



California Consumer Privacy Act

What marketers
need to know



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What is CCPA?

The California Consumer Privacy Act (or CCPA for short) is the first data protection regulation of its kind for the United States and set to go into effect on January 1, 2020. This privacy legislation is extensive and far-reaching, with implications across multiple sectors —affecting any and all businesses that, for starters, engage with California consumers and earn \$25 million in gross revenue per year. There's a lot to unpack in the CCPA's 24 lengthy pages and its full impact will be unique to each business, which is why, first and foremost, we recommend you consult legal counsel when tackling CCPA and other data protection regulations for your business.

DISCLAIMER

We're not attorneys and highly recommend that you read the CCPA for yourself and work alongside trusted legal counsel because of the ambiguities of the law are almost as complex as the legislation itself.

CCPA Compliance

Once you've determined that your organization must comply with CCPA, the road to compliance largely depends on your current business operations and what needs to be revised or developed. Each business's personal data collection purposes and data management systems will be different.

At a high level, certain businesses will need to do the following to be compliant:

- Update privacy notices and policies along with partner and vendor contracts.
- Take inventory of the personal information your company collects and what it does with it.
- Develop an internal process for handling and responding to consumer requests.
- Create a homepage link titled "Do Not Sell My Information," which allows consumers the ability to opt-out of having their personal information sold.
- Implement or onboard CMP partners to perform any necessary IT systems updates to support the aforementioned provisions.
- Mitigate data security risks by strengthening security systems across the organization.
- Train employees on systems, correspondence protocols, and data processes.

The State of Affairs on Data Privacy

As outlined in its legislative counsel's digest, CCPA is a direct result of the Cambridge Analytica scandal and societal trends in favor of greater online privacy. With over [6,500 data breaches](#) in 2018 alone, it's no surprise that both technology companies via new features like Facebook's Off-Facebook Activity, and legislatures are racing to develop policies to protect consumers and corporate profits, adding further complexity to the digital landscape.

In just the last year alone, technology executives testified before Congress, new privacy practices like Apple's Intelligent Tracking Prevention and Google's extensive Chrome updates were implemented, and the first data protection regulations by the European Union (via GDPR) were enacted, all in an effort to preclude ill-intentions and nefarious activity.

A consumer's right to online privacy has been a burning issue for nearly everyone; from consumers, companies, and now, state government officials with the CCPA providing Californian consumers with more control over their data. There's no doubt that the provisions set forth in law will have a significant impact on the digital advertising industry and how consumer data is collected, managed, and utilized across the larger digital economy.

To address these upcoming changes and CCPA regulations, we've outlined what digital marketers need to know and how we anticipate the legislation to impact advertising programs in this POV. This POV does not substitute for considering CCPA requirements in their entirety, but we believe it's a good place to start. To cut right to the chase, we're going to assume you understand the basics of CCPA and the California consumer rights it sets forth, but if you don't, we recommend [this blog post](#).

Specifics & Stipulations

While some refer to CCPA simply as "GDPR-lite," or "America's version of GDPR," it's important to understand that there are significant differences between the two laws. For one, GDPR requires all data subjects (natural persons in the EU) to opt-in to the collection of their data by businesses, but with CCPA, California consumers must request to opt-out of the sale of their data. (We won't go into all the points of differentiation, but we have found [this comparison chart](#) to be quite helpful.)

A serious point of contention in CCPA specifically is the use of the word sale. Taken straight from the legislation, the use of the words "'Sell,' 'selling,' 'sale,' or 'sold' means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or electronically by other means, a consumer's personal information by the business to another business or third party for monetary or other valuable consideration." In the text, more than half a page is dedicated to clarifying what constitutes sale versus not selling, so you'll need to work closely with your team's legal counsel to determine if your purposes for transferring or disclosing personal data with partners constitutes as selling.

CCPA is set to take effect in just a few short weeks with a subsequent 6-month grace period before enforcement, during which time the legislation could be subject to the adoption of further regulation by the California Attorney General or state legislatures. This grace period will be critical as there are several ambiguities in the law – like the meaning of the word “sale” – that will need further clarification by the courts and the Attorney General in 2020.

Be that as it may, by 1/1/2020, Californian consumers will have the right to request their personal information and businesses must comply, even though enforcement (i.e., penalties or fines from the state) won't happen until 7/1/2020 at the earliest. To complicate things even further, CCPA dictates that when a consumer requests access to their personal information and after their identity has been verified, businesses must provide all personal information that's been collected during the last 12 months. (So if on 1/1/2020, a consumer requests access to their data, a business would need to disclose data from 1/1/2019 and thereafter, if available.)

Digital Advertising & CCPA

Tech companies like Facebook, Google, and LinkedIn already comply with GDPR and preemptively extended those protections to users based in the United States over the past year. Since most of them are walled gardens anyways, CCPA will affect Big Tech much less than smaller media and tech partners in digital advertising. This is because companies like Facebook will have direct relationships with their customers and thus, any personal information collected is considered first-party data. For smaller partners – especially those that specialize in cookie-based, cross-device targeting and attribution or manage or sell third-party data, CCPA may be a fatal blow as consensual tracking via PII-safe, signed-in solutions or other alternatives continues to gain ground.

The Value of First-Party Data

While the effects of CCPA vary across digital channels, one thing is clear: any form of non-consensual tracking will likely diminish in prevalence with cookies taking the biggest of impacts. To start, we recommend brands invest heavily in comprehensive 1st-party measurement solutions as advertisers will need to rely more heavily on logged-in user signals, first-party data, and proxies moving forward.

Remember that CCPA allows users to opt-out of the sale of their data, not collection, so any insights derived from first-party data are yours to use. With a robust first-party data strategy in place, brands can leverage the direct relationship between your site/app and its users to power your advertising programs more efficiently.

Effects on Retargeting, Audiences, Buying & Bidding Strategies

As it relates to audience-based buying strategies, vendors that use non-cookie based sourcing will thrive as third-party data targeting and behavior-based signals decline rapidly. We recommend diversifying away from cookie buying and expanding your targeting to include contextual and publisher-based (PMP) approaches on the open web media buying side of the house as we're sure to see increased dependence on logged-in and first-party data for powering audience insights.

Cookieless browsers like Apple's Safari don't allow for frequency capping or traditional conversion tracking so, in the immediate future, we may see an increase in audience buying for browsers that are more easily trackable. But in the long run, the effects of ITP, ETP, Chrome's cookie controls, and now, CCPA will slowly reduce retargeting volumes over time as more users exercise their right to opt-out of the sale of their personal data. For programmatic retargeting efforts, we're also sure to see a reduction in the value of Data Management Platforms (or DMPs) as they exist today. We expect many large players to adopt broader customer data views and pivot toward more Customer Data Platform (CDP) approaches.

Effects on Program Measurement & Campaign Reporting

With these legislative crackdowns on data collection and usage rights, we anticipate the reduced ability for A/B testing, view-based conversion tracking, and ad server measurement.

To understand the impact of non-tracked audiences, we anticipate heavier reliance on on-site analytics and campaign delivery data as advertisers will be required to rely on a multi-pronged approach to measurement. Ideally, this would include media mix models and more traditional forms of channel evaluation, such as incrementality testing. In some ways, CCPA will increase the value of non-paid channels such as SEO as we continue to see the reduction of demographic data and retargeting.

Utilizing tools such as Google's Global Site Tag via Google Tag Manager to implement sitewide first-party cookies will also allow advertisers to more effectively measure online conversions and better optimize advertising investments in light of CCPA and similar data regulations.

With GDPR and now CCPA, many organizations are onboarding Customer Data Platforms (CDPs) with Consent Management Platforms (CMPs) to provide visitors with information about the use and sharing of personal information as well as additional information about how brands use cookies, mobile ad IDs and other forms of local storage. Fortunately, most CDPs and CMPs have integrations into floodlights/pixels on a business's site so when a user opts out, that person will be removed from personalized advertising moving forward.

Our POV

Despite the challenges CCPA may provide advertisers, we believe the benefits of greater consumer trust and a privacy-focused, consent-based browsing experience greatly outweigh any losses in tracking or measurement as it's possible and critically important for businesses to both respect consumers' privacy and provide a more thoughtful, and personal experience. As the internet continues to evolve, we anticipate the standard of user targeting (currently cookies) to be replaced with PII-safe, signed-in solutions. To prepare for this cookieless world, we recommend downloading our supplemental POVs on the topic [here](#) and [here](#).

“People prefer ads that are personalized to their needs and interests –but only if those ads offer transparency, choice and control.”

Prabhakar Raghavan, SVP, Google Ads & Commerce

It's worth mentioning that CCPA is not alone as 26 other states and U.S. territories are pushing for similar digital privacy laws, creating a legislative patchwork that will require brands and advertisers to juggle vastly different state regulations. The consensus is that the business requirements and provisions to be CCPA compliant will be applied liberally and thus, nationwide – especially in light of larger societal trends in favor of privacy and the other state privacy laws (which are not as aggressive towards protecting personal information).

While the end result may be federal privacy laws, conflicts in Washington are pushing the likelihood of federal U.S. legislation further and further into the future. So in the meantime, we recommend prioritizing the improvement of your data collection efforts, digital programs, and internal teams in preparation for CCPA.



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