

IN-CLASS Exercise - 1

Team: Compliance Krew

1. Which consumer information is protected by the upcoming Oregon Consumer Privacy Act?

Yes, under Section 1 (3)(b)(C) states “unless the data were generated for the purpose of identifying a specific consumer or were used to identify a particular consumer”.

(3)(a) “Biometric data” means personal data generated by automatic measurements of a consumer’s biological characteristics, such as the consumer’s fingerprint, voiceprint, retinal pattern, iris pattern, gait or other unique biological characteristics that allow or confirm the unique identification of the consumer.

(b) “Biometric data” does not include:

(A) A photograph recorded digitally or otherwise;

(B) An audio or video recording;

(C) Data from a photograph or from an audio or video recording, unless the data were generated for the purpose of identifying a specific consumer or were used to identify a particular consumer; or

Since the data from the photograph is used to verify the identity of the individual, the data is categorized as “Biometric Data” and should be protected by the company.

The following law was passed only for the people belonging to the state of Oregon and does not apply to people outside state. As the company is also collecting data from California, those records do not come under this law.

**Relating to protections for the personal data of consumers; creating
ORS 180.095.**

Be It Enacted by the People of the State of Oregon:

2. Will their company need to comply with this new regulation at all?

Yes, under Section 2 because they are making money of 25% by selling their data. The below clause clearly states it.

SECTION 2. (1) Sections 1 to 9 of this 2023 Act apply to any person that conducts business in this state, or that provides products or services to residents of this state, and that during a calendar year, controls or processes: (a) The personal data of 100,000 or more consumers, other than personal data controlled or processed solely for the purpose of completing a payment transaction; or (b) The personal data of 25,000 or more consumers, while deriving 25 percent or more of the person’s annual gross revenue from selling personal data.

The above clause can also be used to argue that if the company collects less than 25,000 records or its financial gain from records from Oregon citizens account to less than 25% of the annual gross revenue, then the company does not have to comply under this regulation.

No is also an answer according to another clause, namely Clause 13(a)(A) ,data obtained through widely spread distributed media does not come under personal media.

“(13)(a) “Personal data” means data, derived data or any unique identifier that is linked to or is reasonably linkable to a consumer or to a device that identifies, is linked to or is reasonably linkable to one or more consumers in a household. (b) “Personal data” does not include deidentified data or data that: (A) Is lawfully available through federal, state or local government records or through widely distributed media; or (B) A controller reasonably has understood to have been lawfully made available to the public by a consumer.”