

September 11, 2023

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

We appreciate the invitation for Oregon Consumer Justice to participate in the Rules Advisory Committee (RAC), and feel that the initial conversation at the RAC on August 28, 2023 was a good start. Since some members of RAC stated that they did not have sufficient time to review the draft rule with their colleagues prior to the meeting, it is going to be very important for all stakeholders to have a chance to review any additions/changes that might be added to the next version of the rule in response to comments from RAC members.

Oregon Consumer Justice (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 for us. Some we mentioned during the August 28th RAC meeting, others we are sharing here. We ask that DCBS considers the following comments as you continue to develop the rule to implement the Data Broker Registry:

1. Some but not all of the definitions in HB 2052 are included in the draft rule, and we are concerned that those omissions might lead to some confusion. OCJ has received many questions from non-profit organizations who are exploring the implications for them given the passage of SB 619, the comprehensive data

privacy bill. As SB 619 and HB 2052 are implemented, it is important to be clear who is required to register as a data broker, as stipulated by HB 2052, and who does not need to register. Version 1 of the Data Broker Registry rule could cause confusion. We would recommend that Section 1. (1) ( c) (B) listing what a “Data broker” does not include, be added to the rule, especially given the addition of the definition of “sell” in the draft rule. As an example, many small non-profits rent or sell donor lists. While it is clear in Section 1. (1) ( c) (B) (IV) of HB 2052 that if there is a donor relationship, the business entity is not a data broker.that isn’t clear if one just looks at the definitions currently in version 1 of the draft rule.

2. We request simple language in the rule stating how data brokers can meet the requirement to explain how a consumer can opt out, including for which portion of information, and how to do so. We appreciate the conversation at the RAC regarding not wanting to put forms in the rule. We understand that can be cumbersome. However, in order for consumers to be able to take action on the information being provided by data brokers, as required by HB 2052, we would appreciate seeing some language in the rule about the importance of that information being accessible, and presented in a way that makes it reasonable to assume that consumers will be able to take action using the information provided.
3. We would also like to see more clarity in the rule about the information that the data broker needs to provide in order for a consumer to be able to authorize an agent to opt out on behalf of the consumer. As in #2, our goal here is to make the information being provided by the data brokers, and included in the database that will be accessible by consumers, understandable and actionable by consumers.
4. In general, we think that Oregon consumers will be better served if there is more clarity in the rule on how the information will be accessible to consumers. During the RAC it was mentioned that it will be possible to search the Nationwide Multistate Licensing System by name of each data broker, but consumers may not know the name of a specific data broker. We would ask that there be an easy way to pull the list of all registered data brokers in the state of Oregon, or some other way for consumers to access the information.



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5. In 441-830-0050 (2) we have a minor suggestion to add the word “additional” before fee, if that is the intent. The sentence would read “The **additional** fee for late renewals is \$50.”
6. We agree with the conversation during the RAC meeting on August 28th that this rule is not an appropriate place to address data breaches. That should fall under Oregon’s existing data breach law.

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

Regards,

Chris Coughlin  
Policy Director

