



**May 2, 2025**

**Senator Floyd Prozanski  
Chair of the Senate Judiciary Committee  
900 Court St. NE, S-413  
Salem, Oregon 97301**

**Senator Kim Thatcher  
Vice-Chair of the Senate Judiciary Committee  
900 Court St. NE, S-307  
Salem, Oregon 97301**

**RE: Letter Requesting an Amendment to HB 2008**

**Dear Chair Prozanski and Vice-Chair Thatcher:**

We appreciate the opportunity to provide input into this critical process of considering HB 2008 as outlined below. We aim to serve as a thought partner in advancing consumer data privacy while ensuring that responsible marketing practices continue to be the growth engine that the economy depends on, benefiting consumers and businesses alike.

#### **About InMarket**

InMarket is an independent marketing and ad measurement technology company headquartered in Austin, Texas, with over 325 employees in the U.S. We specialize in real-time, location-based advertising, connecting consumers and brands at the crucial moments in stores when and where consumers make their buying decisions. As we will outline in more detail below, we are committed to providing this service with a privacy-forward, consent-based approach.

We compete with some of the largest technology companies to provide digital marketing services to hundreds of businesses across a variety of industries, including retail, grocery, dining, consumer packaged goods, travel, and entertainment.

By partnering with major brands, including many Fortune 100 companies and upstart challenger brands, we support commerce and economic growth by serving relevant advertising experiences to consumers at the right time and in the right place. This pioneering work has earned both InMarket and our clients industry-wide recognition and over 30 awards highlighting campaign creativity and performance. Across these awards, InMarket was assessed based on

our ability to help brands overcome challenges, drive exceptional marketing outcomes, and most importantly, enhance value for consumers by delivering better customer experiences.

InMarket works with hundreds of clients, including Oregon businesses and Oregon employers, to help them connect with Oregonians through privacy-conscious, location-based advertising. For example, an Oregon environmental nonprofit partnered with InMarket to raise awareness about its conservation efforts. A food producer in Oregon used our platform to promote coupons for its products, driving shopper awareness and boosting coupon redemption. A European airline leveraged InMarket to promote seasonal flight deals departing from Portland International Airport, delivering valuable travel deals directly to Oregon residents. In partnership with an Oregon creative agency, we help a regional grocery store reach its shoppers with valuable deals. In fact, shoppers at more than 30 grocery stores in Oregon can receive a mobile phone version of the store's weekly circular, making deals and savings more accessible to Oregon shoppers when they need them most. Together, these examples highlight how responsible and data-powered advertising solutions help drive economic and community impact across the state.

### **Preventing the Misuse of Sensitive Geolocation Data.**

As a company committed to responsible data practices, we appreciate the opportunity to share our insights and expertise in geolocation data, specifically.

Geolocation data offers significant benefits to both consumers and businesses. However, we recognize that precise geolocation can be sensitive for consumers, and that certain categories of location data are highly sensitive for all and should not be utilized for marketing.

Our approach to geolocation data at InMarket is twofold. First, we give clear notices about data collection use, and we require consumers to opt in before we collect their location data. Second, we do not use or sell location data from sensitive locations. We also take the extra step of deleting sensitive location data, going beyond current legal or regulatory requirements and industry standards.

This approach is rooted in doing right by our customers and consumers and is informed by years of collaborative discussion with the FTC and leading industry groups. Through this work, we have pioneered industry-leading standards for effectively protecting sensitive geolocation data. This work culminated in a list of sensitive location categories, which the FTC adopted during the Biden Administration:

(1) sexual and reproductive health care providers, offices of mental health physicians and practitioners, residential mental health and substance abuse facilities, outpatient mental health and substance abuse centers, psychiatric and substance abuse hospitals, offices of oncologists, and offices of pediatricians; (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations held out to the public as predominantly providing education or childcare services to minors; (6) locations held out to the public as predominantly providing services to LGBTQ+ individuals such as service organizations, bars and nightlife; (7) locations held out to the public as predominantly

providing services based on racial or ethnic origin; (8) locations held out to the public as predominantly providing temporary shelter or social services to homeless, survivors of domestic violence, refugees, or immigrants; or (9) locations of public gatherings of individuals during political or social demonstrations, marches, and protests.

As active members of the NAI, we worked with other companies in our industry to develop a set of enhanced standards that should govern the use of sensitive location data. See [NAI: Precise Location Information Solution Provider Voluntary Enhanced Standards](#).

As demonstrated by both the FTC and the NAI, the risks arising from geolocation data can be successfully mitigated by empowering consumers with fair disclosures, requiring affirmative consumer opt-in before collection, and restricting the use of geolocation data from sensitive location categories.

### **Ensure Robust Market Competition.**

Furthermore, we caution the legislature against adopting broad prohibitions, such as outlawing the sale of geolocation data, as the current draft proposes. While this approach may sound attractive in the abstract, when injected into today's complex digital economy, it would have the unintended consequence of crippling the established digital advertising ecosystem, which consists of a handful of very large public tech companies and thousands of smaller businesses, both venture-backed and self-funded, that serve essentially every retailer and every brand in the nation and beyond our borders.

It is difficult to understate the competitive and consumer choice impact that would likely result from the current proposal. If enacted without amendment, this bill would prohibit independent, smaller companies that rely on third-party data from competing with big tech players. That proposal would divert a windfall of hundreds of millions or billions in ad revenue to the already-dominant largest companies in this space, most of which wield extraordinary market power across many sectors. We urge the legislature to implement workable, effective, and tailored consumer protections while ensuring a level playing field essential for robust competition.

### **Our Proposed Amendment**

We share the intended goals of HB 2008 of preventing data misuse. To this end, we recommend that the legislature adopt an amendment to allow the use, sale, or transfer of non-sensitive geolocation data, provided consumers have affirmatively consented to this use of their data. This strikes the right balance of protecting consumers from the misuse of data without cutting off a lifeline for Oregon businesses and consumers that depend on responsible digital advertising.

This amendment essentially codifies [NAI's enhanced protections for sensitive location data](#) and achieves the following:

- Requires clear, understandable disclosures to consumers of the data collected and the purposes for which it will be used.
- Consumers must affirmatively opt in before collection.

- Completely prohibits sharing any location data for specific restricted purposes: sale to law enforcement, national security, or immigration authorities—or any other practices that would cause real-world harm—while allowing the responsible use and transfer of non-sensitive location data for mainstream advertising that benefits both businesses and consumers.

## **Closing**

To underscore our proposed solution, a recent poll reveals that three-quarters of American consumers believe they should be able to share their data without the government restricting the trade-off.

Most U.S. states have adopted this approach by enacting comprehensive privacy laws that permit the collection, sale, and transfer of precise location data with the opt-in consent of consumers.

Consumers want—and deserve—online privacy protections. Most people believe that overly strict government rules could compromise consumer choice and the conveniences associated with the modern information economy if enacted too broadly. Nuanced standards that protect consumers from data misuse while ensuring geolocation data can be used—with express opt-in consent—for targeted advertising across the ecosystem, which includes data transfer and sales with consumer consent, would establish a privacy-forward and pragmatic approach.

Thank you for considering our proposal. Please do not hesitate to reach out if we can answer any questions or provide additional information.

Sincerely,

Jason Knapp

Chief Legal Officer & Chief Privacy Officer  
InMarket