



Oregon Consumer Justice
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Submitted to:

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Department of Consumer and Business Services

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Thank you for this opportunity to provide the Department of Consumer and Business Services (DCBS) with comments on the proposed rules to implement the Data Broker Registry established through HB 2052.

We appreciate the invitation for Oregon Consumer Justice (OCJ) to participate in the Rules Advisory Committee (RAC) and feel that the previous conversations at the RAC on August 28, 2023, and September 19, 2023, provided space to hear a wide range of comments on what is needed to implement a data broker registry established through HB 2052 in a way that will support appropriate transparency and usability for consumers.

OCJ is a nonprofit consumer advocacy organization advancing a justice movement that puts people first through policy, community engagement, and the law. We are working to end predatory practices and ensure that bad actors are held accountable so all Oregonians can live with dignity, good health, joy, and economic opportunities. We work to ensure that financial and business transactions are reliably safe and that all Oregonians understand and know how to exercise their consumer rights.

As OCJ reviewed the draft rule and referred to HB 2052, a few items emerged. While we mentioned some items during the previous RAC meetings and in our previous written comments dated September 11, 2023, we are sharing others here. We ask that DCBS considers the following questions and comments as you develop the rule to implement the Data Broker Registry:

1. What is essential to be included in the rule to ensure that the registry is actually accessible and usable by Oregon consumers? OCJ appreciates that DCBS is trying to leverage existing software programs to keep the costs of the program down, but if the program is not consumer-friendly, it won't be used. In this case, the instructions that will be available are an essential component for the registry to be usable for consumers to exercise their rights under the Oregon Consumer Information Privacy Act.
2. How do consumers effectively utilize the registry to find the information they require to exercise their rights? In the RAC discussion, it was mentioned that it would be feasible to search by the name of each data broker. However, consumers may not be aware of the specific names of data brokers. Therefore, we request a more user-friendly method to retrieve a comprehensive list of all registered data brokers in Oregon beyond relying on a wildcard in the search function.
3. We appreciate DCBS offering at the last RAC meeting to explore the possibility of options with the software vendor to filter the list of registrants to identify which data brokers support opt-out provisions. However, without a clear understanding of whether the database will provide filtering, there are still significant questions about whether the registry will sufficiently address consumer needs.
4. OCJ urges DCBS to establish a workflow that checks that all links and other methods offered to consumers to opt-out are tested by the program staff during the application review. OCJ appreciates that sometimes links will work at the time of registration, but break later. In those instances, we request that the rule indicate how the database will be updated when a complaint is received that a link or other element of the registration is no longer working.
5. In general, OCJ is concerned based on the current available information that the registry is not being developed with a consumer-centered approach, and urge DCBS to consider ways to incorporate feedback from consumers to ensure the system is built to be both accessible and usable. In the meantime, OCJ believes that one key element to make the registry accessible is to provide clear and user-friendly instructions in multiple languages (see below for more details) to ensure consumers' confidence in its use. OCJ will be convening a cohort of

community organizations to provide co-learning and educational opportunities regarding data privacy and is open to partnering with DCBS to provide review and feedback on instructions or other elements of the program.

6. As these rules attempt to provide a transparent, efficient, and usable way for consumers to control how data brokers handle their data, OCJ urges DCBS to enhance equity by improving accessibility and reducing barriers inherent to the digital divide. OCJ urges DCBS to ensure that the search function for the registry and instructions are available in multiple languages. Since this is relatively technical information, OCJ suggests that DCBS does not rely simply on automatic web translations such as Google Translate.
7. OCJ suggests the Statement of Need and Fiscal Impact incorporates the following suggestions:
 - a. Need for Rulemaking—include language about the importance for consumers to have a transparent, understandable, and easy-to-use way to access information about data brokers operating in Oregon, and include how to exercise their rights to opt-out of data collection and brokerage.
 - b. Equity—include language about the potential impact on populations with barriers because of the digital divide in Oregon, including rural communities, older adults, low-income, and BIPOC communities. Unnecessary barriers will exist if the registry and instructions are not made available in multiple languages, using linguistically and culturally appropriate language.

Thank you again for this opportunity to provide comments. Please let us know if you need any further clarification or additional information. We look forward to seeing the next iteration of the draft rule.

Regards,

Chris Coughlin
Policy Director