On June 28, 2018, California Governor Jerry Brown signed into law the California Consumer Privacy Act of 2018 (CCPA or the Act), which goes into effect January 1, 2020. The California Legislature proposed several amendments to the CCPA, which the Governor must sign into law or veto by October 13, 2019.

Businesses that fit within the purview of the CCPA should ensure compliance with the Act because they may face a civil penalty of up to $7,500 per violation in any California Attorney General enforcement action, and/or a private right of action for civil damages (actual or statutory up to $750 per consumer per incident) and potential injunctive or declaratory relief for a data breach. Damages can be significant when the violations are aggregated.

**CCPA: WHAT YOU NEED TO KNOW**

At its core, the CCPA gives California consumers the following rights with respect to their personal information:

- The right to know what personal information is being collected about them.
- The right to know whether their personal information is sold to third parties.
- The right to restrict the sale of their personal information.
- The right to access their personal information.
- The right to request a business delete any personal information about them.
- The right to equal service and price, even if they exercise their privacy rights.

**DOES THE CCPA APPLY TO YOU?**

Businesses should first start by assessing whether they are subject to the CCPA. Below is a step-by-step guide to help your assessment.

- **STEP 1:** Do you operate a for-profit entity that does business in California? If you operate a non-profit entity, the CCPA does not apply to you. However, if you operate a for-profit business, you should assume the CCPA applies to you. As currently drafted, any amount of business in California could subject your business to the CCPA.

- **STEP 2:** Do you collect and process personal information of California residents or make decisions as to how and for what purpose such data is processed? Most consumer-facing businesses likely satisfy this requirement because they collect information about their consumers, for example, to process transactions or perform market research. However, the CCPA could apply even if your business does not deal directly with consumers. For example, if the Governor signs Assembly Bill 25 into law, a business that only collects employee information must still comply with the Act's disclosure obligations and remains exposed to a private right of action for a data breach.

- **STEP 3:** Does your business fit within one of the three prongs below?

  **A.** Does your business generate annual gross revenues in excess of $25 million dollars?

  **B.** Do you, alone or in combination, annually buy, receive for commercial purposes, sell, or share for commercial purposes, the personal information of 50,000 or more consumers, households or devices?

  **C.** Do you derive 50 percent or more of your annual revenues from selling consumers' personal information?

Your business is subject to the CCPA only if your answer is yes to all three steps above. If you answered no to any of the three steps, your business is not subject to the CCPA unless it controls or is controlled by a business that meets these requirements, and shares common branding with that business.
CCPA: WHAT YOU NEED TO KNOW

What are the key steps toward compliance?

1. **DON'T PANIC.** The law does not take effect until January 1, 2020. You still have time to comply with the CCPA if you plan accordingly.

2. **UNDERSTAND YOUR DATA COLLECTION PRACTICES.** Understand the categories of personal information you collect about consumers, the sources of personal information, your purpose for collecting personal information, and the categories of third parties with whom you share or sell personal information.

3. **EVALUATE IF YOU ARE A SELLER.** Businesses that “sell” consumers’ personal information need to include a “Do Not Sell My Personal Information” link on their website that enables consumers to opt-out of the sale of their personal information. Because the definition of “sell” is extremely broad and includes transfers of personal information for “valuable consideration,” nearly all transfers of personal information to vendors could constitute a sale since all contracts require consideration. Review your vendor contracts to ensure your vendor fits within the definition of a “service provider” if you want to avoid being treated as a seller under the CCPA.

4. **UPDATE YOUR PRIVACY POLICY.** The CCPA requires businesses to disclose to consumers: (1) their information collection and sharing practices; (2) that consumers may request to have their personal information deleted (with certain exceptions); and (3) that consumers may instruct a business to not sell their personal information to third parties. Consider adding a separate California-only section to your privacy policy because you will not only need to disclose your current practices, but also your information collection and disclosure practices for the past 12 months due to the CCPA's look-back requirement. Ensure that your privacy policy is clear, concise, and easily accessible.

5. **REVISIT YOUR CYBERSECURITY PROCEDURES.** Assess the effectiveness of your cybersecurity, and ensure you have the right procedures in place to detect, report and investigate a data breach. Regularly test and review.

6. **CONSIDER GOVERNANCE STRUCTURE AND CORPORATE CULTURE.** Work on establishing a well-defined governance structure for handling personal information. Train staff on data protection, security, consumer rights and the CCPA's requirements. Encourage a culture of transparency, responsibility and accountability with regard to personal information throughout every level of the organization.

7. **RUN A CCPA COMPLIANCE GAP ANALYSIS AND MAKE A PLAN.** Assess the greatest areas of risk for your business and where the business complies and does not comply with the CCPA. Establish a compliance plan starting with areas of high risk. Set targets, assign responsibility and review progress on a regular basis.

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