



September 25, 2020

Sen. Floyd Prozanski, Chair
Senate Judiciary Committee

Rep. Janelle Bynum, Chair
House Judiciary Committee

Members of the Senate & House Judiciary Committee
900 Court St. NE
Salem, OR 97301

Re: Hearing on Privacy Task Force

Dear Chairman Prozanski and Chairwoman Bynum,

On behalf of the undersigned, we write regarding today's hearing on the Consumer Privacy Task Force.

At the outset, we would like to commend Attorney General Rosenblum and her staff on the Task Force process. At all times, the Task Force was organized, clear about meeting topics, and inclusive of differing viewpoints. All sides were given the opportunity to represent their stakeholders, and the use of an "inner table" to keep discussions focused is a tool that we have already sought to replicate in other states. From a process standpoint, the Task Force thus far is an excellent example for other states to follow.

The Task Force took a break in mid-May to await the return of two drafts with different enforcement mechanisms with the intent to the return to the table and continue discussions. Of course, this period also coincided with the height of the COVID-19 pandemic. Because of these events, the Task Force did not finish its discussions on several policy items. As we begin to look forward to 2021's legislative session, we thought that it would be helpful to provide you with some important points regarding our position on the frameworks released by the Attorney General's office:

- We still believe that a single, uniform federal privacy law that provides clarity across state lines, but understand that states may feel it necessary to take action in the absence of such legislation.



- Consumer privacy legislation should properly balance increased consumer transparency, operational workability, and cybersecurity. With increased transparency necessarily comes increased exchanges of personal data; covered entities should have the tools to protect their networks, customers, and employees.
- The California Consumer Privacy Act (CCPA) is not a viable model for Oregon to follow. We sincerely appreciate that the Attorney General’s office agrees, and that the frameworks released do not pattern themselves after this confusing statute that provides fewer consumer benefits while being more burdensome and costly to comply with than other approaches. It is important to note that despite many other states introducing the CCPA as legislation, not a single state has decided to follow California’s path.
- Many of the concepts outlined in the legislative framework are areas where both the business community and privacy advocates can find some general consensus, but until there is an actual piece of legislation, it is impossible to assess whether the text of the bill would achieve pro-privacy outcomes for both consumers and businesses. We are concerned that agreeing on a framework, drafting a bill, and negotiating and reviewing the legislation with the attention to detail that is necessary for this level of complexity may well be too aggressive to accomplish in the next 90 days.
- Finally, as we have emphasized since the beginning of this process, the single element of privacy legislation that the business community cannot support under any circumstances is a private right of action as the method of enforcement. Two of the most important concepts that must be embedded in these types of complex bills are clarity and certainty; businesses and consumers must be able to understand the rights and the rules set forth, and must be able to rely on these being sustainable as devices and technology change. A private right of action undermines these foundational elements by using drawn-out and expensive litigation to define the corners of the law. This is both incredibly inefficient and counterproductive. If this body decides to pursue privacy legislation, we cannot support a bill that includes such a provision.

Certainly, the world is a different place than it was when the Task Force first convened. Our hope is that any discussions of a consumer privacy bill be provided the space to continue the considerations of complex concepts and exacting examinations of the words on the page. We also understand that the critical issues of economic recovery, environmental recovery, and social justice may well need to take precedence this session.



Thank you very much for your time and consideration, and we look forward to further discussions in the coming months. Please do not hesitate to reach out with any questions or concerns in the meantime.

Respectfully submitted,

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