



CCPA: WHAT IS IT AND HOW TO COMPLY



A Helpful Resource for Marketing Teams
Preparing for California's New Consumer Privacy Law

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***DISCLAIMER:** *The purpose of this article is to provide additional information and resources of a general nature about the CCPA. EverString does not intend for it to serve as legal or business advice or recommendations about handling consumer privacy within your unique business, and you should not construe it as such.*

On January 1, 2020, California lawmakers will officially publish regulations for the California Consumer Privacy Act (CCPA), representing sweeping consumer privacy legislation that [experts predict will become the template for other states across the country](#)¹.

For marketing and sales teams, it's important to take note of these new privacy laws in order to ensure compliance or risk facing sanctions by the State Attorney General. The data experts at EverString have created this marketing-oriented resource list for the new California Consumer Privacy Act, including important dates, key information, and details about what businesses should be considering in order to protect consumer privacy.

DEFINING CCPA

Based on legislation introduced back in the Summer of 2018, California's new privacy law gives consumers the right to request a business disclose details about the personal information it collects about the consumer. The intent of the law is to advance Californian's right to privacy by empowering consumers with a tangible way to monitor and control their personal information.

Specifically, [California Assembly Bill No. 375](#)² outlines the following consumer privacy rights:

1. The right of Californians to know what personal information is being collected about them.
2. The right of Californians to know whether their personal information is sold or disclosed and to whom.
3. The right of Californians to say no to the sale of personal information.
4. The right of Californians to access their personal information.
5. The right of Californians to equal service and price, even if they exercise their privacy rights.



Upon taking effect, consumers will be able to request that a business disclose specific pieces of information for the preceding 12 months—from as early as January 1, 2019—that a business has collected or processed about the consumer and whether such information was disclosed or sold to a third party.

PARTIES INVOLVED

Businesses

Any business that collects consumers' personal information and does business in California must comply with CCPA, as long as they meet one or more of the following criteria:

- Annual gross revenue of \$25M or more
- Possess personal information of 50,000 or more consumers, households, or devices
- Earns more than half of annual revenue from selling consumers' personal information

On October 11, 2019 Governor Gavin Newsom signed amendments to the California Consumer Privacy Law Act of 2018 ("CCPA"), which include a requirement that certain businesses that sell California resident consumer Personal Information must register as "Data Brokers" with the California Attorney General by January 31, 2020.

Consumers

The CCPA applies to any resident of the State of California with specific restrictions involving a consumer under the age of 16 years, stating that a business is "prohibited from selling the personal information of a consumer under 16 years of age, unless affirmatively authorized, as specified, to be referred to as the right to opt-in."

PERSONAL VS. PUBLIC INFORMATION

Personal Information represents data 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.”

Defining Personal Information

- Personal information includes a host of topics, including:
- Identifiers such as real name, alias, address, social security number, driver’s license number, passport number or other similar identifiers
- Protected classifications, such as race, gender, age, or disability.
- Commercial information, like personal property records, purchase histories, and other consumer histories or tendencies
- Biometric, geolocation, audio, or visual information
- Internet activity, including browsing, search history, and online interactions
- Professional or employment-related information
- Education information

Defining Public Information

Personal information does NOT include publicly available information, which is data lawfully published by federal, state or local government.

Publicly available information is not considered personal information.

The following are examples of publicly available information, which is not subject to CCPA regulations:

- Government real estate records & security interest filings
- Widely distributed media sources, such as a telephone book, television or radio, online or print publications.
- Mortgage information included on public records



“Publicly available” does not include biometric information that is gathered without the consumer’s knowledge. “Publicly available” also does not include consumer information that is de-identified or aggregate consumer information.

5 NEW CONSUMER RIGHTS

When the new law takes effect, California residents will have the following legal rights regarding online privacy:

1. The Right of Access to Collected Information; Data Portability

Californians have the right to ask: ***“What personal information have you collected about me?”***

The answers to this are likely to include:

1. The categories of your personal information collected.
2. The specific pieces of your personal information that has been collected.
3. The categories of sources from which the business has collected your personal information.
4. The commercial reason for collection or sale of your personal information.
5. The categories of third parties (if any) to whom the business shared your personal information.

2. The Right of Access to Information Sold or Disclosed

Californians have the right to ask: ***“What personal data do you have about me?”***

The answers to this are likely to include:

1. The categories of personal information that was collected.
2. The categories of personal information that was sold.
3. The categories of personal information that has been otherwise disclosed to a third party.
4. The categories of third parties (if any) to whom the business has sold your personal information.

3. The Right to Request Deletion

Californians have the right to request: ***“Delete my data.”***

The response to this is likely to be:

1. The business deletes the personal data from the database.
2. Consumer receives a confirmation that the action was taken

4. The Right to Opt-Out of the Sale of Your Personal Information

Californians have the right to request: ***“Do not sell or share my data.”***

The response to this is likely to be:

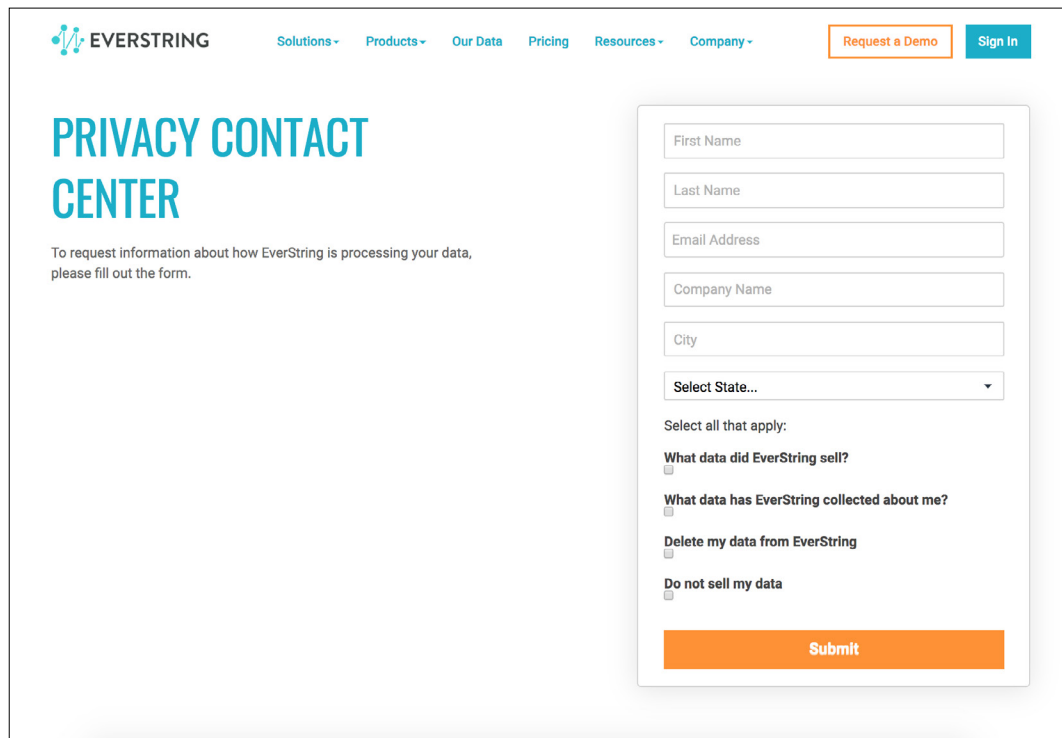
1. If the business is selling the personal data, they stop selling. If the business is sharing that personal data (internally or externally), they stop that activity as well (e.g.: marketing lists).
2. Consumer receives a confirmation that the action was taken

5. The Right to Equal Service and Price, Even If Exercising Privacy Rights

Californians have the right to request **equal service, quality and price even after exercising privacy rights with a business.**

This provision is likely the most misunderstood section of the CCPA. The right applies where the consumer exercises specific CCPA rights. As with all the materials in this document, EverString does not intend for it to serve as legal or business advice or recommendations about handling consumer privacy within your unique business, and you should not construe it as such).

EverString's Privacy Contact Center Webpage, located at: pages.everstring.com/CCPA.



The screenshot displays the EverString website's Privacy Contact Center. The header includes the EverString logo and navigation links: Solutions, Products, Our Data, Pricing, Resources, and Company. There are also buttons for "Request a Demo" and "Sign In".

PRIVACY CONTACT CENTER

To request information about how EverString is processing your data, please fill out the form.

Form Fields:

- First Name
- Last Name
- Email Address
- Company Name
- City
- Select State...

Select all that apply:

- What data did EverString sell?
- What data has EverString collected about me?
- Delete my data from EverString
- Do not sell my data

Submit

VERIFYING PRIVACY REQUESTS

Only individual consumers or those authorized to act on someone's behalf can make valid requests related to personal information. Ensuring privacy requests are verified is an important step for businesses. Without it, they risk erroneously sending and/or deleting information about an individual.

Many businesses have incorporated a verification process, where once a request is received, a verification notice is sent back. Once the individual's identity is verified, the information can be safely disclosed.

Once the request is made, [your business must honor the consumer's decision for at least 12 months](#)³. After this time, the business can ask the consumer to opt back in only at their discretion.

“Do Not Sell My Personal Information” Link

In particular, starting Jan 1, 2020, any business that falls under the purview of CCPA will need to have a “Do Not Sell My Personal Information” link or button appear somewhere “conspicuous” on the website homepage as well as “any internet web page where personal information is collected”. The link will need to take visitors to a webpage where they can opt-out of having their personal information sold or shared.

Toll-Free Phone Number

Similar to the “Do Not Sell My Personal Information” link, as of January 1, 2020 all impacted businesses will need to provide a toll-free phone number for California residents to exercise the same rights under CCPA.

The screenshot shows the EverString website homepage. The navigation bar includes links for Solutions, Products, Our Data, Pricing, Resources, and Company, along with buttons for 'Request a Demo' and 'Sign In'. A large blue banner at the top contains the text 'Ready to see what we can do for you?' and a 'Request Demo' button. Below the banner, there are four columns of links: SOLUTIONS (Marketing, Sales, Data Science and Advanced Analytics, Master Data Management (MDM), Underwriting, Finance and Compliance, Government), PRODUCTS (Sales and Marketing, Master Data, Risk, Credit), RESOURCES (Blog, Guides, Case Studies), and COMPANY (Our Story, Contact, Career, Privacy, Service Agreement, Do Not Sell My Personal Information). A green callout box highlights the 'Do Not Sell My Personal Information' link in the COMPANY column. At the bottom right, there is a chatbot icon with a red notification bubble and a speech bubble that says 'What brought you here to check us out?'. The footer contains the copyright notice '© 2019 EverString Limited. All rights reserved.'

To exercise your rights to access your personal information that is collected and/or sold by EverString, or to request the deletion of your personal information or an opt-out from the sale of your personal information, you can submit a verifiable request by:

- Visiting the EverString Privacy [Contact Center](#); or
- Call us at 1-855-206-1935.

REMEDIES & SANCTIONS

According to the California Civil Code, a business that does not adhere to the new regulations will be at risk for the following sanctions and remedies:

- Companies can be authorized to exercise opt-out rights on behalf of California residents
- Companies that experience a data theft or other security breach can be ordered to pay statutory damages between \$100 to \$750 per California resident and incident, or actual damages, whichever is greater,
- Companies can also face any other judgment a court deems proper, subject to an option of the California Attorney General's Office to prosecute the company instead of allowing civil suits to be brought against it
- In addition, companies can face a fine up to \$7,500 for each intentional violation and \$2,500 for each unintentional violation

IMPORTANT DATES

- Jan 1, 2020 = Bill becomes law
- Jan 31, 2020 = Data Brokers deadline to register
- July 1, 2020 = Enforcement begins

NOTE: Between January 1 and July 1, 2020, the State of CA can bring enforcement actions involving noncompliance, upon which the business will have 30 days to react.

IMPACT CHECKLIST

To help your team discuss the implications for your business, here are some questions you can ask yourself:

- Does our business meet the requirements for CCPA?
- What does our business need to be compliant?
- How can our customers opt-out directly from the website?
- What other information should be on our website?
- Should we add language to our contracts (existing and new ones)?
- Is there anything we need to do in terms of data/security breaches?
- Anything that we need in terms of certifications?












COMPARING CCPA & GDPR

The CCPA has many overlapping characteristics to the European Union's (EU) General Data Protection Regulation (GDPR).

PwC U.S. recently published a ["Readiness roadmap for the California Consumer Privacy Act \(CCPA\)"](#)⁴, which includes a helpful comparison chart, showing the differences and similarities across GDPR and CCPA.

As you can see, currently CCPA is more narrow than GDPR. However, that is likely to change over time so savvy marketing teams will stay close to the topic as things progress.

Figure: GDPR vs. CCPA Comparison Chart, Prepared By PwC U.S.

	GDPR	CCPA
Scope	EU personal data processed	 California residents' personal data collected; consumer data in scope starting January 2020 and employee and business-to-business data in scope starting January 2021
Right to access	Right to access all EU personal data processed	 Right to access California personal data collected in last 12 months, delineated between sold and transferred
Right to portability	Must export and import certain EU personal data in a user-friendly format	 All access requests must be exported in user-friendly format, but there is no import requirement
Right to correction	Right to correct errors in EU personal data processed	 Not included in CCPA
Right to stop processing	Right to withdraw consent or otherwise stop processing of EU personal data	 Right to opt-out of selling personal data only; must include opt-out link on website
Right to stop automated decision making	Right to require a human to make decisions that have a legal effect	 Not included in CCPA
Right to stop third-party transfer	Right to withdraw consent for data transfers involving second purposes of special categories of data	 Right to opt-out of selling personal data to third parties
Right to erasure	Right to erase EU personal data, under certain conditions	 Right to erase personal data collected, under certain conditions
Right to equal services and price	At most, implicitly required	 Explicitly required
Private right of action damages	No floor or ceiling	 Floor of \$100 and ceiling of \$750 per consumer per data breach incident
Regular enforcement penalties	Ceiling of 4% of global annual revenues	 Up to \$2500 per unintentional violation and \$7,500 per intentional violation

 Narrower  Broader  Similar  Absent

NEXT STEPS

- Identify the data that is created, received, stored and transmitted, including shared with consultants, vendors and other third-parties
- Identify all threats to the integrity of consumer data; this may include anticipating how accidental data breaches may occur in addition to preparing against the threat of a cyber attack
- Assess what measures are in place to protect data and if they can be updated to newer, more robust technologies
- Determine the potential impact of a data breach and assign each potential occurrence a risk level based on the average of the assigned likelihood and impact levels
- Review all company policies and procedures individually and assess whether they must be updated to comply with CCPA
- Review the company's website and implement changes to ensure "Do Not Sell My Personal Information" and opt-in protocols are followed.
- Review and update internal and online privacy policies to comply with the disclosure requirements of the CCPA, such as to disclose consumers of their right to opt-out of the sale of their data
- Assess whether consumer data is being collected in a CCPA-compliant manner
- Assess whether the organization can act efficiently if a consumer exercises any of their rights, such as the right to access their data
- Train staff on the importance of data protection and consumer rights
- Evaluate non-data-monetization business models and consider offering a discount to users that share information

REFERENCES & RESOURCES

- [1] <https://www.cpomagazine.com/data-protection/the-future-of-data-privacy-in-the-united-states/>
- [2] https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB375
- [3] <https://www.cookiepro.com/blog/ccpa-do-not-sell-guide/>
- [4] <https://www.pwc.com/us/en/services/consulting/cybersecurity/california-consumer-privacy-act.html>
- [5] <https://adexchanger.com/privacy/will-most-consumers-opt-out-of-data-collection-under-ccpa/>
- [6] <https://www.developersalliance.org/news/2019/5/7/do-not-sell-my-personal-information-im-from-california>
- [7] <https://www.jdsupra.com/legalnews/ccpa-privacy-faqs-if-i-post-a-do-not-83930/>
- [8] <https://www.natlawreview.com/article/state-law-developments-consumer-privacy>
- [9] <https://www.dickinson-wright.com/news-alerts/californias-data-privacy-law>
- [10] <https://www.dwt.com/blogs/privacy--security-law-blog/2019/07/consumer-rights-under-to-ccpa-part-1-what-are-they>

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