



April 4, 2019

Sen. Floyd Prozanski
Rep. Paul Holvey
Rep. David Gomberg

Sen.FloydProzanski@oregonlegislature.gov
Rep.PaulHolvey@oregonlegislature.gov
Rep.DavidGomberg@oregonlegislature.gov

Re: Oregon SB 703 – OPPOSE

Dear Sen. Prozanski, Rep. Holvey and Rep. Gomberg:

Consumer Reportsⁱ writes to urge you to withdraw S.B. 703 and to work with us on legislation that truly protects privacy. For over 80 years, we have worked with consumers for truth, transparency, and fairness in the marketplace. And, we are strong proponents of public policy that bolsters consumers' privacy and their individual right to choose who accesses their data and for what purposes. It is within this framework that we must recommend that the state of Oregon reject this measure and the dangerous precedent it would establish.

We appreciate your interest in protecting individual privacy in Oregon and ensuring fairness in the marketplace, but this bill achieves neither. It would instead risk turning the basic right to privacy into a luxury out of reach to lower-income Oregonians. Indeed, consumers desire more control over their private information and dislike such information being shared and monetized in this way.ⁱⁱ In formalizing the market for the sale of personal information, this bill would lead to consumers signing away their right to privacy, without the full context to understand the impact a single sale could have for themselves and our broader society. Furthermore, individuals who sell their data would receive compensation for something that can't realistically be appraised, or its loss fully reimbursed.

Designing privacy rights around the basic human right to privacy

As technology evolves, consumer trust in the continued existence of genuine privacy is eroding. Yet, although trust is decaying, that troublesome future is not inevitable. But, this bill could hasten its arrival.

There is already an opaque market for consumers' personal information and consumers are left out of the profit chain. But the solution is not to pay Oregonians to give up their

privacy – they deserve privacy rights to shield their personal information from being monitored and sold by data brokers. Instead, this bill would ratify that ecosystem. It would also lend credibility to a market that has been truly harmful for consumers. One that enabled the collection and use of data to create psychological profiles of voters for illicit political purposesⁱⁱⁱ; and that enables businesses to create alternative, non-evidence based and potentially discriminatory, credit scores based on consumers’ digital footprint.^{iv}

A plan to move privacy forward for all Oregonians

We thank you for recognizing the need to get privacy rights back on track, and for your willingness to approach the fraught issue of consent in the developing data economy. Rather than moving this legislation forward, we urge you to put forward legislation that focuses on shoring up individual privacy as a basic human right.

Legislation that encourages data minimization, gives people agency over the sale and sharing of data, guaranteed transparency into what companies do with that information, and the right to take companies to court for violating those rights, is what Oregonians need to ensure that privacy continues to be a human right now and in the future. California recently passed the California Privacy Protection Act which provides for some (though not all) of those rights and would be a good foundation from which Oregon could build even stronger privacy protections.

We stand at a critical juncture for individual privacy rights. Now is the time for Oregon to pass privacy legislation that prioritizes Oregonians, not legislation that fortifies a status quo that is eroding fairness and trust in the marketplace.

Sincerely,



Dena B. Mendelsohn
Senior Policy Counsel
Consumer Reports

ⁱ Consumer Reports is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. For 83 years, CR has provided evidence-based product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers’ interests. Unconstrained by advertising, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace. From championing responsible auto safety standards, to winning food and water

protections, to enhancing healthcare quality, to fighting back against predatory lenders in the financial markets, Consumer Reports has always been on the front lines, raising the voices of consumers.

ⁱⁱ For example, a Consumer Reports survey found that 92% of Americans think companies should get permission before sharing or selling users' online data and that 70% of Americans lack confidence that their personal information is private and secure. Consumer Reports, *Consumers Less Confident About Healthcare, Data Privacy, and Car Safety, New Survey Finds*, (May 11, 2017). In addition, 88% of individuals say it is important that they not have someone watch or listen to them without their permission. Mary Madden & Lee Rainie, *Americans' Attitudes About Privacy, Security, and Surveillance*, PEW RESEARCH CTR. (May 20, 2015). A Mozilla study found that a third of people feel like they have no control of their information online. Mozilla, *Hackers, Trackers, and Snoops: Our Privacy Survey Results*, (Mar. 9, 2017). The majority of consumers (74%) find it is "very important" to be in control of who can get information about them. Mary Madden & Lee Rainie, *Americans' Attitudes About Privacy, Security, and Surveillance*, PEW RESEARCH CTR. (May 20, 2015). Indeed, this is not a new sentiment for consumers: a Pew research poll in 2014 found that 91% of adults "'agree' or 'strongly agree' that consumers have lost control over how personal information is collected and used by companies." (Mary Madden, *Public Perceptions of Privacy and Security in the Post-Snowden Era*, PEW RESEARCH CTR. (Nov. 12, 2014).

ⁱⁱⁱ Ahead of the 2016 presidential election, Cambridge Analytica acquired data on Facebook users through an online entertainment quiz, which was only completed by about 270,000 people but revealed data on 50 million individuals. This was a prominent example of how data collected through seemingly innocuous ways can be used for illicit purposes. Jerry Beilinson, *Facebook Data May Have Been Illicitly Used for Politics, and It Started With a Quiz*, CONSUMER REPORTS (March 17, 2018).

^{iv} National Bureau of Economic Research, *Working Paper: On the Rise of FinTechs – Credit Scoring Using Digital Footprints*, (April 2018, Revised July 2018). This study raises the concern that the digital footprint may be used as a proxy for legally prohibited variables – such as race, color, gender, national origin, and religion – which can lead to discrimination.