



# CALIFORNIA CONSUMER PRIVACY ACT OF 2018 (CCPA)

Effective January 1, 2020\*, consumers in California – including customers, employees and other California residents – will have broad new privacy rights and covered entities will be subject to significant new compliance obligations.

## KEY COMPONENTS



### New Consumer Rights

Access and obtain copy of personal info collected in past 12 months

Require businesses to disclose, for the individual over the prior 12 months:

- Categories of personal info collected, sold and disclosed
- Categories of third-party recipients
- Uses of personal info

Obtain deletion of personal info

Opt-out of sale of personal info

Limits on sale of minor's personal info

No charge for exercising rights



### Third-Party Management

Review and update vendor contracts

- need to update to include minimum terms; without such terms, vendors are "third parties" for purposes of disclosures and other obligations

Assess sources of third-party data

- no sale of personal info of California residents that did not receive proper notice and opt-out choices

Notify third-party recipients of relevant consumer rights requests



### Compliance Management

Assess and document data practices:

- personal info collected and its use
- personal info disclosed and sold
- third-party buyers and recipients
- identify above over prior 12 months

45 days to comply with requests (+45 more days with notice)

Maintain toll-free phone number and webpage for exercising rights



### Enhanced Disclosures

Homepage link to a "Do Not Sell My Personal Information" page

At or before collection, must disclose personal info collected and its use

New privacy policy requirements:

- Describe rights and how to exercise
- List categories of personal info collected, sold and disclosed in prior 12 months and update every 12 months
- Link to "Do Not Sell" page



### Heightened Enforcement Risks

Potential private right of action and class action risk for data breaches. Enforcement by California Attorney General with penalties of up to \$2,500 (\$7,500 if intentional) per violation.

## SCOPE

**Covered entities:** entities (and their parents and subsidiaries), regardless of location, that collect personal information about California residents, and (a) have annual gross revenues over \$25 million; (b) annually buy or sell personal information of 50,000+ California residents, households or devices; or (c) derive 50 percent or more of annual revenue from selling personal information

**Limited Exemptions:** partial exemption for entities and information covered by certain federal and California health info and financial privacy laws

## SWEEPING DEFINITIONS

**Collection:** includes intentional collection, as well as passive collection (eg, of online identifiers)

**Sale:** selling, providing or disclosing personal information in exchange for any consideration or thing of value

**Personal information:** Any information that directly or indirectly identifies, relates to, describes or can be associated with or reasonably linked to a California resident or household – explicitly includes name, contact info, government IDs, biometrics, location data, account numbers, education history, purchase history, online and device IDs, search and browsing history and other online activities

## UPCOMING DEVELOPMENTS

\*Before taking effect, further CCPA amendments anticipated; Attorney General regulations to be issued by July 1, 2020.




## FOR MORE INFORMATION

To learn more contact:  
PrivacyGroup@dlapiper.com






# CALIFORNIA CONSUMER PRIVACY ACT OF 2018: COMPLIANCE WITH GDPR IS NOT ENOUGH

CCPA compliance is different from GDPR compliance: CCPA provides data privacy and security obligations separate and distinct from the European General Data Protection Regulation (GDPR), which became effective in May 2018. Global companies should note that GDPR compliance is insufficient to ensure compliance with CCPA, which will start to become effective January 2020.

## AMONG THE KEY DIFFERENCES

| GDPR  | CCPA  |
|---|---|
|  <p><b>Personal Information</b><br/>Any information related to an identified or identifiable person.</p>   | <p>Broader definition; extends not only to data collected about an individual, but also data collected about a household.</p>   |
|  <p><b>Notice Obligations</b><br/>Notice must describe specific rights, basis for collecting information and uses of data and provide other information about personal data processing</p> | <p>As under GDPR, notice must describe specific rights, but rights differ from GDPR. Companies may wish to consider a stand-alone notice directed to California residents/households.</p> |
|  <p><b>Penalties</b><br/>Potentially significant regulator fines (up to 4% global group revenue for more egregious violations)</p>   | <p>Potentially high penalties available in enforcement actions by California Attorney General (\$7,500 per violation if intentional)</p>  |

## INDIVIDUAL RIGHTS UNDER GDPR VS. CCPA

| GDPR  | CCPA  |
|---|---|
|  <p><b>Right to Opt Out of Sale of Information</b><br/>Under certain circumstances, an individual has the right to request that an entity cease processing his/her personal information. Right is not absolute</p> | <p>May opt out of the disclosure (sale) of personal information, subject to limited exceptions<br/>Entity must display a specific opt-out link on its website</p> |
|  <p><b>Non-Discrimination</b><br/>N/A, but discrimination may render processing unlawful</p>   | <p>Entity may not discriminate against an individual who has exercised his/her rights</p>   |
|  <p><b>Access Right</b><br/>Right to access personal information processed about the individual</p>  | <p>Limited to personal data collected in past 12 months.</p>  |
|  <p><b>Right To Correct</b><br/>Right to correct errors in personal information processed</p>  | <p>None</p>   |
|  <p><b>Right To Erase</b><br/>Erasure right, subject to certain limitations</p>  | <p>Erasure right, subject to certain limitations</p>  |

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