Nov. 25, 2019

Dear members of the Oregon Sunshine Committee standing committee:

Thank you for your hard work on the subject of bulk release of personally identifiable information.

At the Oregon Territory Chapter of the Society of Professional Journalists, we have been interested in how a data transfer agreement could be used to promote public-interest access while allowing certain safeguards.

We have concerns about the latest language and would ask that the recommendation be reworked to protect Oregonians' access to information, and preserve government transparency and accountability.

1) The DTA concept has expanded and grown overly regulatory and far-reaching
In earlier comments, we had encouraged discussion of a model in which "the user agrees not to publish data in bulk, transfer it to a third party, or use it to solicit individuals for commercial purposes."
The current language of the recommendation is far more expansive in its restrictions, which gives us concern over the utility of the model and whether it would end up restricting access, rather than furthering it.

2) Requester should not be subjected to onerous conditions.
In our earlier input, we expressed that "Because the requester is responsible for securing the data, the public body should not impose technical specifications on how the requester stores the data." We would like any recommendation to include that concept.
Similarly, the concept we had entertained would allow requesters to make a public interest argument that could include the purposes for which they intended

to use it, but did not require a purpose be provided in their public-interest argument. In contrast, the current recommendation appears to require a "purpose" and to categorize certain purposes as authorized or not. We have concerns about the current phrasing of the recommendation.

3) **Oregon's is primarily a disclosure law, and nothing in this recommendation should suggest this be revisited. To the contrary, it should make clear that transparency should be preserved in general, and increased for public-interest requesters. The current recommendation includes mixed messages on this.**
As written, the introduction to draft recommendation #3 appears to suggest revisiting the public interest balancing test. The scope and aim of that task is concerning, and goes well beyond what the subcommittee had agreed upon. Moreover, the language referring to balancing the interests of disclosure and nondisclosure appears to imply there should be an equal balance of those two interests.
Oregon's law is one of disclosure, and it should stay that way. A democratic republic cannot function when government is not accountable and when members lack the information they need to understand their world.

4) The concept for liability appears open to abuse
As written, the concept of third-party liability framed in this recommendation appears vague, and to allow suit for "unauthorized" disclosures by someone who is written about. This raises great concern for SPJ. Among other things it appears to potentially conflate disclosure of data with an "injury." As written, this part of the recommendation appears at odds with the concept of a free press.

Sincerely,

Nick Budnick

Board member
Society of Professional Journalists, Oregon Territory Chapter