



California Consumer Privacy Act

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ARMA Atlanta Spring Seminar | May 10, 2019



Welcome to the New Normal

Sample Breaches and Misdeeds

The Google logo, consisting of the word "Google" in its multi-colored sans-serif font, is centered within a white rectangular box.The Fortnite logo, featuring a white silhouette of a city skyline with a pickaxe and the word "FORTNITE" in a bold, white, sans-serif font, is centered within a black rectangular box.The Uber logo, consisting of the word "Uber" in a white, sans-serif font, is centered within a dark gray rectangular box.The Facebook logo, consisting of a white lowercase "f" inside a blue square, is centered within a blue rectangular box.



A company as large as FB necessarily has its scandals, **and issues such as the platform being used for voting fraud or user data snooping have created negative sentiment in the public but really have little effect on the bottom line of this company** - which, as we should all remember, derives its earnings through advertisers, not users. The news tends to emphasize the bad more so than the good, and I believe the perceived risks are overblown, having little to do with whether advertisers employ Facebook in their marketing mixes.

Damon Verial, Seeking Alpha, April 10, 2019



70%

Share Personal Data

An Experian study from January revealed that 70 percent of consumers globally “are willing to share more personal data with the organizations they interact with online, particularly when they see a benefit such as greater online security and convenience.”



58%

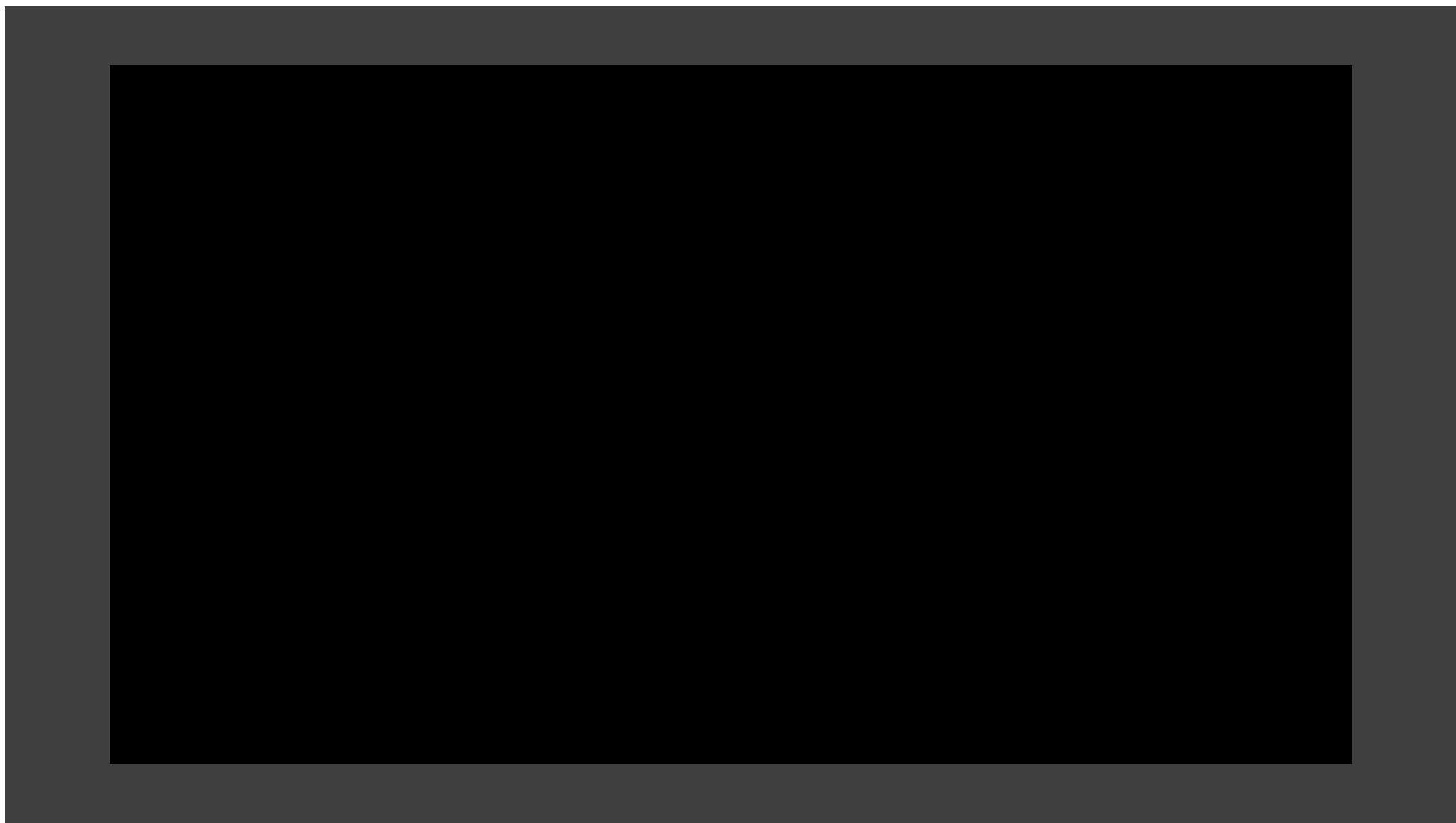
**Share Sensitive
Personal Data**

A January survey conducted by the Center for Data Innovation came to a similar conclusion, finding 58 percent of Americans are “willing to share their most sensitive personal data” (i.e. biometric, medical and/or location data) in return for using apps and services.



We're currently facing a privacy paradox. We, the public, are **becoming increasingly aware of the risks of sharing our data online, but we continue to share it, regardless.** In fact, evidence suggests that, despite the Cambridge Analytica scandal and recent major data breaches, **we've become even more disposed to sharing data in exchange for "better" and cheaper services.**

Simon Chandler, VentureBeat, February 24, 2019





As evening settled in, Mactaggart asked his friend, half-seriously, if he should be worried about everything Google knew about him...his friend told him there was plenty to worry about. **If people really knew what we had on them, the Google engineer said, they would flip out.**

Nicholas Confessore, New York Times, August 18, 2018



Navigating the CCPA

CCPA: Brief Timeline of Events



Legislature offers to pass privacy act if initiative pulled - revises AB 375.



Recordkeeping and data mapping starts (12 month look back period).



Enforcement of the CCPA begins.

Oct 12, 2017

June 22, 2018

June 28, 2018

Jan 1, 2019

Jan 1, 2020

July 1, 2020



Privacy initiative submitted and signature gathering begins.



6 days later, CCPA signed into law.



CCPA goes into effect.



KEY POINTS


- Governs the **collection, sale, and disclosure** of California resident's personal information
- It is **extremely broad in scope** and application
- Provides **new rights** to Californians

WHAT IT IS NOT

- **Not an omnibus statute** on data privacy
- Does **not prohibit data processing or require minimization** of personal information
- Even though it has global applicability, **does not govern international transfers**

Scope of Applicability

Applies to **for profit** businesses that conduct business in California and collects the personal information of **consumers** and any of the following:



\$25M
(Earns)

Annual Revenue

50K
(Obtains)

Personal Information
of California
Residents Annually

50%
(Derives)

Annual Revenue from
Selling Personal
Information of
California Residents

General Exceptions to Applicability



1. **Comply with laws**
2. **Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons**
3. **Cooperate with law enforcement agencies concerning conduct or activity reasonably and in good faith believes may violate law**
4. **Exercise or defend legal claims**
5. **Deidentified or aggregated consumer information**
6. **Collect or sell a consumer's personal information wholly outside of California**

Specific Exceptions to Applicability



1. **Medical Information governed by the Confidentiality of Medical Information Act**
2. **Protected Health Information governed by HIPAA and HITECH**
3. **Personal Information collected as part of clinical trials**
4. **Sale of Personal Information to or from consumer reporting agency to extent used to generate consumer report and use is limited by the FCRA**
5. **Personal Information subject to GLB or California Information Privacy Act**
6. **Personal Information subject to Driver's Privacy Protection Act**

Who Does the CCPA Apply To?



“Consumer”

Definition

A natural person who is a California resident, as defined in Section 17014 of Title 18 of the California Code of Regulations, as that section read on September 1, 2017, however identified, including **by any unique identifier**.

Includes (currently)

1. Employees
2. Students
3. Business Contacts

Who Does the CCPA Cover?



“Personal Information”

Definition

Information that identifies, relates to, describes, **is capable of being associated with**, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Personal information includes, but is not limited to, the following if it identifies, relates to, describes, **is capable of being associated with**, or could be reasonably linked, directly or indirectly, with a particular **consumer or household**.

Types of Personal Information

Traditional Identifiers

Geolocation Data

Purchase Activities

Internet Activity

Consumer Inferences

Audio Information

Biometric Information



Related to a Consumer or Household

Professional Information

Employment Information

Education Information

Commercial Information

Visual Information

Thermal Information

Olfactory Information

Consumer Rights Under the CCPA



Right to Notice



Right to Non-Discrimination



Right of Access



Special Rights for Children



Right to Erase



Right to Sue



Right to Opt-Out

Right to Notice



Timing

Limitation

Clear &
Conspicuous

Updates

Right of Access



Scope of
Information

Procedure
to Request

Responding
to Request

Right to Erasure



Scope

Exceptions

Right to Opt-Out



Scope of
Sale

1 Year Ban

Exceptions

Right to Non-Discrimination



Scope

Safe Harbor

Special Rights for Children



Under 13

13 to 15

Right to Sue



Data
Breaches

Damages

Opportunity
to Cure

Regulatory Enforcement

A wooden gavel with a dark handle and a light-colored head rests on an open book. The book is open to a page with some text, and the pages are slightly aged. The background is a dark, textured surface, possibly a wooden table or desk. The overall image has a dark, moody tone.

1. California AG
2. 30 Days to Cure
3. \$2,500 Unintentional Violation
4. \$7,500 Intentional Violation



Strategic Tips for Implementation

Considerations

1. What personal information do you collect, sell, or disclose?
2. What information is shared with service providers?
3. Do you restrict what service providers can do with the personal information shared?
4. Can the service providers delete the personal information, if requested?
5. Do you have the procedures in place to verify access and deletion requests?
6. Can you respond to the verified requests in a timely manner (45 days)?
7. Have you updated all necessary policies, notices, and contracts?
8. Have you developed and implemented a program to adequately train your employees?

Implementation Tips

1. Inventory/map scope of personal information internally, as well as those disclosed to or shared with third parties and categorize per CCPA
2. Identify uses of the personal information and determine if there are any applicable exceptions
3. Update privacy policies, procedures, and notices
4. Update contracts with service providers and third parties
5. Review technological capabilities to track personal information, execute opt-out requests, and secure personal information
6. Create procedures to verify access and deletion requests
7. Ensure process in place to respond to verified requests within 45 days
8. Establish regular cadence for review and update, at least annually
9. Train employees to assure compliance with the CCPA, and prepare scripts as necessary

Practical Tips

1. Be transparent regarding use
2. Use only for purpose disclosed
3. Keep only as long as you need to
4. Track and protect while in “your” possession
5. Monitor use
6. Be able to demonstrate compliance

A low-angle, close-up shot of a person's legs from the knees down, walking on a paved path. The person is wearing blue denim jeans and dark-colored sneakers with light-colored soles. The right foot is in the foreground, showing the tread of the sole. The left foot is slightly behind it. The path is made of light-colored gravel or small stones, with some green moss or grass growing between them. In the background, there is a blurred concrete curb and some foliage, suggesting an outdoor setting like a park or a walkway.

Moving Forward

Questions



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