

| Clause | Final Regulations | First Modified Regulations | Difference |
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| 999.301 (j): description 'financial incentive' | Financial incentive” means a program, benefit, or other offering, including payments to consumers, related to the collection, retention, or sale of personal information | Financial incentive” means a program, benefit, or other offering, including payments to consumers as compensation, for the disclosure, deletion, or sale of personal information | Final regs are more broad. The AG changed this on the basis of a comment: Amend the definition of “financial incentive” to include “collection,” which is used in the statute, and omit “disclosure,” which is too broad. “Retention” is also included in definition, but should be deleted because the term “retention” is not used in the statute. |
| 999.301 (o): description 'price or service difference' | “Price or service difference” means (1) any difference in the price or rate charged for any goods or services to any consumer related to the collection, retention, or sale of personal information , including through the use of discounts, financial payments, or other benefits or penalties; or (2) any difference in the level or quality of any goods or services offered to any Page 3 of 29 consumer related to the collection, retention, or sale of personal information, including the denial of goods or services to the consumer. | “Price or service difference” means (1) any difference in the price or rate charged for any goods or services to any consumer related to the disclosure, deletion, or sale of personal information , including through the use of discounts, financial payments, or other benefits or penalties; or (2) any difference in the level or quality of any goods or services offered to any consumer related to the disclosure, deletion, or sale of personal information , including the denial of goods or services to the consumer. | Final regs extend the definition. |
| 999.301 (u): description 'signed' — similarity | “Signed” means that the written attestation, declaration, or permission has either been physically signed or provided electronically per the Uniform Electronic Transactions Act, Civil Code section 1633.7 et seq. | “Signed” means that the written attestation, declaration, or permission has either been physically signed or provided electronically per the Uniform Electronic Transactions Act, Civil Code section 1633.7 et seq. | Final regs still refer to the Uniform Electronic Transactions Act (e sign) |
| 999.302 | § 999.302. Guidance Regarding the Interpretation of CCPA Definitions (a) Whether information is “personal information,” as that term is defined in Civil Code section 1798.140, subdivision (o), depends on whether the business maintains information in a manner that “identifies, relates to, describes, is reasonably capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household.” For example, if a business collects the IP addresses of visitors to its website but does not link the IP address to any particular consumer or household, and could not reasonably link the IP address with a | Removed all together | There was a lot of debate and critical comments about this clause in the modified regs. It was removed again in the final regs. The proposed guidance generated some support, but many found it problematic, in need of substantial modification, or confusing. |

particular consumer or household, then the IP address would not be “personal information.”
Note: Authority cited: Section 1798.185, Civil Code. Reference: Section 1798.140, Civil Code.

999.305 (4) (d): No change

For notices provided online, the business shall follow generally recognized industry standards, such as the Web Content Accessibility Guidelines, version 2.1 of June 5, 2018, from the World Wide Web Consortium, incorporated herein by reference. In other contexts, the business shall provide information on how a consumer with a disability may access the notice in an alternative format.

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Referral to WWC standard was kept.

999.305 (5): No change

A business shall not use a consumer’s personal information for a purpose materially different than those disclosed in the notice at collection. If the business seeks to use a consumer’s previously collected personal information for a purpose materially different than what was previously disclosed to the consumer in the notice at collection, the business shall directly notify the consumer of this new use and obtain explicit consent from the consumer to use it for this new purpose.

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Opt in requirement for new purposes is kept

999.305 (d)

A business that does not collect personal information directly from the consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer’s personal information.

(e) A data broker registered with the Attorney General pursuant to Civil Code section 1798.99.80 et seq. does not need to provide a notice at collection to the consumer if it has included in its registration submission a link to its online privacy policy that includes instructions on how a consumer can submit a request to opt-out.

If a business that does not collect information directly from consumers is registered with the Attorney General as a data broker pursuant to Civil Code section 1798.99.80, et seq. it does not need to provide a notice at collection to the consumer if it has included in its registration submission a link to its online privacy policy that includes instructions on how a consumer can submit a request to opt-out.

The modified provision: (1) inadvertently omits guidance for businesses that are not data brokers and do not collect information directly from consumers; and (2) requires a significant number of such businesses to send a notice at collection.

The final regs solve this. The CCPA prohibits third-party businesses from selling consumers’ personal information unless the consumer is given explicit notice and an opportunity to opt-out of the sale of their information.

999.305 (e)

The notice at collection of employment-related information is not required to provide a link to

The notice at collection of employment-related info may include a link to, or paper copy of, a

Final regs are more in line with the CCPA bill text (Civil Code § 1798.145(h), exempts employment

the business's privacy policy.

business's privacy policies for job applicants, employees, or contractors in lieu of a link or web address to the business's privacy policy for consumers.

related information from all CCPA notice requirements except the Civil Code § 1798.100(b)'s notice at collection.)

999.306 (f)

Opt out button is removed!

Includes an opt-out of sale button

The subsection has been deleted based, in part, on concerns that it may confuse consumers who believe it may be a functional toggle as opposed to merely a button or logo. The OAG does not agree with all the reasons provided in the comments, but has made this modification to further develop and evaluate a uniform opt-out logo or button for use by all businesses to promote consumer awareness of the opportunity to opt-out of the sale of personal information.

§ 999.308. Privacy Policy (c)

Added:

e. Identify the categories of sources from which the personal information is collected. The categories shall be described in a manner that provides consumers a meaningful understanding of the information being collected.

f. Identify the business or commercial purpose for collecting or selling personal information. The purpose shall be described in a manner that provides consumers a meaningful understanding of why the information is collected or sold.

This was missing before.

(Only included:

a. Explain that a consumer has the right to request that the business disclose what personal information it collects, uses, discloses, and sells. b. Provide instructions for submitting a verifiable consumer request to know and provide links to an online request form or portal for making the request, if offered by the business. c. Describe in general the process the business will use to verify the consumer request, including any information the consumer must provide. d. Identify Collection of Personal Information 1. List the categories of consumers' personal information the business has collected about consumers in the preceding 12 months. The categories shall be described written in a manner that provides consumers a meaningful understanding of the information being collected.)

This is more consistent with Civil Code § 110(c)(2)-(3).

§ 999.308. Privacy Policy (c) (9)

Added a clause (which should go in the privacy policy)

If the business has actual knowledge that it sells the personal information of minors under 16 years of age, a description of the processes required by sections 999.330 and 999.331.

Was missing before.

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| <p>999.313 (c) (4): (provide general information that a business has collected sensitive info, without providing the actual info)</p> | <p>A business shall not disclose in response to a request to know a consumer’s Social Security number, driver’s license number or other government-issued identification number, financial account number, any health insurance or medical identification number, an account password, security questions and answers, or unique biometric data generated from measurements or technical analysis of human characteristics. The business shall, however, inform the consumer with sufficient particularity that it has collected the type of information. For example, a business shall respond that it collects “unique biometric data including a fingerprint scan” without disclosing the actual fingerprint scan data.</p> | <p>A business shall not disclose in response to a request to know a consumer’s Social Security number, driver’s license number or other government-issued identification number, financial account number, any health insurance or medical identification number, an account password, security questions and answers, or unique biometric data generated from measurements or technical analysis of human characteristics.</p> | <p>Accept. The provision has been modified to require the business to inform the consumer with sufficient particularity that it has collected specific types of information.</p> |
| <p>999.313 (d) (1): (treat denials of deletion requests as opt out of sale requests)</p> | <p>(7) If a business that denies a consumer’s request to delete sells personal information and the consumer has not already made a request to opt out, the business shall ask the consumer if they would like to opt out of the sale of their personal information and shall include either the contents of, or a link to, the notice of right to opt-out in accordance with section 999.306.</p> | <p>If the business sells personal information and the consumer has not already made a request to opt out, the business shall ask the consumer if they would like to opt out of the sale of their personal information and shall include either the contents of, or a link to, the notice of right to opt-out in accordance with section 999.306.</p> | <p>Moved the requirement that a business ask the consumer if they would like to opt-out if their request to delete was denied as a separate section so that the requirement applies to all situations in which the request was denied, not just when the request could not be verified.</p> |
| <p>999.314: Service providers — Slight changes</p> | <p>(c) A service provider shall not retain, use, or disclose personal information obtained in the course of providing services except:</p> <p>...</p> <p>(3) For internal use by the service provider to build or improve the quality of its services, provided that the use does not include building or modifying household or consumer profiles to use in providing services to another business, or correcting or augmenting data acquired from another source;</p> | | <p>There was a comment asking the AG to add language to § 999.314(c) to make clear that service providers cannot combine data across clients, such as personal information received from a business and personal information received from its own interactions with consumers. Allowing companies to claim that they are service providers for everyone swallows the rules and lets third parties amass huge, cross-site data sets. The AG did not make any change based on this, because Civil Code § 1798.140(t) and (v) and § 999.314(c) already prohibit service providers from using personal information for their own commercial purposes and from making personal information collected from one client available to a different client for uses that are not on behalf of the first client. The comment’s proposed change is not necessary,</p> |

and may be overly broad, and the AG has determined that the current regulation sufficiently addresses the comment's concern, while narrowly permitting some internal use. One change: The term 'cleaning' has been replaced by 'correcting'.

§ 999.315 (d) (1): the user-enabled global privacy controls (e.g. browser plugins or settings)

If a business collects personal information from consumers online, the business shall treat user-enabled global privacy controls, such as a browser plugin or privacy setting, device setting, or other mechanism, that communicate or signal the consumer's choice to opt-out of the sale of their personal information as a valid request submitted pursuant to Civil Code section 1798.120 for that browser or device, or, if known, for the consumer.

(1) Any privacy control developed in accordance with these regulations shall clearly communicate or signal that a consumer intends to opt-out of the sale of personal information.

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(1) Any privacy control developed in accordance with these regulations shall clearly communicate or signal that a consumer intends to opt-out of the sale of personal information. **The privacy control shall require that the consumer affirmatively select their choice to opt-out and shall not be designed with any pre-selected settings.**

Last sentence removed. Consumers affirmatively choose products or services that include built-in privacy-protective features because these products or services are designed with privacy in mind. By choosing to use privacy-by-design products or services, consumers are affirmatively exercising their right to opt-out. Additional steps are not necessary, even if this means that a consumer relies on a privacy-by-default opt-out.

The rule about global privacy controls still persists. It seems that businesses don't need to worry about existing privacy controls, but only about privacy controls developed in accordance with these regulations (e.g. that clearly communicate an opt-out of sale). The Attorney General clearly never intended to force businesses to honor do not-track signals as opt-out requests. **The business has discretion to treat a "do not track" signal as a useful proxy for communicating a consumer's privacy choices to businesses and third parties. However, it is not required.**

999.323 - 999.323 (d) rules regarding verification - authorized agents

A business shall not require the consumer or the consumer's authorized agent to pay a fee for the verification of their request to know or request to delete. For example, a business may not require a consumer to provide a notarized affidavit to verify their identity unless the business compensates the consumer for the cost of notarization.

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Final regs added a clarification that businesses shall not require authorized agents to pay a fee.

999.323: no change

Not changed: the rules around verification (re authentication for PW protected accounts, matching 2 or 3 data points for requests to know / delete).