and medium-sized technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. Today, the App Association represents an ecosystem valued at approximately \$1.7 trillion and is responsible for 5.9 million American jobs. Our members create innovative solutions that drive the world's rapid embrace of mobile technology. Their products power consumer and enterprise markets across modalities and segments of the economy.

We respectfully **oppose SF 1598 as drafted** because it poses significant risks to our members who develop software compatible with mobile and connected devices, and poses risks to consumers' sensitive health, financial, and personal data stored on these devices.

While a majority of our members build software, the success of their software and business depends on the functionality of the hosting device – in most instances a mobile phone. If a key structural feature of a device malfunctions due to third-party repairs, our members' software can become unable to interoperate effectively with the operating system, putting their business at risk. For instance, a mobile app used for ID scanning in restaurants and bars, or an app used to monitor crop health on a farm, that relies on a phone's camera and other hardware features could become entirely ineffective due to a botched rewiring of the phone. In addition to harms third party repairs can have on small businesses, there are potential harms that extend to consumers.

Smartphone users across the world, including those in Minnesota, consider their phones a lifeline because the phones contain highly sensitive information such as personal data, health data, photos, and videos. Consumers rely on the security of their data on these products, and any compromise to their privacy and security protections could pose a significant risk. Hacking is a constant threat to computers, tablets, and smartphones, and weakening their privacy and security protections would further exacerbate the risk to consumers. Even without mandates for manufacturers to provide open access to their copyrighted software, bad actors invest massive amounts of time and resources in gaining the keys to protected information and device controls. We fear that SF 1598 would create new opportunities for bad actors to access and copy consumers' personal data. A bad actor could pose as an independent repair shop to gain direct access to protected device features and software-protected information, or they could seek to exploit mandated open access through other means. Either way, the new risks would be substantial and unlikely to be justified by countervailing interests in enabling do-it-yourself repair projects or wider participation by unvetted repair shops.

We **oppose SF 1598 as drafted**. We would support a draft of the legislation that mirrors the New York Digital Fair Repair Act and welcome the opportunity to work with the committee, the bill sponsors, and all other parties moving forward. Thank you for your consideration.

Sincerely,

Morgan Reed, President
Caleb Williamson, State Public Policy Counsel
ACT | The App Association