



JANUARY 1 REQUIREMENTS FOR CCPA

On January 1, 2020, provisions of the California Consumer Privacy Act (“CCPA”) will go into effect. This statute directly impacts businesses that meet certain thresholds we described in our client alert of August 26, 2019. It will indirectly impact thousands more, as businesses subject to CCPA articulate and impose data management and data security obligations through contracts with service providers.

Furthermore, because several states other than California have enacted (or, in the case of Massachusetts, proposed) laws that, like CCPA, expand the definition of “personal information” and consumer rights to data, all businesses with a website or an e-commerce component should anticipate eventually being subject to CCPA-like obligations in the future.

If you are subject to CCPA, you will need to do the following before January 1, 2020:

- 1. Update your consumer-facing privacy policy.** According to Section 1798.130(5) of the CCPA, a CCPA-compliant privacy policy must include:
 - a. A list of categories of consumer personal information (from the eleven categories listed in Section 1798.140(o)(1) of the CCPA) your business has collected in the previous twelve (12) months;
 - b. A list of the categories of consumer personal information your business has sold in the preceding twelve (12) months;
 - c. A list of the categories of consumer personal information your business has disclosed about consumers for a business purpose, as each of those terms are defined under the CCPA, in the preceding twelve (12) months;
 - d. A description of consumers’ rights under CCPA; and
 - e. Two or more methods by which consumers can submit their requests in exercise of those rights.
- 2. Update contracts with any vendor or other business to whom you disclose California consumer personal information** to provide that your vendor shall not:
 - a. Sell that personal information;
 - b. Retain that personal information for any purpose other than for the specific purpose of performing the services specified in the contract for the business or as otherwise permitted by CCPA, including retaining, using, or disclosing the personal information for a commercial purpose other than providing the services specified in the contract between your businesses; or
 - c. Retain, use or disclose that personal information outside the direct business relationship between you and that business.
- 3. Create a “do not sell my personal information” link visible on your website,** and do not sell personal information of California consumers who use that link. Alternatively, you may refrain from selling any consumer personal information.
- 4. Create at least two methods by which a consumer can submit a request in exercise of their rights to know or to delete personal information.** A toll-free number and an interactive web portal are the statutorily-preferred methods. The California Attorney General’s proposed regulations also allow consumers to submit their requests by email address, through a form submitted in person, and in a form submitted through the mail.

- 5. Develop a process for verifying the identity of California consumers** seeking to exercise their data rights. The California Attorney General's proposed regulations state that, for account holders, the existing password authentication process is likely adequate.
- 6. Train an employee** to handle both verification of and responses to verifiable consumer requests.

If you have any questions about the applicability of CCPA to your business, would like to revise your privacy policy or vendor contracts, or would like to proactively comply with the upcoming round of applicable data security/data management regulations, contact **Lauren Ostberg (lostberg@bulkley.com)** or **Jim Duda (jduda@bulkley.com)** from Bulkley Richardson's Cybersecurity Group.

The client alert provided herein is for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any questions or concerns.



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