

The Long Reach of the California Consumer Privacy Act (CCPA) What is the CCPA and how can my organization prepare?

What is the CCPA?

- The CCPA is a sweeping data privacy law set to take effect in January 2020.
- It covers certain out-of-state companies that sell goods or services into the state.
- It creates a series of rights for California residents, including:



The right to object to the "sale" of their personal information



The right to know about how their data is being collected and used



The right to access and obtain a copy of their personal information



The right to have their personal information deleted (subject to exceptions)



The right to sue for a data breach (including as a class), setting damages in a range of \$100 to \$750 per incident

What counts as "Personal Information" under the CCPA?

- "Personal Information" is far broader in scope than in many state privacy and data-security statutes.
- The more novel types of "personal information" included are:



Biometric information



Education information



Internet history and interactions with a website or online advertisement



Commercial information, such as records of products or services purchased



Geolocation information

Does the CCPA apply to my organization?

The CCPA covers an organization that has four traits:

- 1 It is a for-profit entity;
 - 2 It does business in California;
 - 3 It collects personal information of a California resident and controls what happens to the information; and
 - 4 It either
 - earns \$25 million in annual gross revenues per year (not limited to California); OR
 - buys, receives, sells, or shares (for commercial purposes) 50,000 consumer records per year; OR
 - earns at least 50 percent of revenue per year from "selling" personal information (anywhere, not just in California).
- **The CCPA applies to entities controlled by, or sharing branding with, a covered entity.**
 - **The CCPA applies to third parties that have had personal information disclosed to them by covered entities, or that process personal information for covered entities.**



What can my organization do to prepare?

- ☐ Create a data map to determine what information your company keeps, where it keeps it, and where, if anywhere, it transfers that data.
- ☐ Review and, where needed, create policies and procedures for records creation, access, and destruction, and for data security and data recovery.
- ☐ Create a data access request system to comply with requests to access or object to the sale of personal information.
- ☐ Conduct a security assessment to determine if existing data security measures are aligned with the actual data held by the company, and to identify areas of improvement.
- ☐ Create and test an incident response plan to respond to a data security incident, up to and including a data breach.
- ☐ Conduct an evaluation of customer, supplier, and service provider contracts as to information sale, retention, and security, including risk allocation for a data security event.

How can Carlton Fields help?

- ✓ Leveraging GDPR compliance by adapting GDPR measures to comply with the CCPA.
- ✓ Reviewing, revising, and drafting policies, procedures, and incident response guides.
- ✓ Developing and administering training that is tailored to your firm's particular risks and policies.
- ✓ Reviewing vendor contracts for purposes of determining compliance with the CCPA.
- ✓ Drafting data processing agreements with service providers and covered businesses.
- ✓ Reviewing existing contracts for cyber obligations, including notice requirements.
- ✓ Creating customized privacy assessment forms.
- ✓ Engaging and supervising outside experts for data mapping and gap assessment.
- ✓ After data mapping, analyzing legal requirements.
- ✓ Analyzing industry-specific laws, and how they interact with the CCPA.

Created and updated by Carlton Fields, **CyberAPP** offers resources for companies to help defend against cybersecurity threats, and respond if breached.



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