



February 10, 2020

CALIFORNIA ATTORNEY GENERAL RELEASES MODIFICATIONS TO PROPOSED CCPA REGULATIONS

On February 7, 2020, the California Attorney General released modifications to the proposed California Consumer Privacy Act ("CCPA") regulations in response to comments received regarding the proposed regulations and to clarify and conform the proposed regulations to existing law. See our prior ALERT dated October 11, 2019. Among the modifications include the following updates:

- Clarification of "personal information" subject to the CCPA. The modifications provide that whether information is "personal information" 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." If a business cannot reasonably link information that is collected with a particular consumer or household, then the information collected is not "personal information."
- Service Providers. The modifications addressed how a service provider may use personal information it receives in the course of providing services. The modified regulations provide that a service provider may not retain, use or disclose personal information obtained in the course of providing services except: (i) to perform the services specified in the written contract with the business that provided the personal information, (ii) to retain and employ another service provider as a subcontractor, where the subcontractor meets the requirements for a service provider under the CCPA and the regulations, (iii) 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 or cleaning or augmenting data acquired from another source, (iv) to detect security incidents or protect against fraudulent or illegal activity or (v) for the purposes enumerated in Section 1798.145(a)(1) through (a)(4) of the CCPA.
- Mobile Applications. The modifications added requirements to the regulations that specifically apply to businesses that collect personal information through a mobile application. When a

business collects information through a mobile application, it may provide a link to the notice on the mobile application's download page and within the application, such as through the application's settings menu. The business may also provide links to the privacy policy and other required notices through the application's settings menu. If a business collects personal information from a consumer's mobile device for a purpose that the consumer would not reasonably expect, it must provide a "just-in-time" notice containing a summary of the categories of personal information being collected and a link to the full notice at collection.

- Methods for submitting requests. A business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information is only required to provide an email address for submitting requests to know (whereas the original proposed regulations required all businesses to provide two or more designated methods for submitting such requests). The modifications changed the requirement that businesses must use a two-step process for online requests to delete and made the two-step process a permissive practice.
- Accessibility requirements for consumers with disabilities. Notices provided online will be considered reasonably accessible to consumers with disabilities if the business follows generally recognized industry standards, such as the Web Content Accessibility Guidelines from the World Wide Consortium.

Public comments regarding the proposed changes or materials added to the proposed regulations must be submitted by February 24, 2020. The CCPA went into effect on January 1, 2020. The Attorney General's enforcement of the CCPA will begin July 1, 2020. Please contact us with any questions. □

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