

January 5, 2024

Re: Texas Digital Opportunity Plan

Texas Broadband Development Office,

Thank you for the opportunity to provide comments on the Texas Digital Opportunity Plan, *Chapter 5: Implementation*. The purpose of the Texas Digital Opportunity Plan (referred to as “the plan”) is “to address broadband access, affordability, and adoption for all Texans,” and Texas Appleseed thanks the Texas Broadband Development Office (BDO) for prioritizing non-infrastructure related digital opportunity considerations for Texas individuals, families, and communities.¹

Introduction

Texas Appleseed is a nonpartisan nonprofit focused on bringing about policies that are fair, just, and equitable for all Texans. Fueled by data, legal expertise, and a commitment to supporting vulnerable communities, our work has shaped hundreds of state and local policies and positively affected millions of Texans.

Through its Fair Financial Services Project, Texas Appleseed advocates for fair market practices across many financial services areas and has been a leader in working to implement strong data privacy protections for Texans. Our data privacy work focuses on mitigating the risks of financial exploitation and technological abuse for vulnerable groups, including survivors of abuse and older adults. In order for the state to ensure that “every Texan has the skills and abilities to fully and safely utilize broadband access,”² the state must recognize that with access to the internet comes exposure to online harms that, unless equipped with the awareness and knowledge of how to safely prevent and address such harms, can be devastating for Texans.

After a thorough review of the Texas Digital Opportunity Plan, **Texas Appleseed has developed two key recommendations to strengthen the effectiveness of the plan:**

- Prioritize data privacy education in grant requirements for funding statewide organizations and local partners; and
- Expand research efforts and data collection methods to explore digital harms that Texans face.

¹ Texas Broadband Development Office & Texas Comptroller of Public Accounts. Texas Digital Opportunity Plan (November 2023), pg. 5. See: <https://infinite-peak-70034.herokuapp.com/images/TDOP.pdf>

² *Id.*

Texas' Vision for Digital Opportunity focuses on improving "quality of life" for Texans through access to affordable and reliable broadband, and it is critical that the BDO does not undermine this focus by failing to address the real life digital harms that Texans may be faced with as they increase their online activity.³

Digital Harms Facing Texans

The *Texas Digital Opportunity* Survey developed by the BDO found that "most Texans are familiar with cybersecurity and online privacy measures," with 90% of survey respondents being familiar with cybersecurity measures and 86% having had cybersecurity measures set up on their devices.⁴ This could potentially indicate that most Texans are aware of the steps they need to take to protect themselves from online harms, but as advances in digital technologies allow for online behavior to be increasingly and incessantly monitored, it is much easier for bad actors to discover innovative ways to take advantage of people using information gleaned from online sources and activities. Additionally, the survey results found that several covered populations - Aging Individuals;⁵ Individuals with Limited English Proficiency;⁶ Individuals Who Belong to a Racial or Ethnic Minority Group;⁷ and Low Income Households⁸ - were not as familiar with cybersecurity measures or did not have or know if they have cybersecurity measures on their devices, which further shows that vulnerable, at-risk, and minority populations in Texas are at a disadvantage when it comes to not only accessing and utilizing internet services, but also at knowing how to protect themselves from online abuses.

For Texans that are actively online, large amounts of digital information is being collected using a range of methods, including online cookies, registered loyalty cards, purchase history, public social media platforms, device or browser identifiers, and more.⁹ Texans are becoming more aware of the harmful ways that their information is being used, such as through targeted advertising that can manipulate decision-making or exploit vulnerable circumstances.¹⁰ This mass collection of data creates opportunities for personal information to be placed in the wrong hands, such as through data breaches, or even the purchase of personal information from data brokers - businesses that

³ *Id* at 6.

⁴ *Id* at 56.

⁵ *Id* at 60.

⁶ *Id* at 77.

⁷ *Id* at 81.

⁸ *Id* at 89.

⁹ Lois Beckett, "[Everything We Know About What Data Brokers Know About You.](#)" ProPublica, (June 13, 2014).

¹⁰ Jeannie Paterson, Shanton Chang, Marc Cheong, Chris Culane, Suelette Dreyfus, and Dana McKay, "[The Hidden Harms of Advertising by Algorithm and Interventions from the Consumer Protection Toolkit.](#)" International Journal on Consumer Law and Practice, Volume 9, pp. 1-24, (September, 2021).

have no direct relationship with an individual but are still able to collect and sell personal, sensitive information to and from third parties - which causes real harm to unsuspecting Texans.¹¹

Digital privacy invasions, such as identity theft, can bring risks to the wellbeing and security of vulnerable populations that are most susceptible to digital harms. As a result, there are significant ramifications to financial stability and individual safety. Abusive individuals can use the vast array of information available online to perpetrate financial abuse and continue to harass survivors of domestic violence and human trafficking. Data show that economic exploitation is prevalent in abusive relationships, and this type of abuse is enabled by the ease of accessing and using the data of victims and survivors.¹²

For older adults, elder abuse through digital exploitation and fraud is a devastating occurrence that can leave people without their hard earned savings and retirement money.¹³ Unfortunately, Texas is a leader in terms of the losses of over 60 years-of-age victims of elder fraud, with losses reaching more than \$100 million.¹⁴ If Texans do not fully understand the ways in which a lack of online protection can lead to privacy invasions and digital abuses, the state is putting new internet users in harm's way before they have even begun to reap the benefits of broadband access. While little accountability exists regarding what type of information can be collected, who has access to the data, or how it is protected, there are strategies that the BDO can incorporate into the plan that can ensure that Texans that gain access to broadband connectivity and the online world are proactively protected from digital harms.

Chapter 5 Recommendations: Digital Harm Awareness, Education, and Research

Recommendations to enhance *Chapter 5: Implementation* are centered around the fourth outcome objective that the BDO created in order to guide the implementation of the plan: Awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual. For this outcome, the plan's goal is to "increase the percentage of Texans who are familiar with cybersecurity and online privacy measures," which will be accomplished by employing

¹¹ In recent years, we have seen major data breaches from [T-Mobile](#), [Equifax](#), [Robinhood](#), and [Edfinancial](#), which put millions of consumers' personal, private financial data at risk, and have brought about growing data privacy concerns from consumers.

¹² A 2019 report by the National Domestic Violence Hotline found that nearly one in three Texans who called the hotline disclosed experiencing economic/financial abuse, and 19% disclosed experiencing digital abuse, which was defined as abuse through "the use of technologies such as texting and social networking to bully, harass, stalk, or intimidate a partner." See: National Domestic Violence Hotline, "[Texas State Report](#)." (2019).

¹³ Elder "exploitation" is defined as "the fraudulent use or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder or rightful access to, or use of, benefits, resources, belongings, or assets." See: Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119, 111-148 (2010).

¹⁴ Federal Bureau of Investigation, "[2021 Elder Fraud Report](#)" (2022).

Strategy 1 (Partner With and Fund Statewide Organizations) and Strategy 2 (Fund Local Partners).¹⁵ Because the plan identified that online privacy and cybersecurity concerns are seen as a challenge to broadband adoption, Texas Appleseed has determined two recommendations that will help Texans overcome this barrier and provide the state with the resources and tools it needs to better understand and address data privacy concerns: 1) prioritizing data privacy education in grant requirements for funding statewide organizations and local partners, and 2) expanding research efforts and data collection methods to explore digital harms that Texans face.¹⁶

Increasing Data Privacy Awareness and Education

As society advances, so do its technologies, and it is imperative for online users to be equipped with the knowledge of the online harms they may encounter, how to effectively prevent and address those harms, and what tools and resources are available to help them best prioritize their online safety and security. While there is no federal data privacy law that provides protections to all internet users, Texas recently passed two data privacy laws that now give Texans a new set of baseline data privacy rights to help them gain control over what happens to their online data, which can help internet users be more proactive in protecting themselves from online abuses.¹⁷ However, without proper knowledge and understanding of what Texans can do to protect themselves as they gain access to the online world, data privacy rights remain ineffective. Based on the findings of the *Digital Rights Mapping Tool Survey* administered by the BDO, current Digital Opportunity Programs do not prioritize cybersecurity and privacy training, which further demonstrates the strong need for the prioritization of data privacy education as broadband becomes more accessible to Texans.¹⁸

Of the four key strategies that the BDO developed to help guide the implementation of the plan, Strategies 1 and 2 can both be enhanced to address the need for important cybersecurity and privacy education. For Strategy 1, partnerships with organizations can include incorporating data privacy awareness and education-centered initiatives to help provide new internet users with the necessary tools to understand the potential harms they may encounter as they navigate the online space and how to best prevent and address online harms. For Strategy 2, grant requirements with partners can require the offering of cybersecurity and privacy trainings centered on equipping Texans with important knowledge about online harms, including:

- An introduction to data privacy and its importance for internet users,
- Clear steps users can take to maximize digital privacy and control on their online (e.g., adjusting online browser settings, blocking cookies, etc.),

¹⁵ *Supra* note 8, at 50.

¹⁶ *Id* at 51.

¹⁷ On September 1, 2023, two data privacy laws went into effect in Texas: [House Bill 4](#) (the Texas Data Privacy and Security Act), and [Senate Bill 2105](#), which requires data brokers to register with the state.

¹⁸ *Id* at 131.

- Legal rights in Texas and applicable federal laws, and
- How to access existing tools and protections against digital threats, such as fraud and financial abuse.

The BDO can build this type of education into current digital citizenship, digital literacy, and digital opportunity programs to ensure that Texans that gain access to broadband services are more effectively prepared to address digital harms.

Expanding Research Efforts on Digital Harms

While several digital harms have already been identified, such as identity theft and financial abuse, the ways in which bad actors can take advantage of Texans online and cause significant harm are only growing, such as the rapid development and use of artificial intelligence. It is important for the BDO to not only recognize the ways in which digital abuses can have devastating impacts on Texans, but for the state to invest in and expand data collection and research efforts to further explore the current and rising types of digital harms that Texans may face, ways in which these harms can be addressed, and methods by which these harms can be prevented. This recommendation strongly aligns with Strategy 4 (Maintain a Living Digital Opportunity Plan), in which the BDO can include a new category dedicated to:

- Exploring statewide digital harms (such as through community focus groups);
- Equipping organizations and local partners with the knowledge and tools to train their staff, and therefore, its community members on digital harms, and
- Developing a living resource guide that is accessible to and provides Texans with helpful resources to prevent and address online harms.

Thank you again for the opportunity to provide comments on the Texas Digital Opportunity Plan. The digital age has created ingenious ways for abusers, fraudsters, and scammers to gain access to people's personal information online and wreak havoc on a person's overall wellbeing, and as Texas works to expand broadband access and eliminate the digital divide, it is important for the state to ensure that it is setting Texans up for success by providing them with the knowledge, tools, and resources to practically and effectively protect themselves from digital harms.



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