



April 6, 2023

CALIFORNIA FINALIZES PRIVACY RULES IMPLEMENTING PROPOSITION 24

California finalized the new privacy regulations that implement Proposition 24, the California Privacy Rights Act of 2020 ("CPRA"). See our prior ALERTS dated [Nov. 4, 2020](#). The regulations are the latest piece in a complex 18-month rulemaking process that began in September of 2021. The regulations implement the CPRA, as passed in 2020 and effective January 1, 2023, and are the first full rulemaking conducted by the newly created California Privacy Protection Agency. The new regulations build upon the California Consumer Privacy Act of 2018 ("CCPA") and the regulations implementing the CCPA promulgated by the California Attorney General in May of 2022.

The notable changes in the new regulations in the country's most populous state and largest economy are highlighted below:

- **Consumer requests:** Covered businesses must honor two new consumer requests: (i) to correct inaccurate personal information and (ii) to limit the use of sensitive personal information. The new regulations prescribe the format for the responses provided by businesses to requests and revise the methods a business must make available to consumers to submit different requests.
- **Privacy policy:** The regulations now have comprehensive requirements for what a business's publicly available California privacy policy must include. These requirements generally track the statutory requirements for privacy policies, but incorporate the new right to correct inaccurate personal information outlined above as well specific provisions for sensitive personal information, as defined by the CPRA.
- **Notice at collection:** The regulations impose specific requirements for the notice given to consumers at the point of collection. Notably, a business that provides its privacy policy at the point of collection must link to the specific sections of the privacy policy that contain the required information and not a general link to the top of the privacy policy.
- **Timeline for information:** The new regulations make clear that consumer requests for information do not apply to information collected before January 1, 2022. The regulations also prescribe the standard for "disproportionate effort" that

determines when a business has to provide information collected beyond the 12-month period from the request.

- **Opt-out preference signals:** Covered businesses must now treat an opt-out signal sent on behalf of the consumer (e.g., by their web browser) as a request to opt out of the selling or sharing of their personal information.
- **Service providers, contractors and third parties:** The regulations add a covered business's contractors and third parties, as defined by the regulations, to the provisions governing a business's service providers. Covered businesses that use service providers or contractors must enter contracts that meet certain regulatory requirements and are required to take reasonable steps to monitor their service providers and contractors compliance with the CCPA.
- **Regulatory oversight and enforcement:** The regulations prescribe the procedures under which the Privacy Protection Agency will respond to complaints, conduct investigations and audits and bring administrative enforcement actions.

The regulations become effective immediately, however enforcement does not begin until July 1, 2023. Covered businesses should take steps to review and update their notices and compliance policies to ensure they comply with the new regulations.

Let us know if you have questions or need assistance updating notices and policies.

✧ *Elizabeth Anstaett and Benjamin Hurford*

LOOKING FOR A MARKETING AND PRIVACY COMPLIANCE

RESOURCE? We publish an easy-to-use reference, our **MARKETING AND PRIVACY DIGEST**, that compiles the state laws governing financial privacy, fair credit reporting, telemarketing/automatic dialing and announcing devices, telephone monitoring and recording, electronic signatures and restrictions on the use of social security numbers by financial service providers. Creditors, marketers and servicers should find this resource invaluable to marketing and privacy program development and regulatory compliance. **Contact us for details.**

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