
DEPARTMENT OF JUSTICE

Title 11. Law

Division 1. Attorney General

Chapter 20. California Consumer Privacy Act Regulations

December 10, 2020

NOTICE OF FOURTH SET OF PROPOSED MODIFICATIONS TO TEXT OF REGULATIONS AND ADDITION OF DOCUMENTS AND INFORMATION TO RULEMAKING FILE

[OAL File No. 2019-1001-05]

Update to Proposed Text

Pursuant to the requirements of Government Code section 11346.8, subdivision (c), and section 44 of Title 1 of the California Code of Regulations, the California Department of Justice (Department) is providing notice of a fourth set of proposed modifications made to the regulations regarding the California Consumer Privacy Act.

The Department first published and noticed the proposed regulations for public comment on October 11, 2019. On February 10, 2020 and March 11, 2020, the Department gave notice of modifications to the proposed regulations, based on comments received during the relevant comment periods. The Department withdrew the following sections from the review of the Office Administrative Law (OAL) pursuant to Government Code section 11349.3, subd. (c): 999.305(a)(5), 999.306(b)(2), 999.315(c), and 999.326(c). OAL approved the other sections submitted by the Department, effective August 14, 2020, and these provisions became final.

On October 12, 2020, the Department gave notice of a third set of modifications on a number of provisions. Subsequently, the Department received around 20 comments in response to these modifications. This fourth set of modifications is in response to those comments and/or to clarify and conform the proposed regulations to existing law. The changes made include:

- Revisions to section 999.306, subd. (b)(3), to clarify that a business selling personal information collected from consumers in the course of interacting with them offline shall inform consumers of their right to opt-out of the sale of their personal information by an offline method.
- Proposed section 999.315, subd. (f), regarding a uniform button to promote consumer awareness of the opportunity to opt-out of the sale of personal information.

This Notice and the text of the fourth set of proposed modifications to the regulations as compared with the text approved by the Office of Administrative Law are available at

www.oag.ca.gov/privacy/ccpa/current. The originally proposed regulations and all documents relating to the rulemaking package, including previous modifications to the proposed regulations, are also available at this website.

Update to Documents and Other Information Relied Upon

Pursuant to the requirements of Government Code sections 11346.8, subdivision (d), 11346.9, subdivision (a)(1), and 11347.1, the Department is also providing notice that documents and other information which the Department has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment.

The documents and information added to the rulemaking file are as follows:

- Cranor, et al., *CCPA Opt-Out Icon Testing – Phase 2* (May 28, 2020).
- Habib, et al., *An Empirical Analysis of Data Deletion and Opt-Out Choices on 150 Websites*, USENIX Symposium on Usable Privacy and Security (SOUPS) 2019, August 11-13, 2019, Santa Clara, CA, USA. Available at https://www.ftc.gov/system/files/documents/public_events/1548288/privacycon-2020-hana_habib.pdf.
- Habib, et al., “It’s a scavenger hunt”: Usability of Websites’ Opt-Out and Data Deletion Choices, CHI ’20: Proceedings of the 2020 CHI Conference on Human Factors in Computing Systems, April 2020, Honolulu, HI, USA. Available at https://www.ftc.gov/system/files/documents/public_events/1548288/privacycon-2020-hana_habib.pdf (starting at page 21).
- Luguri, Jamie and Strahilevitz, Lior, *Shining a Light on Dark Patterns* (August 1, 2019), University of Chicago, Public Law Working Paper No. 719, University of Chicago Coase-Sandor Institute for Law & Economics Research Paper No. 879.
- Mahoney, et al., *California Consumer Privacy Act: Are Consumers’ Digital Rights Protected?* (October 1, 2020), Consumer Reports. Available at https://advocacy.consumerreports.org/wp-content/uploads/2020/09/CR_CCPA-Are-Consumers-Digital-Rights-Protected_092020_vf.pdf.

The entire rulemaking file, which includes the documents referenced above, is available for inspection and copying throughout the rulemaking process during business hours at the location listed below. In addition, the documents are available at <https://oag.ca.gov/privacy/ccpa/current>.

The Department will accept written comments regarding the proposed changes or materials added to the rulemaking file between Friday, December 11, 2020 and Monday, December 28, 2020. Please limit comments to the additions indicated in bold green double underline, the deletions indicated in red double strike out, and the documents added to the rulemaking file.

All written comments on the underlined changes must be submitted to the Department **no later than 5:00 p.m. on December 28, 2020** by email to PrivacyRegulations@doj.ca.gov, or by mail to the address listed below.

Lisa B. Kim, Privacy Regulations Coordinator
California Office of the Attorney General
300 South Spring Street, First Floor
Los Angeles, CA 90013
Email: PrivacyRegulations@doj.ca.gov

All timely comments received that pertain to the fourth set of proposed modifications or the new materials added will be reviewed and responded to by the Department's staff as part of the compilation of the rulemaking file.