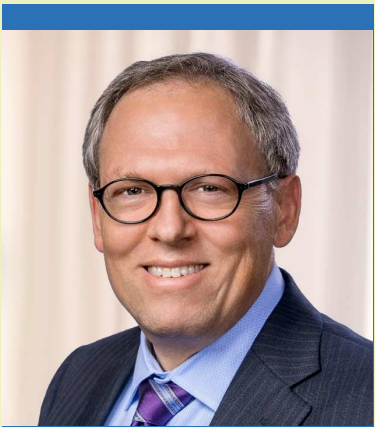


# Preparing for the California Consumer Privacy Act (“CCPA”)

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# Presenters



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# Overview of the CCPA

# What does the CCPA do?

- Protects “consumers”
  - AKA California residents
- Focus is on rights of individuals
  - Information collected
  - Information shared with others
  - Right to opt out of sales of data
    - “Sale” includes any sharing of data without specific contractual restrictions on use.

# Who must comply?

Any for-profit organization that (1) determines purposes of processing (alone or jointly with others); (2) does business with California resident; and (3) either:

- Earns \$25 million/year in revenue;
- Annually buys, receives (for business' commercial purposes), sells, or shares for commercial purposes the personal information of 50,000 or more consumers, households, or devices; or
- Derives 50% or more of its annual revenue by selling personal information.

# **“Personal Information” of Consumers**

Information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.

# Consumer Rights under the CCPA

- Right to Know (also called right of disclosure)
- Right to Access
- Right to Deletion
- Right to Opt-Out
- Right to Equal Service (also called antidiscrimination)

# What's Changed?

Recent Amendments &  
Proposed Regulations



# CCPA Amendments

- Exempts employee data for 1 year
- Exempts B2B Information for 1 year
- Excludes aggregate or de-identified information
- Exempts activities subject to Fair Credit Reporting Act

## CCPA Amendments (cont.)

- Differential treatment of consumers okay if reasonably related to value provided to the *business*
- Methods of contact requirements
- Verification of consumer requests

# CCPA-Related Amendments

- Changes to breach notification laws
- Create a registry of data brokers

# Proposed Regulations

Available at: <https://oag.ca.gov/privacy/ccpa>

- Disclosure Format
- Privacy Policies
- Methods of Contact
- Responding to Requests
- Verification
- Record Keeping

## Proposed Regulations (cont.)

- Prohibits disclosure of certain sensitive data (e.g. SSNs, ID numbers, passwords, security questions/answers)
- Using data for additional purpose requires notice and explicit consent
- User-enabled privacy controls = valid request to opt out

# Proposed Regulations (cont.)

- Requests to opt out:
  - Can't require verification
  - Must pass along the request.
- Disclosures on value of consumer's data
- High-volume metric requirements

# Steps to Prepare for the CCPA

# Map Your Data

- What personal information do you collect about California consumers and for what purposes?
- How do you collect this information and from what sources?
- Where and how is the information stored?
- With whom is the information shared?
- Why is the information shared and are there any contractual restrictions?



# Review Security Controls

- Individual lawsuits allowed if certain unencrypted or unredacted data is compromised as a result of failure to utilize reasonable security practices and procedures
  - Statutory damages of \$100- \$750 per record; or
  - Actual damages, if greater
- Review data security and privacy policies and practices to mitigate risk of a data breach

# Update Vendor Agreements

- Need appropriate contractual language to avoid “sale” of information
  - Restriction on ability to use information
  - Certification requirement
- Update current agreements with third parties and affiliated entities

# Develop a Process for Handling Requests

- 10 day window to confirm receipt of request to know, delete
  - 45 day window to respond
- Must act upon request to opt-out within 15 days
- Challenges:
  - Staying on top of collection and use activities
  - Ability to locate structured and unstructured data
  - Ability to delete data
  - Who makes decisions of how to respond?

# Develop a Process for Handling Requests (cont.)

- Verifying requests
  - Can you direct requests through user accounts?
  - If no user accounts, do you know enough about customer to verify request is valid?
  - Authorized Agents

# Ready Your Website

- Determine whether to create California specific site
- List types of personal information you collect
- List the purpose for collecting information
- How you collect the information
- With whom you share the information
- The individual rights consumers have and how individuals may exercise their rights, including methods for consumers to submit requests
- Update privacy policies & provide links to policy

# Ready Your Website:

## Sale of Personal Information & Opting Out

- Determine whether or not you sell personal information
  - If so, how can individuals opt out of the sale?
  - Need to treat user-enabled privacy controls as a valid request to opt-out
- If you sell personal information, provide clear, conspicuous link titled “Do Not Sell My Personal Information”
- Determine whether you provide financial incentives in exchange for retention of consumer data

# Record Keeping Requirements

- Must maintain records of consumer requests and responses for *at least 2 years*
- Records must include:
  - Date of request
  - Nature of request
  - Manner the request was made
  - Date of business's response
  - Basis of denial, if applicable

# Train Your Employees

- Understanding individual requests and how to respond
- Importance of following data privacy and security policies and procedures
- Contracting with third parties



# Questions?

Thank you!

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