Oregon Privacy Coalition

TO: **Chair Skip Newberry**
            Members of Joint Task Force on Artificial Intelligence

FR: **Amanda Dalton**
            Oregon Privacy Coalition

RE: **Proposed AI Definition Terms on Artificial Intelligence**

October 31, 2024

Chair Newberry and Members of the Task Force,

We are very appreciative of all the work and thoughtful discussions over the past few months. As many of our member companies have engaged in these discussions across the country, we have a deep appreciation for the complex and challenging task before you. We recognize that drafting a resource guide of definitions, without their final context and application, is extremely difficult, and urge the Task Force to develop a final report that serves as a repository for resources of definitions that legislators and regulators can use when considering particular legislation.

We believe that this approach – to provide a resource that does not make recommendations on a particular definition, but emphasizes the reputable sources such as the National Institute for Standards and Technology (NIST), the International Association of Privacy Professionals (IAPP), and the White House Executive Order – makes the most sense given the Task Force's charge, timing and the AI landscape in Oregon and other states.

More specifically, we do not believe it makes sense to recommend specific definitions without knowing how they will be used, or for what type of legislation. The regulated entity in a comprehensive, high-risk AI system may need to be defined differently than the regulated entity that is disseminating non-consensual deepfake videos.

Further, the state AI picture is still coming into focus. Connecticut spent more than a year with a task force and was not able to build sufficient support to pass legislation. In Colorado, AI legislation was introduced and passed in under a month, and was signed by the Governor with a signing message expressing concerns about the bill and encouraging the legislature to continue working on the bill before it comes into effect. That legislation is currently being examined by a task force, and revisions to the bill, including its definitions, are possible.

Our point is not to suggest that this Task Force should not continue to pursue and fulfill its mandate; but it is nearly impossible for the business community to provide its approval on

definitions with no concept of how those definitions are used in legislation. Instead, we believe that providing Legislators trusted sources from which to draw as they consider legislation is a

more helpful approach because it does not suggest that these are "approved" Oregon definitions. We want to avoid situations down the road where there may be needed changes to critical definitions in legislation, but legislators believe that by using these task force definitions they are somehow consensus-based and turnkey-ready.

We also recommend including a general framing statement in the introduction of the guidance document that reflects the intended and limited purpose, specifically noting the report is a snapshot in time and that application, policy, and significant stakeholder engagement should further dictate their development.

We also note that the body of artificial intelligence (AI) is already subject to a broad range of laws, regulations, and consumer protections from both State and Federal bodies. Existing laws cover many of the real and perceived risks associated with the use of AI. When considering whether new regulation is needed, we urge lawmakers to focus on whether the use of AI adds new risks beyond those risks already present when AI is not in use.

During the four-year process to develop Oregon's robust comprehensive privacy law, we worked in good faith alongside the Attorney General's office and other stakeholders. We are committed to that same good-faith process now and moving forward on AI. Our goal is to be honest, and not to delay sensible regulation. At the same time, we want to be clear that without any sense of what the articulated problem is that a legislator is trying to solve, we cannot provide feedback on specific definitions in a manner that will serve as a touchstone moving forward.

In closing, we appreciate the significant step forward that this Task Force's work represents and believe that it continues Oregon's proud tradition of working collaboratively across industries, interests, and ideologies. We believe this report can be valuable moving forward, while allowing the flexibility and application of terms to future proposed concepts.

ABOUT: The Oregon Privacy Coalition was formed in 2022 to help technology, retail, telecom and trade associations engage in the Oregon Attorney General Consumer Privacy conversation. We served as an active stakeholder in that process, helping to bring both State and National perspectives and resources to complicated and highly technical discussions and aim to continue that effort in the AI policy discussions taking place in Oregon.