

COMPLIANCE BRIEF

California Consumer Privacy Act (CCPA)

Effective January 31, 2020 impacting any organization that conducts business in the State of California

What is CCPA and Why It's Important to Your Organization

The California Consumer Privacy Act comes into effect on 31st January, 2020 and can impact any organization that conducts business in California, *regardless of where that business is located*. If your business is located outside of California State (or even outside of the United States), compliance with the CCPA will be *mandatory* if personal information of California residents is be collected or processed and at least one of the following criteria applies:

1. The business has an annual gross revenue in excess of \$25,000,000.
2. The business buys, sells, receives or shares the personal information of 50,000 or more California consumers.
3. The business derives 50% or more of its annual revenue from selling consumer action in California.

California has over 39,000,000 residents and therefore a significant number of businesses globally will be impacted.

WHAT BUSINESSES NEED TO KNOW

CCPA grants the following fundamental rights to California consumers/residents:

1. The right to know what information is being collected on the resident

This requires an obligation on businesses to:

- i. Make up-front disclosures to consumers (Pro-active). Businesses must inform consumers **at or before** the point of collection regarding the categories of personal information that will be collected and the purposes for which it will be used;
- ii. Respond to a request for information (Reactive). Consumers have a right to know which categories of information have been collected, from whom it was collected, why it is being shared, with whom it is being shared and with whom it is being sold to. Businesses must make such a disclosure within 45 days of receipt.

2. The right to deletion

Consumers have the right to request that a business deletes any personal data of theirs that it holds.

3. The right to prevent personal information from being sold to third parties and must provide an Opt-Out to consumers/residents

Consumers have the right to request that its personal information is not sold to third parties. Businesses must proactively provide notice of this.

Businesses are liable to both civil penalties sanctioned by California's attorney general as well as monetary claims arising from a private right of action from an individual.

CIVIL PENALTIES

The maximum penalty for each individual violation of the CCPA is \$2,500 (\$7,500 when the violation was intentional). It should be noted that a penalty could accumulate to a significant total very easily. For example, if a business sells personal information of 500 customers who had asked for their information to not be sold (the right to opt out) then the maximum penalty for this violation would be \$1,250,000 (2,500 x 500).

INDIVIDUAL RIGHT OF ACTION

If an individual's *nonencrypted* and *nonredacted* personal information is breached as a result of the failure of a business to *'implement and maintain*

reasonable security procedures and practices' they can claim monetary damages between \$100 and \$750 (or seek other appropriate remedies that the court deems proper).

WHAT SHOULD YOU DO NEXT?

While full a compliance assessment and action plan should be carried out, some recommended priority actions are:

- Update your website to provide notice of 'opt-out' rights by providing a link stating 'Do Not Sell My Personal Information' on the home page.
- Update your privacy policy to explain, as a minimum, the kind of personal information being collected, the reasons and methods used for collecting and processing it, the process for consumers to access, delete or alter their personal data.
- Create a process for responding to requests from consumers relating to their personal data.

A copy of the CCPA can be found here:

<https://www.pbwt.com/content/uploads/2018/06/California-Consumer-Privacy-Act1.pdf>

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We offer an encryption solution that is simple, scalable and uncomplicated.