



Legislative Solutions - Support

Although the new California Consumer Privacy Act (CCPA) will make great strides in giving consumers more control over their data, this law has created some negative, unintended consequences. This is not surprising – it is a very complex law that passed the legislature in just one week. Now, we have an opportunity to make privacy work for consumers and small businesses by passing legislation to fix the CCPA before it goes into effect on January 1, 2020.

AB 25 (Chau): Clarifies the definition of consumer to exclude employees or job applicants

Under the CCPA, “consumers” have the right to know what personal information has been collected about them as well as the rights to access, delete, and opt out of the sale of their personal information. The CCPA defines “consumer” as any California resident. Without clarifying legislation, a “consumer” under the CCPA would include employees of or job applicants to a business. Not only will this create huge, additional compliance costs for businesses for something never intended by this law designed for “consumers” – it could lead to serious, unintended consequences. For example, an employee accused of sexual harassment could ask a business to delete complaints about them. AB 25 will fix this concern and creates safeguards to ensure that businesses are not required to give sensitive, personal information to someone who could be a fraudster posing as a true consumer.

Also, the CCPA permits one member of a household – whether they are an abusive spouse or a roommate – to access all of the personal information – including credit card information or geolocation data or web searches – about another member of their household. This goes against the goals of privacy and AB 25 has intent language to fix this problem as well.

AB 873 (Irwin): Clarifies the definition of personal information

Most people think of personal information as data that could identify someone, like birthdates or social security numbers. The CCPA defines personal information far more broadly – as any information that is “capable of being associated” with a consumer or household. The breadth of this definition creates an unreasonable burden on businesses and could actually harm privacy. For example, if a customer makes a purchase in a store and later asks the store for access to their personal information, the store could be required to search security camera footage from the day the customer made a purchase to find where the customer appears on the film and to provide that data to the customer because the business is capable of doing so.

Similarly, if an online customer browses a store’s website without logging in and then asks the store to delete all of their personal information – the store could be on the hook to perform a search for and delete IP addresses that could be associated with the customer – even if the store never linked that data to a person and only kept it to perform web analytics. This means that businesses would need to collect MORE of your personal information – and to keep that information all in one place, making it more vulnerable to hackers – in order to be able to respond to these CCPA requests. AB 873 fixes this problem by making the definition of personal information more reasonable – without eroding privacy rights. AB 873 also fixes the definition of “deidentified” data to ensure that businesses are encouraged to utilize the privacy protective practice of deidentifying data, as intended by the CCPA.



AB 846 (Burke, Low, Mullen): Clarifies access to customer loyalty and rewards programs

Under the CCPA, frequent flier miles, rewards levels, hotel points, and other retailer programs in California are in jeopardy. AB 846 would ensure loyalty and rewards programs can continue by clarifying language in the CCPA that could make them unlawful. This is a crucial fix that would impact millions of people who enjoy these programs.

AB 874 (Irwin): Clarifies the definition of “publicly available” information

The CCPA limits businesses’ distribution of “information lawfully made available from federal, state or local government records.” This limitation is unconstitutional and it also creates practical problems for businesses that rely on the free flow of public records information, including those involved with real estate, journalism, credit reporting, and many more. For example, if not fixed, the CCPA could impede the M.L.S. or consumer access to housing prices on popular real estate websites. AB 874 fixes this problematic language in the CCPA.

AB 1416 (Cooley): Ensure businesses can continue to prevent identity theft and other crimes

The CCPA unintentionally undermines businesses’ efforts to protect consumers from identity theft and to prevent other crimes, like money laundering or human trafficking. AB 1416 would fix this problem. Additionally, the CCPA unintentionally places restrictions on the sale of data to governmental entities that will have a profoundly negative impact on many crucial government services, including reuniting foster youth with relatives as well as fraud prevention in governmental benefits programs. AB 1416 fixes this problem as well.

AB 1564 (Berman): Clarifies consumer communication methods

AB 1564 would remove the requirement that all businesses must staff a 1-800 number for consumers to call and exercise their CCPA rights. Instead, it would require businesses to provide either a telephone number or an email and mailing address. Businesses that operate exclusively online will only be required to provide an email address. This fix is crucial for small businesses who do not have the resources to staff a 1-800 number.

Tailored Online Advertising: Clarifies that privacy, protective, online advertising can continue

Tailored, online advertising allows consumers to receive fewer but more relevant ads, publishers to fund their content, apps to find means of support without subscriptions, and small business advertisers to find niche audiences across the internet. Although the authors of the CCPA did not intend to negatively impact online advertising, the current language is unclear. The online advertising ecosystem relies on privacy protective practices in which identifiers that are not directly tied to a person are transferred. Advertisers do not need to know your name, address, or other personally identifiable information to show you an ad. Legislation will help clarify that this necessary and non-personally identifiable data can continue to be transferred for purposes of online advertising under the CCPA.