



February 1, 2008

The Honorable Bradley M. Daw
842 E 280 S
OREM, UT 84097

RE: HB 139 Wireless Internet Access Requirements

Dear Representative Daw:

On behalf of the high-tech community, AeA (American Electronics Association) would like to express some of its thoughts on HB 139, “Wireless Internet Access Requirements.” We applaud your efforts to ensure a safe environment for Utah minors; however, we do not believe that H.B. 139 is the best approach for achieving this goal. Consequently, despite the bills best intentions, we believe that the labeling requirements, public access to wireless network, and broad definition of person will be detrimental to Utah citizens as a whole.

Labeling

HB 139 section 1 would require state-specific labeling for devices “capable of wirelessly accessing the Internet.” Such a mandate is extremely broad as a host of devices like cellular phones, laptops, desktops, and PDAs all have such capabilities. Furthermore, many of these devices already advertise to consumers that they have wireless access in order to promote the purchase of their goods. Thus, we believe that such labeling in Utah is not warranted, unnecessary, and could impede the sale of future wireless devices in Utah.

Another consequence of HB 139 section 1 is the impact on manufactures’ ability to distribute their goods to Utah retailers. Manufacturers of electronic devices do not always know with precision where their devices will be sold. Oftentimes, a regional retailer may place an order for hundreds or thousands of devices that are subsequently placed into commerce in many states. It would be a huge burden on manufacturers and retailers to ensure placement of Utah specific labels on each product that may wind up in commerce within that state alone.

Restricting Access to Wireless Network

HB 139 section 4 would require any “person” that provides wireless Internet access to the public to restrict access to prevent minors from accessing harmful material. This in essence creates an age-verification requirement. Unfortunately, to date, there is no proven mechanism for performing age verification in an online environment and such a requirement creates a false sense of security for parents and children alike. Additionally, proposed methods to increase the accuracy of age and identity verification raise significant privacy and security concerns that have yet to be resolved, and make them inappropriate for child safety applications. Even under the

most ambitious proposed concepts 100% certainty, sufficient to protect against criminal liability, is not possible.

Theoretically, there are basically two approaches to age verification: 1) a legitimate party, e.g., a driver's license bureau, makes identity claims on behalf of a particular person which an online service can use to verify age or 2) a person provides the website with a real name and address, which are then checked against various databases (e.g., credit bureaus, social security database, etc.). Both scenarios raise significant privacy and security issues, including legal issues, that have not yet been addressed, and it is not clear that either approach would yield a workable solution. Moreover, it is not yet clear that implementing either approach will increase child safety.

Definition of Person

Lastly, it is not clear which entity bears this age verification responsibility. When a minor gets "access" to the Internet, who "provides" it? Is it the local ISP? The coffee shop where the minor is surfing the Internet? The hotel room that provides access as a convenience for its customers? The city-wide free Wi-Fi system? Are all of these actors responsible for verifying age? We think this provision creates confusion for those who provide access and for citizens and customers using such wireless systems. An unintended consequence could be less and more costly access to the internet for the public if such "providers" seek to limit their legal liability under HB 139.

High-Tech Industry and Child Online Safety

Our member companies care deeply about protecting our children on the Internet and they devote significant resources to ensure a safe online environment for all users particularly children. We believe that there is no single solution for best protecting children online. Rather online safety requires a multi-faceted approach involving ever evolving technology, public education and partnerships with law enforcement and other groups to keep the Internet safe for children. As a result, our industry has implemented technical solutions like parental controls, worked with non-profit organizations to better educate children and parents on the dangers and protections available, and with law enforcement officials to best protect children.

Given these concerns, we respectfully cannot support HB 139. However, to reiterate, we do support and devote significant resources to support enhanced law enforcement efforts against predators, strong educational outreach for children, their parents, and teachers about online safety, and the ongoing efforts to explore additional steps to make the online world safer. Most importantly, we look forward to working with you and the rest of the Utah legislature to ensure the safest internet environment for Utah Children.

AeA is the nation's largest high-tech trade association and represents over 1.8 million high-tech workers in more than 2,500 IT sector companies which span the high-technology spectrum, from software, semiconductors, medical devices and computers to Internet technology, advanced electronics and telecommunications systems and services. Complete information on AeA and its mission is available on our website at www.aeanet.org.

We thank you again for your work on this issue and look forward to continuing to work with on this important legislation. Should you have any questions, please do not hesitate to reach me Alan Vazquez, Manager and Counsel of Public Policy, in our Washington, DC office, at 202.682-4439 or alan_vazquez@aeonet.org.

Sincerely,

Alan D. Vazquez, Esq.
Manager & Counsel of Public Policy
AeA- Advancing the Business of Technology