

California Consumer Privacy Act Series: Part 1

Understanding if CCPA applies to your business and the new rights it affords to consumers

Prepared by



What is the California Consumer Privacy Act of 2018 (CCPA)?

CCPA is a comprehensive consumer data privacy bill passed in the state of California that went into effect on January 1, 2020. The law affords California consumers a variety of new data privacy rights and imposes additional requirements on businesses subject to the law. Enforcement of the law is scheduled to start on July 1, 2020. Final AG regulations that describe how CCPA will be enforced are still in the process of being finalized at the time of publishing.

Does CCPA apply to my business?

CCPA applies to any organization that does business in the state of California and satisfies one or more of the following thresholds:

1. Has annual gross revenues that exceed twenty-five million dollars (\$25,000,000)
2. Alone or in combination, annually buys, receives for the business's commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal information of 50,000 or more consumers, households, or devices
3. Derives 50 percent or more of its annual revenues from selling consumers' personal information

It is important to note that CCPA applies regardless of where the interaction between the consumer and business takes place including online or in other states. In other words, it does not matter where you are located.

What new rights are afforded to consumers?

Generally, the new consumer rights provided in CCPA can be summarized in the following five categories:

- 1. Right to notice:** A business covered by the CCPA must inform consumers at or before the point of collection what categories of personal information will be collected and the purposes for which the information will be used.
- 2. Right to access:** Consumers have the right to request disclosure from a business of what categories of personal information it collected, the sources of the data collected,

how data is used, categories of third parties the data is shared with and the specific pieces of data the business holds about a consumer.

- 3. Right to opt-out (or right to opt-in):** Consumers have the right to direct any business that sells personal information to stop the sale (or sharing) of their personal information (right to opt-out). There are additional requirements for consumers under the age of 16 (right to opt-in).

- 4. Right to request deletion:** Consumers have the right to request that a covered business delete their personal information. Though there are a series of exceptions for businesses to deny these requests, it is recommended that the covered business engage legal counsel to determine if these exceptions apply to your business.

- 5. Right to equal services and pay:** CCPA prohibits discrimination against consumers that have exercised their data privacy rights, which requires that a business providing a "financial incentive" must provide notice to consumers and describe the material terms of the financial incentive program.

NOTE: A covered business must verify any request from a consumer before responding (see the CCPA Regulations). A business generally has 45 days to handle the request, although an extension may be available.

What are the penalties for non-compliance?

A business that violates the CCPA can face injunctions and penalties of not more than \$2,500 for each violation, and not more than \$7,500 for each intentional violation, in an action brought by the California Attorney General. In addition, CCPA also establishes the private right of action for consumers to sue the business directly if it violates the breach notification provisions of the CCPA.

Written by the Conexus Data Privacy Working Group

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