



CCPA ADA

Newsletter

Earlier this year, California's Attorney General announced new regulations that will be integrated into the California Consumer Privacy Act (CCPA), which protects the privacy of California consumers by giving them greater control over businesses' use of their personal information

Under the CCPA, California consumers are granted the right to:

- Know what personal information businesses are collecting about them, whether the businesses are disclosing that information to third parties, and the businesses' purposes for collecting and using the information, among other details about the business' processing activities.
- Opt-out of the sale of their personal information.
- Request the businesses to delete their personal information.
- Not be subject to discrimination by businesses for exercising their privacy rights.

Californians additionally voted to approve the California Privacy Rights and Enforcement Act of 2020 (CPRA) as an update to the CCPA. Generally, the CPRA further expands consumer rights, heightens privacy protections, and establishes an enforcement agency to protect consumers through vigorous enforcement of the law.

The CCPA is already in effect, and the CPRA will go into effect January 1, 2023. Thus, many businesses should be thinking about the requirements set forth under these laws so that they have time to take appropriate action.




Here are some initial guidelines to get you started:

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DETERMINE WHETHER YOUR BUSINESS IS COVERED BY THE CCPA OR CPRA

In general, the CCPA and CPRA apply to certain for-profit legal entities selling goods or services to California residents even if the business is not physically located in California. Additionally, business that fall within the scope of the CCPA are those that

-  — have \$25 million or more in annual revenue; or
-  — possess the personal data of more than 50,000 “consumers, households, or devices;” or
-  — earn more than half of its annual revenue selling consumers’ personal data.

When the CPRA takes effect in 2023, these rules will apply to those business that

-  — have \$25 million or more in annual revenue; or
-  — buy, sell or share the personally information of 100,000 or more California residents or households; or
-  — derive 50% or more of their annual revenue from selling or sharing California residents’ personal information.









MINIMIZE STEPS REQUIRED TO OPT-OUT OF THE SALE OF PERSONAL INFORMATION

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Consumers' requests to opt-out of the sale of their personal information must be easy for them and require minimal steps to execute. Businesses are prohibited from requiring consumers to do the following:

-  — Require more steps for consumers to opt-out than had been required for them to opt-in to the sale of personal information
-  — Using deceptive or confusing language, including double negatives;
-  — Trying to convince consumers that they should not submit requests to opt-out before confirming their requests;
-  — Requiring consumers to provide personal information that is not necessary to implement their requests;
-  — Requiring consumers to click through or listen to reasons why they should not opt-out before confirming their request; and
-  — Requiring consumers to scroll through documents to locate the mechanism for submitting requests to opt-out, including privacy policies.



PROVIDE AN "OPT-OUT" ICON ONLINE




Businesses that sell information may now provide an optional "Opt-out" icon that is approximately the same size as any other icons used by the business on its webpage in addition to, but not in lieu of, the requirement to post a notice of right to opt-out or a "Do not Sell My Personal Information" link. The Opt-Out Icon may be accessed and downloaded from oag.ca.gov.

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NOTIFY CUSTOMERS OF THEIR RIGHT TO OPT-OUT OF THE SALE OF PERSONAL INFORMATION OFFLINE AS WELL

Businesses that sell personal information that they collect offline are now required to provide consumers with an offline notice of the consumers' right to opt-out of the sale of their personal information, and offer an offline method to exercise their right to opt-out. Some examples of how to satisfy this offline notice requirement include,

-  — Notifying consumers of their right to opt-out on the paper forms that collect the personal information.
-  — Posting signage in the area where the personal information is collected directing consumers where to find opt-out information online.
-  — Informing consumers from whom personal information is collected over the phone during the call of their opt-out right.

In addition to shoring up your business to address privacy concerns, you may also want to consider whether your website is accessible to visitors with disabilities. Under the Americans with Disabilities Act, a website should provide full and equal access, effective communication, and/ or meaningful access to all of its users. Currently there is no law that mandates web accessibility, but your website could still be a target for litigation. The Web Content Accessibility Guidelines (WCAG) 2.0 and 2.1 provide helpful standards for ensuring your website is accessible. For example:

-  — All video-only and audio-only content has a clearly labeled text transcription linked below the media;



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- Text must be sizeable up to 200% without negatively affecting the ability to read content or use functions;
- All content and functions on a website must be accessible by keyboard only, i.e. without a mouse;
- The website has multiple ways to access different pages or information on the website; and
- A user must actively choose to activate an item, such as hitting enter to submit, before a change takes place on the website.

These are just some ways to bring your website and business up to date with current privacy and accessibility rules and guidelines. For more information, please reach out to a member of our team, who will be happy to assist.



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