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June 22, 2015

The Hon. Ron Young
Chairman, House Commerce & Labor Committee
Ohio House of Representatives
Columbus, OH 43215

Re: H.B. 172, on mug shots and other criminal history information

Dear Chairman Young:

I write on behalf of the Consumer Data Industry Association (CDIA) to thank you for allowing me to testify recently on H.B. 172. We have reviewed the substitute and found that it made no significant changes since the original draft of the bill. The substitute does not achieve what I thought that was your direction: to find a solution to solve the problem that the sponsor raises (people being charged money to remove criminal record information from websites), without regulating those that are already regulated. The substitute does not achieve that goal and in so doing, the bill would make it harder for employers to conduct criminal background checks in Ohio and puts more businesses and consumers at risk.

CDIA is an international trade association, founded in 1906, of more than 130 corporate members. We have members in Cleveland, Columbus, and across the United States. Our members provide criminal history information to businesses, government and law enforcement across the state of Ohio.

Our mission is to enable consumers, media, legislators and regulators to understand the benefits of the responsible use of consumer data which creates opportunities for consumers and the economy. CDIA members provide businesses with the data and analytical tools necessary to manage risk. This includes criminal

background checks. Our members help ensure fair and safe transactions for consumers, facilitate competition and expand consumers' access to a market which is innovative and focused on their needs.

CDIA members have been regulated by the federal Fair Credit Reporting Act (FCRA) since 1971. This law imposes accuracy obligations on criminal background companies, levies duties on employers that conduct criminal background checks, and affords individuals the right to see and contest any information in criminal background checks. A summary of the rights and duties under the FCRA is attached to this letter.

House Bill 172 imposes new regulations on top of those already in existence, without really focusing on the problem the sponsor wishes to solve. House Bill 172 does not do much to regulate those that are not already regulated. There are companies that post mugshots and other criminal information on websites and charge consumers to take this information down. This practice is arguably extortion and this practice can and should be prevented. If the sponsor and your committee wish to solve the problem at hand, we propose a better way.

We respectfully suggest substitute to follow the example set by several states, most notably, Missouri. Under Missouri [§ 407.1150](#),

It shall be unlawful for any person engaged in publishing or otherwise disseminating criminal record information through a print or electronic medium to solicit or accept from a subject individual the payment of a fee or other consideration to remove or correct criminal record information.

We can also point you to California [Civil Code Sec. 1798.91.1](#). In pertinent part, the language is as follows:

(b) It shall be unlawful practice for any person engaged in publishing or otherwise disseminating a booking photograph through a print or electronic medium to solicit, require, or accept the payment of a fee or other consideration from a subject individual to remove, correct, modify, or to refrain from publishing or otherwise disseminating that booking photograph.

If you can find two disparate states like California and Missouri to agree on the same way to solve the same problem, clearly this is a solution worth considering. The full statutes are available online.

I hope this information is helpful to you. I am happy to receive any questions or engage in further discussions. Also, if our Cleveland or Columbus members can be of assistance to you or your committee, we are at your disposal.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Ellman', with a long horizontal flourish extending to the right.

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs

cc: Hon. John Barnes, Jr.