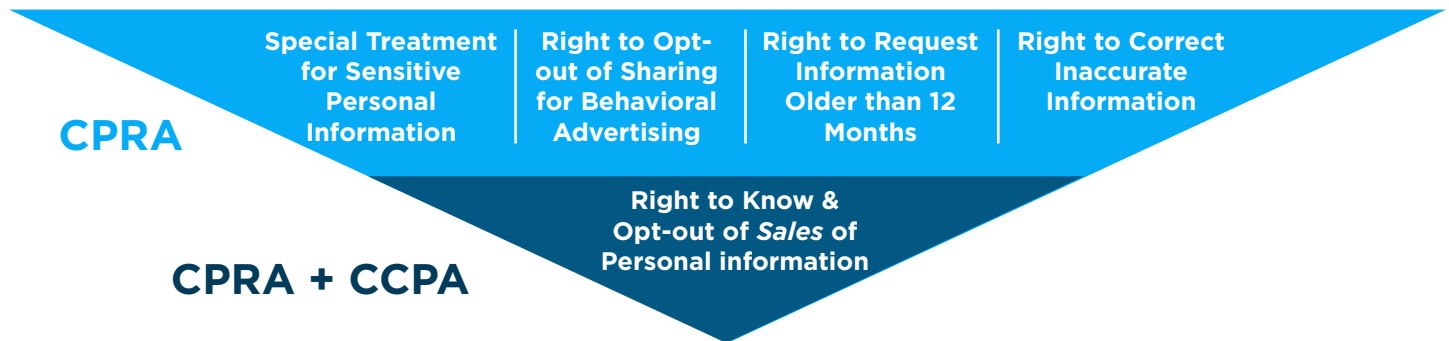


THE CALIFORNIA PRIVACY RIGHTS AND ENFORCEMENT ACT OF 2020

# What Businesses Need to Know

On November 3, 2020, California voters approved the California Privacy Rights and Enforcement Act of 2020 (the “CPRA”), which expands and modifies the California Consumer Privacy Act of 2018 (the “CCPA”) in several significant ways.

## NEW CONSUMER RIGHTS



## NEW REQUIREMENTS FOR BUSINESSES



DISCLOSURE OF DATA RETENTION PERIODS



EXPANDED REQUIREMENTS FOR DELETION OF PERSONAL INFORMATION



CONTRACT REQUIREMENT FOR ALL DISCLOSURES OF PERSONAL INFORMATION



AUDITS FOR HIGH-RISK BUSINESSES

## TIMELINE



## NEW REQUIREMENTS FOR BUSINESSES

- **Data Retention**
  - Businesses must disclose how long they intend to retain consumer information, or if impossible, the criteria they use to decide how long to retain it
  - Businesses cannot retain consumer information for longer than is reasonably necessary for specific, disclosed business purposes
- **Notice to Third Parties to Delete Consumer's Personal Information**
  - Beyond deleting a consumer's personal information upon request (which is required under the CCPA), the business must tell all third parties (not just service providers) to delete the information
  - Third parties must comply and notify other persons to which they transferred the information
- **Contract Requirement**
  - Expanded contractual requirements covering all disclosures of personal information
  - Contracts with service providers or contractors must prohibit them from using the information for non-contractual purposes and from combining information received on behalf of one business with information received through other means
- **Audits for High-Risk Businesses**
  - Required on an annual basis for businesses whose processing of personal information presents a "significant risk" to privacy or security

## OTHER IMPORTANT CHANGES

- **Creation of the California Privacy Protection Agency**
  - The California Privacy Protection Agency (the "CPPA") will be vested with full power to (a) draft regulations interpreting the CPRA and (b) enforce compliance through administrative enforcement
  - Until CPPA is up and running, enforcement and rulemaking remain with the California Attorney General
  - After the CPPA is staffed, the Attorney General will retain jurisdiction to conduct its own investigations and bring civil actions
- **Change in Definition of "Business"**
  - Increased threshold from 50,000 consumers, households or devices to 100,000 consumers or households. (Devices no longer counted independently);
  - Derives 50% or more of its annual revenue from selling or *sharing* personal information; *or*
  - \$25 million in annual revenue in preceding calendar year
- **Elimination of 30-Day Right to Cure for Administrative Enforcement**
  - Any opportunity to cure violations is left to the CPPA's discretion
- **"Floor" on Protections**
  - The Act may be amended by a simple majority in the Legislature, but only if "such amendments are consistent with and further the purpose and intent of this Act"
- **Extension of the Employee and B2B Exceptions until January 1, 2023**

## CPRA PENALTIES PER VIOLATION

Intentional Violation or Violation Involving Children's Privacy	\$7,500
All Other Violations	\$2,500
Statutory Damages for Data Breach Private Right of Action	\$100-750

If you are already in compliance with the CCPA, you are well on your way to compliance with the CPRA. For more information on how we can assist with navigating California's ever-evolving privacy landscape, contact:



**Ali Baiardo**, a partner based in San Francisco, has been on the forefront of understanding and preparing for the roll out and enforcement of the CCPA. Ali regularly advises clients regarding compliance with the statute and other privacy issues. She is a registered member of IAPP. Contact Ali at +1 415 844 1973 or [abaiardo@mcguirewoods.com](mailto:abaiardo@mcguirewoods.com).



**Anthony Le**, an associate based in San Francisco, advises technology, financial services, and retail clients on policies and procedures and compliance issues related to privacy, lending, debt collection, credit reporting, automobile finance, and telecommunications, including the CCPA, CPRA, FCRA, FDCPA, TCPA, ASFA, and UDAAP. He regularly writes on issues related to cyber security and data privacy. Contact Anthony at +1 415 844 1975 or [ale@mcguirewoods.com](mailto:ale@mcguirewoods.com).



**Christine Mastromonaco**, an associate based in San Francisco, represents financial institutions in individual and class claims involving fair debt collection, fair lending, credit reporting, unfair business practices, consumer financial protection, and common law claims. She advises clients matters related to commercial and consumer lending as well as issues under the TCPA, E-Sign, FCRA, FDCPA and EFTA. Contact Christine at +1 415 490 0875 or [cmastromonaco@mcguirewoods.com](mailto:cmastromonaco@mcguirewoods.com).