



Frequently Asked Questions

California Consumer Privacy Act

What is the California Consumer Privacy Act?

The California Consumer Privacy Act (CCPA) is a sweeping privacy law that applies to companies doing business in California of all sizes across every industry. The law gives consumers the right to know what information a business has collected about them, and the rights to access, delete, and opt out of the sale of that data. It also states that a business cannot treat a consumer differently if they exercise these rights. These brand new rights are important, but they will be incredibly challenging for businesses to implement. The CCPA is over 33 pages long (10,000+ words) and it is very complex. The law had to pass through the legislature in about one week and, as a result, it has some language that would create unintended consequences – some of which would be harmful to consumers. It needs to be fixed.

When does the CCPA go into effect?

The law goes into effect on January 1, 2020.

Does this law only apply to big tech and data brokers?

No, this law treats the largest tech companies in the world the same as the local pizza parlor in your neighborhood.

Who has rights under the CCPA?

“Consumers” have rights under this law and a consumer is defined as “a person who is a resident of California.” This overly broad definition means that any resident, regardless of whether they have a direct customer relationship with the business, can exercise their rights under the CCPA with a business that may have their personal information.

Could the definition of “Consumer” Include Employees?

The broad definition of “consumer” could be interpreted to include employees, a big problem for all businesses. Not only would businesses have to create an entirely separate compliance system for employee data – which would be very costly – this would lead to serious unintended consequences. For example, an employee accused of sexual harassment could request that complaints about them be deleted.



What does the CCPA require businesses to provide to consumers?

Regardless of the size of the business, the CCPA requires businesses to provide consumers with “specific pieces of information” the business has collected about them upon their request. It does not explain what specific pieces of personal information” means. It could mean that businesses are required to print out every bit of data they have about someone and hand it over to the requesting consumer. Since a consumer does not have to have a customer relationship with a business – there is a risk that businesses could be required to disclose sensitive, personal information – like credit card numbers – to a potential fraudster posing as a true consumer. This risk is increased because the CCPA forbids a business from requiring any consumer to create an account so the business can verify the consumer requesting their data is who they claim to be.

How does the CCPA impact small businesses?

Any business that has over 50,000 visitors to their website per year, and this includes ad-supported blogs, will have to comply with the CCPA. If a business conducts approximately 137 credit card transactions per day or has 137 unique online visitors per day, it will meet this threshold. Impacted small businesses include: popular restaurants, dentists, fitness studios and gyms, e-commerce, popular blogs that sell ad space or promote products, local entertainment venues and any business or group that collects emails for newsletters/coupons. The law would also require businesses to have an “opt-out” button on every single page of a website where a business collects any personal information, including an IP address – creating consumer confusion.

Are only online retailers impacted by the CCPA?

It is not just online retailers that are impacted by the CCPA, as it applies to a business of any size that “receives...the personal information of 50,000 consumers, households, or devices” in one year. This includes the “receipt” of credit card transactions, which extends this law to any restaurant, coffee shop or any other brick-and-mortar business that has about 137 transactions per day – or approximately 12 transactions or more per hour in a 12-hour day. Many small businesses will have to comply with this complex law.

Will small businesses incur more operational costs?

Yes. There are estimates that over 500,000 businesses will be regulated by the CCPA with “the vast majority of which are small-to-medium-sized businesses” according to the International Association of Privacy Professionals. These businesses will face additional financial burdens as they will have to hire legal counsel for advice on how to comply with this complex, new law, invest in data mapping and creating new operational systems, hire additional staff to respond to consumer requests, invest in data security, and train employees.



Is targeted online advertising - which most small businesses rely on to communicate to customers - impacted by the CCPA?

Yes, targeted, online advertising would be impacted by the CCPA. The authors of the CCPA never intended this because online advertising utilizes privacy protective practices and does not require personally identifiable information about someone to be transferred in order to show them an ad. Most businesses and blogs rely on this advertising to reach their customers.

How is “personal information” defined under the CCPA?

Essentially every piece of data could be classified as “personal information” under the CCPA. Specifically, “personal information” is defined as “information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.” This includes IP addresses and so much more.

Will consumers be unintentionally vulnerable to invasions of privacy?

The CCPA’s references to households and devices in the definition of personal information presents serious risks to privacy. As drafted, one member of a household – whether they are an abusive spouse or a roommate – seems to be able to access all of the specific pieces of information – including credit card info or precise geolocation data – about another member of their household. Similarly, one user of a device can request all of the specific pieces of information a company has about that particular device, which could reveal private things about another user of the device.

How will “opting-out” impact consumers?

Consumers will have the option to opt-out of the sale of their data under the CCPA. However the law currently seems to take an approach of “all or nothing.” A consumer cannot selectively choose what programs they want to opt-out of which could result in the loss of consumer choice as well as the loss of special discounts, rewards programs, or promotions.

How will loyalty and rewards programs be impacted by the CCPA?

The CCPA raises questions about the legality of loyalty and rewards programs even though consumers opt-in to these programs and love them. It is estimated that 80% of Americans belong to at least one loyalty or rewards program – such programs are popular and offered by retailers, grocers, hotels, airlines, and more. These programs generate savings for consumers including discounts or even free airline trips or hotel stays.

What are the financial penalties that any size of business may face?

The CCPA provides a private right of action for any data breaches – any resident of California can sue a business that has been the victim of a data breach to recover minimum statutory damages of \$100 per person, per incident (maximum of \$750) – and they do not need to prove



any injury. This private right of action will attract many class action lawsuits leading to massive liability for businesses – especially small businesses. Business facing such substantial liability will be leveraged into immediate settlement, regardless of the strength of their legal defense – which means there will be many frivolous lawsuits and consumers will not be made any safer.

The Attorney General will enforce the other provisions of this law pertaining to consumers exercising their privacy rights. Businesses will face fines of \$2,500 to \$7,500 per incident for any violation of this law.

Didn't Governor Brown sign cleanup legislation (SB-1121-Dodd) to fix the CCPA issues?

SB 1121 only focused on a few fixes but did not address many of other critical areas that need to be addressed in order to best protect consumer data security, privacy and choice.

Will changes to the current CCPA roll back privacy rights?

No. There was a commitment to identify areas that need to be fixed to better protect consumers and not unintentionally harm small businesses.

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