



CCPA RELEASES DRAFT REGULATIONS

On May 27, 2022, the California Consumer Protection Agency (“CCPA”) released a draft of proposed revisions to the California Consumer Privacy Act regulations. While the draft regulations are 66 pages long, the draft does not change the overall regulatory structure.

The draft regulations create additional requirements and principles that a business must incorporate in obtaining consumer consent including (i) using a method that is easy to understand, (ii) creating symmetry in choice between more privacy protected and less privacy protected options, (iii) avoiding language or interactive elements that could confuse a consumer, (iv) avoiding manipulative language (guilty or shaming language) and choice architecture, and (v) making the consent easy to execute.

A method that does not comply with the above could be considered a dark pattern under the draft regulations. An agreement obtained through use of a dark pattern does not constitute consent. Additionally, the draft regulations would require in the notice at collection that a business disclose if a business allows third parties to control the collection of personal information, the names of all the third parties; or, in the alternative, information about the third parties’ business practices.

The draft regulations will be subject to public comment and will likely be revised as the rulemaking process continues. We will continue to monitor the CCPA and provide updates periodically throughout the rulemaking process. □

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