



CHOICE
CYBERSECURITY

CALIFORNIA CONSUMER PRIVACY ACT

Security and Compliance Resource Guide

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CALIFORNIA CONSUMER PRIVACY ACT COMPLIANCE OVERVIEW

What is the California Consumer Privacy Act?

The California Consumer Privacy Act of 2018 is a bill passed by the state of California legislature and signed by its governor on June 28, 2018. Beginning Jan. 1, 2020.

CCPA Major Principals

The California Consumer Privacy Act defines “consumers” as natural persons who are residents of California. While also defining the basic rights given to consumers in regard to their personal information such as:

1. The right to know, what personal information a business has collected about them, where it was sourced from, what it is being used for, whether it is being disclosed or sold, and to whom it is being disclosed or sold through. General privacy policy and specifics on the personal information available upon request.
2. The right to “opt out” of allowing a business to sell their personal information to third parties (or, for consumers who are under 16 years old, the right not to have their personal information sold absent of consent by themselves or their parents.)
3. The right to have a business delete their personal information, with some exceptions; and
4. the right to receive equal service and pricing from a business, even if they exercise their privacy rights under the Act.

Who must comply?

Businesses and parent companies around the world have to comply with the California Consumer Privacy Act if they fulfill any of the three requirements:

1. Annual gross revenues of \$25 million;
2. Obtains personal information of 50,000 or more California residents, households or devices annually; or
3. 50 % or more annual revenue from selling California residents' personal information. Parent companies and subsidiaries using the same branding are covered in the definition of "business," even if they themselves do not exceed the applicable thresholds.

What is Personal Information?

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

1. Identifiers
2. Commercial information (purchase histories consuming tendencies)
3. Internet or other electronic network activity (browsing history, search history, Interaction with apps, websites or advertisements)
4. Geolocation data
5. Inferences are drawn from other from other personal information to create a consumer profile describing personal preferences, characteristics or behavior.

Who enforces and oversees the act?

California's Attorney General oversees the California Consumer Privacy act. Under the CCPA the rights of action allow consumers to seek damages either individually or as a class. If sensitive personal information is subjected to unauthorized access, theft or disclosure as a result of a business's failure to implement and maintain required reasonable security procedures. A consumer seeking statutory damages must provide the business with thirty days' notice of his or her intent to sue before filing an action. If the business provides the consumer with an "express written statement" demonstrating that the violation has been remedied and that no further violation will occur, within thirty (30) days of receiving the consumer's notice the

consumer cannot continue with their action for statutory damages. Any consumers seeking actual damages do not need to provide notice to the business or company.

The Attorney General may:

- (1) Respond by notifying the consumer that the Attorney General will prosecute the action instead,
- (2) Respond by notifying the consumer that they must not proceed with the action,
- (3) Not respond within 30 days, thereby allowing the consumer to proceed with the action.

Penalty of Non-Compliance

Companies can be ordered in a civil action brought by the California Attorney General's Office to pay penalties of up to \$7,500 per intentional violation. For unintentional violations, if the company fails to cure the unintentional violation within 30 days of notice, \$2,500 per violation under Section 17206 of the California Business and Professions Code.

What is a Data Breach?

A breach is not just losing personal or sensitive data. It's also a breach of security that can lead to the destruction, loss, and unauthorized disclosure of, or access to, personal data. Consumers whose unredacted information is apart of a data breach is subject to unauthorized access, theft, or disclosure.

CCPA compared to GDPR

The CCPA and GDPR have been compared greatly between the two compliance frameworks. The CCPA grants consumers with a broader definition of personal data and more rights and protections than the GDPR definition. CCPA defines personal data as covering data and information pertaining to households and devices. The CCPA has also established broad rights for California residents to direct deletion of data, with differing exceptions than those available under GDPR standards. The CCPA also establishes more inclusive rights to access personal data for consumers. While also imposing more rigid qualifications for data sharing for financial purposes.

GDPR regulates what direction companies must make to data subjects but it also covers procedures for data breach notification to individuals and regulators, data security implementation, cross-border data transfers and more. The Act is more limited, as it primarily is concerned with consumer privacy rights and disclosures made to consumers.

The CCPA contains a broader definition of "personal data" and also covers information pertaining to households and devices. It establishes broad rights for California residents to direct deletion of data, with differing exceptions than those available under GDPR.

CCPA Data Rights

Under the new California Privacy guidelines, the consumers are given more rights to keep their private information from being accessed, sold, or disclosed.

Access rights

Consumers under the California Privacy act are entitled to receive, person-specific details about their personal information that has been collected, sold, or disclosed for business purposes, as well as the specific pieces of personal information the business has collected.

Deletion Rights

Upon request by the consumer, businesses must delete any personal information unless exceptions apply.

Disclosure

Public disclosure must be given when personal information that is collected, sold or disclosed for business purposes. Websites must disclose before the information is collected and must give the purpose for personal information is being collected and used.

Opting Out or In

The consumer has the rights to opt out of a business sale of their personal information from being sold, collected, or disclosed. Business may not sell the personal information of a minor without consent from the minor between 13-16 years old. Under 13 must have adult parental consent. Websites must also have an opt-out option on home pages for consumers.

Anti- Discrimination

Under CCPA business are prohibited from discriminating against consumers who exercise rights given to them by the act. Discrimination includes offering different prices or discounts, qualities of goods or services, or levels of services. A business may offer a different level of service only if the service is reasonably related to the value provided by the customer's personal information.

Additional California Privacy Act Resources

1. <https://iapp.org/news/a/analysis-the-california-consumer-privacy-act-of-2018/>
2. <https://privacylaw.proskauer.com/2018/07/articles/data-privacy-laws/the-california-consumer-privacy-act-of-2018/>
3. <https://www.cmswire.com/customer-experience/what-is-the-california-consumer-privacy-act-of-2018-and-how-does-it-affect-marketers/>
4. <https://www.channelpronetwork.com/article/california-consumer-privacy-act-brings-gdpr-obligations-stateside>
5. https://www.youtube.com/watch?time_continue=870&v=mY-5knDGhP4