


# The California Consumer Privacy Act: A Practical Guide To Compliance

Alex Chitwood, Kelly Hollingsworth, Norbert Kugele & Lexi Woods  
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## Presenters

 Norbert Kugele	 Kelly Hollingsworth	 Alex Chitwood	 Lexi Woods
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## Today's Agenda

- Overview of the CCPA
- Preliminary Steps Towards Compliance
- Required Notices
- Consumer Requests
- Service Providers
- Additional Compliance Requirements

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## Overview of the CCPA



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## 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.



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## Who Must Comply?

Any for-profit organization that: (1) determines purposes of processing (alone or jointly with others); (2) does in California; 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.

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### “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.



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### Exceptions

- Employment Data
- Business-to-Business Contact Information
- Data regulated by
  - Gramm-Leach-Bliley
  - HIPPA or HITECH
  - Fair Credit Reporting Act
  - Driver's Privacy Protection act



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### 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)

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# CCPA Compliance

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## Preliminary Steps

- Map your data
- Review security controls

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Category of identifier (delete all that do not apply)	Purposes for which each identifier is used	Categories of third parties (including affiliates) with whom information is shared	Purpose for sharing information (business reason or "sale") with each third party
Identifiers, including real name, alias, mailing address, email address, account name, telephone numbers, and unique personal identifiers such as online identifiers and IP address.	To provide client services and marketing.	Customer relationship management software, internet service providers, email marketing provider, operating systems and platforms, marketing intelligence tools, mail houses or printers, and payment processors	Business Purpose
Information about children, includes number of children, names of children, age of children, and gender of children	To provide client services and assist in relationship management	Customer relationship management software	Business Purpose

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## Overview of Required Notices

- Notice at Collection
- Notice of Right to Opt-Out
- Notice of Financial Incentives
- Privacy Policy



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## Notice at Collection



- Must give notice at or before point of collection
- Contents must include:
  - Categories of PI collected
  - Purpose for collection
  - Link to privacy policy
  - If applicable, "Do Not Sell My Info" link

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## Notice of Right to Opt-Out

- Clear and conspicuous link on homepage or landing page that says "Do Not Sell My Personal Information" or "Do Not Sell My Info"
- Must Include:
  - Description of right to opt-out
  - How to opt-out (including interactive form)
- Don't need if you do not sell information and state that in your privacy policy

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### Notice of Financial Incentives

- Consumer must encounter notice before opting in
- Must include:
  - Summary of financial incentive
  - Description of material terms, including categories of PI implicated
  - How to opt-in
  - Right to withdraw and how to withdraw
  - How it is reasonably related to value of consumer data

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### Non-Discrimination & Financial Incentives



- Businesses may not discriminate against consumers for exercising CCPA rights
- Financial Incentives & Price/Service Differences allowed if "reasonably related" to value of consumer data
- Denying consumer requests is not discriminatory

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### Privacy Policy

- Conspicuous link on homepage
- Content requirements:
  - Description of consumer rights
  - Process to submit verifiable consumer requests
  - Description of verification process
  - Categories of data collected, source of collection, purpose of collection
  - Categories of data sold and to what categories of third parties
  - Opt-out notice contents or link to such materials
  - Authorized agent instructions
  - Contact information
  - Date of last revision/update (must be at least 1/year)

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## Consumer Requests – General Overview

- Create and designate methods for submitting various consumer requests
- Confirm receipt of request to know, delete within 10 days business days
- Verify consumer request
- Respond to request to know, delete within 45 calendar days
- Respond/comply with request to opt-out as soon as possible, but no later than 15 days

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## Verifying Consumer Requests

- General Requirements
- Verification for account holders
- Verification for non-account holders



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## Responding to Consumer Requests

- Requests to Know
  - Specific Pieces of Information
  - Categories of Information
- Requests to Delete
- Requests to Opt-Out



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## Responding to Requests: Potential Problems



- What happens if the request is incomplete or nonconforming?
- What should I do if I cannot verify the identity of the person submitting a request?
- What happens if I cannot easily pull all the information of the individual?

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## Train Your Employees



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

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## Engaging Service Providers & 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



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## Service Providers



- Limits/prohibitions on retention, use, or disclosure of data
- May not sell data if consumer opted-out
- Responding to consumer requests
- Comply with CCPA with regard to any PI collected, maintained, or sold outside role of service provider

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## 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



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## Questions?

Thank you!

Norbert Kugele: nkugele@wnj.com  
 Kelly Hollingsworth: khollingsworth@wnj.com  
 Alex Chitwood: achitwood@wnj.com  
 Lexi Woods: awoods@wnj.com



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