
















THE CCPA AND THE GDPR COMPARED

Incremental CCPA Obligations Relative to GDPR	Symbol
Significant incremental obligations between CCPA and GDPR	
Certain key incremental obligations between CCPA and GDPR	
Generally few incremental obligations between CCPA and GDPR	

	Topic	Key CCPA Provisions	Key GDPR Provisions	Top-Line Comparison (Does Not Address Every Distinction)	Incremental CCPA Obligations Relative to GDPR
Threshold Conditions	Effective date	1 January, 2020	25 May, 2018	N/A	
	Covered entities	§ 1798.140(c) § 1798.145	Article 3	<u>Different territorial scopes</u> : although, both the GDPR and the CCPA have broad scopes, the CCPA applies to profit organisations that collect or sell personal information (PI) on California residents while conducting business in California and includes various exceptions (e.g., certain small entities, specific industries).	
	Definition of covered information	§ 1798.140(o)	Article 4	<u>Similar practical impact as the GDPR and the CCPA apply to PI</u> : although, the CCPA explicitly applies to information associated with a “household”, but there are specific exclusions such as for publicly available information.	
	Inferred information	§ 1798.140(o)(K)	Article 4 Article 22	<u>Definitions similar</u> , but the CCPA definition of PI includes “inferences drawn from” information to “create a profile about a consumer”, while the GDPR’s definition of personal data includes information that relates to an identified/identifiable individual.	
	Covered activities	§ 1798.140(e and t)	Article 2	<u>GDPR appears broader</u> as it applies to “processing” whereas, the CCPA is mainly focused on the “collection” and “sale” of PI.	
	Conditions for processing	N/A	Articles 5(1)(e), 6(1)	The GDPR provides processing of personal data must be based on one of six grounds. <u>No directly comparable CCPA provision</u> although consumers may ask businesses not to sell their PI.	
	Responsibilities for Processors	§ 1798.140(d)	Article 28	<u>No directly comparable CCPA provision</u> although, third parties who buy PI cannot sell it without providing notice and opt-out. Also, businesses must disclose consumer PI pursuant to a written contract.	

Rights	Notice	§ 1798.100(b) § 1798.130 § 1798.135(a)	Articles 12–14	<u>Substantial overlap</u> as both the GDPR and the CCPA require information be provided to individuals such as categories of personal data and purposes although, the specifics of compliance may differ and the CCPA expressly requires affirmative notice of the categories of PI to be collected. The CCPA has “Do Not Sell My Personal Information” <u>labelling requirement</u> .	
	Right of access	§ 1798.100	Article 15 Article 20	<u>Largely the same</u> as both the GDPR and the CCPA provide a right of access although, the GDPR provides access to additional information and the compliance requirements and ability to charge may differ. Also, under the CCPA, right only applies to PI collected in the 12 months prior to request.	
	Right to be forgotten	§ 1798.105(a)	Article 17	<u>The GDPR is broader</u> , as although the right to be forgotten is similar, the exceptions are quite different.	
	Right to “opt out” for third-party sale	§ 1798.120(a)	Article 7	<u>Similar practical impact</u> , as although the GDPR does not have a provision which specifically addresses this issue, the ability to withdraw consent under the GDPR likely provides a similar right.	
	Children	§ 1798.120(b)	Article 8	<u>Similar</u> although, the GDPR does not differentiate between ages 0–13 and 13–16 and relies on EU Member State law. The CCPA allows children’s PI to be “sold” only on the basis of consent.	
	Non-discrimination	§ 1798.125	N/A	<u>No directly comparable GDPR provision</u> although, the practical implications of the CCPA are unclear. The CCPA provides consumers must not be discriminated because of the execution of their rights under the CCPA.	
	Rectification	N/A	Article 16	The GDPR also provides data privacy rights of rectification, to object to processing and not be subject to automated processing, but there is <u>no directly comparable CCPA provision</u> .	
	Right to object to processing	N/A	Article 21		
	Right not to be subject to automated processing	N/A	Article 22		

Enforcement Provisions	Government Enforcement	§ 1798.155	Articles 58 Articles 83	The GDPR appears to be broader, with fines of up to 4% of global annual turnover and broader regulatory powers. Under the CCPA, civil penalties can be issued by a court which, depending on violation, can be \$2,500 for each violation or \$7,500 for each intentional violation. (NOTE: The CCPA enforcement funded by fines.)	
	Private Cause of Action	§ 1798.150	Article 77 Article 79	The GDPR appears to be much broader, with claims covering both material and non-material damages. The CCPA provides a powerful but limited cause of action, with statutory damages of at least \$100 per person.	
Security and other Provisions	Data Protection Officer (DPO)	N/A	Article 37–39	No directly comparable CCPA provision. The GDPR requires the appointment of a DPO in certain cases.	
	Security Requirements	N/A	Article 32	The GDPR requires controllers implement appropriate technical and organisational measures to ensure a level of security. No directly comparable CCPA provision, although California has a separate data security statute.	
	Recordkeeping	N/A	Article 30	The GDPR requires a controller to maintain a record of processing activities. No directly comparable CCPA provision.	
	Breach Notification	§ 1798.150	Article 33–34	The GDPR requires a controller to report a personal data breach without undue delay and, where feasible, not later than 72 hours after becoming aware of it. No directly comparable CCPA provision, although notification requirements exist in parts of California law.	

SIDLEY

AMERICA • ASIA PACIFIC • EUROPE

sidley.com

Attorney Advertising - Sidley Austin LLP, One South Dearborn, Chicago, IL 60603. +1 312 853 7000. Sidley and Sidley Austin refer to Sidley Austin LLP and affiliated partnerships as explained at www.sidley.com/ disclaimer. Prior results do not guarantee a similar outcome. Photos may include Sidley alumni or other individuals who are not Sidley lawyers. Photos may be stock photographs.

MN-11046-05/19