



## California, Here We Come: Getting Ready for the California Consumer Privacy Act

The recently enacted California Consumer Privacy Act (CCPA) is the first of its kind in the United States — a comprehensive privacy law that regulates how any and all companies collect and use personal information about their customers and employees. When the law entered into force on January 1, 2020, it placed a number of new notice and disclosure obligations on companies, and granted consumers extensive new data rights. These obligations will be substantial — in some ways even exceeding those imposed by the European Union’s General Data Protection Regulation (GDPR).

**This means that many companies doing business in California or with Californians will need to take steps now to comply with CCPA, regardless of their GDPR status. Sidley Austin LLP can help. Below we describe how we can assist your company, laying out the steps of our CCPA methodology and the concrete deliverables that accompany each step.**

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### **Phase #1: Develop a *Strategic Compliance Plan***

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The CCPA grants California consumers the right to access, delete or forbid the sale of their data to any entity outside the business. Businesses, in turn, must disclose how they use data and notify consumers of their rights, including by clearly and conspicuously placing a “Do Not Sell My Personal Information” link on their homepages.

These new obligations require companies to confront a number of key strategic questions:

- Is it possible to structure the organization to take advantage of the fact that the CCPA’s obligations do not apply to transfers within a “business”— i.e., between entities with common control/branding?
- Should CCPA rights be extended more broadly, perhaps to all consumers (i.e., apply the same rules and rights to non-California customers and employees)?
- Given the potential compliance costs and brand implications, should the company reconsider whether it wants to continue “selling” consumer data?
- Do any of the CCPA’s exemptions — e.g., for financial information covered by Gramm-Leach-Bliley or protected health information covered by HIPAA — apply and, if so, to what extent?

#### **Phase #1 Deliverables**

We will prepare a **strategic compliance plan** that analyzes, among other things, which of your businesses fall within the jurisdiction of the CCPA, whether your business can avail itself of any of the CCPA’s exemptions, strategic considerations relevant to the continued “sale” of information, and considerations for determining the scope of data subject rights for your businesses footprint.

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## Phase #2: Create a **Data Map** of Inflows, Uses, and Transfers

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Complying with the CCPA first and foremost requires businesses to understand what consumer data they collect, how it is used and, if applicable, where it is transferred and sold. Only with this understanding will businesses be able to comply with the CCPA's notice and disclosure obligations and design the business processes that allow consumers to exercise their CCPA rights.

Here are some of the key questions that must be answered during this step:

- From what channels and sources is consumer information being collected?
- Is it possible for the business to tie together all the information in its possession about a single person?
- To what other businesses is information being transferred and for what purpose?

### Phase #2 Deliverables

Sidley will work with your internal IT, legal, compliance and business teams, as well as your technology consultants where appropriate, to scope and execute a PI data map.

At the conclusion of Phase #2, companies will have a completed **data map**, which, among other things, shows which PI is collected from where, how it is used, where it is stored, and if and where it is transferred or sold.

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## Phase #3: Identify and Make **Key Decisions**

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Armed with an understanding of its consumer data, a business can identify, starting from the baseline of its GDPR compliance efforts, the steps it might have to take to comply with the CCPA — and the options for taking those steps.

As part of this phase, companies might have to confront question like:

- Are new or modified user interfaces needed so that consumers can exercise their CCPA rights?
- Is there any information we must add to our privacy policies, consumer notices and disclosures?
- Do we need to place new conditions on our vendor contracts?

### Phase #3 Deliverables

At the conclusion of Phase #3, we will prepare a document laying out the **key steps** necessary for CCPA compliance, the **decision points** presented by those steps, and the **pros and cons** of those decisions.

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## Phase #4: Develop and Execute **Implementation Plan**

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The final stage will be implementing the business process and technical changes necessary to comply with the CCPA.

This will need to be a flexible process, constantly addressing issues like the following:

- What are the priority implementation steps, given, among other things, existing business capabilities and the likely regulatory areas of focus?
- How will any further regulatory guidance affect the business and technical requirements and prioritization?

### Phase #4 Deliverables

During this phase, we will provide you a **detailed implementation plan**, which lays out, among other things, a process for amending service provider and client/customer contracts; a mechanism and workflow for data subject rights requests; the changes required in privacy policies, notices, and disclosures; a training plan; and a schedule for auditing CCPA compliance.

**Note: The CCPA methodology provided above can vary, as the precise phasing of a project, as well as the specific deliverables and timing of each phase, will vary based on client needs**

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