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CALIFORNIA PRIVACY PROTECTION AGENCY BOARD

TRANSCRIPTION OF RECORDED BOARD MEETING

AMENDED

JUNE 8, 2022

OAKLAND, CALIFORNIA

Present: JENNIFER URBAN, Chairperson
 VINHCENT LE, Board Member
 ANGELA SIERRA, Board Member
 JOHN C. THOMPSON, Board Member

Transcribed by: Mieghley Williams-McGuire,
 eScribers, LLC
 Phoenix, Arizona

1 **TRANSCRIBED RECORDED BOARD MEETING**

2 **June 8, 2022**

3 **CHAIRPERSON URBAN:** Good morning, everyone. I'm
4 pleased to welcome you to the California Privacy
5 Protection Agency Board's June 8th, 2022 meeting. My
6 name is Jennifer Urban, and I am the Chairperson of the
7 Board for the Agency.

8 Before we get started with the substance of the
9 meeting, I have some logistical announcements. First,
10 I'd like to ask everyone to please check that your
11 microphone is muted -- although I'll say a little bit
12 more about that in a moment. Second, I'd like to ask
13 everyone who is here in person to silence their cell
14 phones. Thank you. Third, this meeting is being
15 recorded.

16 Today's meeting will be run according to the Bagley-
17 Keene Open Meeting Act as required by law. I'm pleased
18 to be here in person with the Board and with some members
19 of the public. Welcome to all of you. And I'd like to
20 welcome everyone who is joining us via Zoom, as well.

21 As with our May 26th, 2022 meeting, I do have some
22 observations and requests related to the hybrid meeting
23 format and our request to wear masks. First, the rapid
24 increase in COVID-19 cases -- in California generally,
25 and specifically in Alameda County where our physical

1 meeting is located -- has continued, and it has created
2 some substantial logistical challenges on which I hope
3 you will bear with us.

4 We have encouraged the public to join the meeting
5 remotely. We are also strongly encouraging everyone to
6 wear masks if you are attending in person. The CPPA is
7 not requiring either of these things, just encouraging
8 them. However, since our last meeting, Alameda County
9 has reinstated its requirement that masks must be worn in
10 many buildings including government buildings like this
11 one. We appreciate everyone here in person following
12 this requirement.

13 I also thought it would be helpful to say just a
14 little bit about why we are encouraging this approach,
15 even though we are excited to be here in person together,
16 and generally to be moving to in-person meetings. First,
17 the current variant of COVID-19 is still spreading
18 extremely rapidly due to a high level of contagiousness.
19 And of course, we want to avoid exposing vulnerable
20 members of the community or inadvertently making our
21 public meetings less accessible to those members of our
22 community.

23 Second -- and this is something that is less, like,
24 intuitive I think to many people -- our temporary ability
25 to meet remotely and still comply with Bagley-Keene has

1 expired and has thus far not been renewed. This means,
2 unfortunately, that the rapid spread of the virus could
3 pose some serious logistical issues to the Board's work
4 on behalf of the public. This is because we no longer
5 have the option under Bagley-Keene of holding entirely
6 remote meetings, or for any board member to participate
7 remotely, even if they test positive. This means that a
8 COVID-19 positive board member simply cannot participate
9 in a public meeting.

10 In addition, our board meetings must be publicly
11 noticed ten days in advance, with all physical and remote
12 locations correct on the notice. Accordingly, we cannot
13 easily reschedule if board members test positive or
14 become ill.

15 This brings me to my second request, which is that
16 everyone please bear with us as regards to any kinks as
17 we run the meeting. We have found that the hybrid in-
18 person and remote meeting can be somewhat complex to
19 administer and ask for patience. If the remote meeting
20 glitches -- for example, if the audio cuts out -- we will
21 pause to fix it. I'll say more about this in a minute as
22 I explain the meeting logistics. But I really appreciate
23 everyone bearing with us. Thank you.

24 Okay. Now I'll go over logistics and meeting
25 participation. We will proceed through the agenda, which

1 is available as a handout here in Oakland, and also on
2 the CPPA website. Materials for the meeting are also
3 available as handouts here and on the CPPA website. You
4 may notice board members accessing their laptops or other
5 devices during the meeting. They are using these devices
6 solely to access board meeting materials.

7 After each agenda item, there will be an opportunity
8 for questions and discussion by the board members. We
9 have a designated time on the agenda for public
10 comment -- agenda item number 5 today -- and I will also
11 ask for public comment as we go through the agenda items.
12 We have members of the public attending online via Zoom
13 and also in person here in Oakland.

14 If you are attending via Zoom and you wish to speak
15 on an item, please wait until I call for public comment
16 on that item and allow for staff to prepare for Zoom
17 public comment. I'll say more about that when we get to
18 our first call for public comment so it's clear to
19 everyone. But for now, you will use your raise your hand
20 function in the reaction feature at the bottom of your
21 Zoom screen, so you may wish to locate that now.

22 Our moderator will request that you unmute yourself
23 for comment. Please note that you must wait for the
24 moderator to give you the ability to unmute. When your
25 comment is completed, the moderator will mute you again.

1 For those of you on Zoom, please also note that the
2 Board will not be able to see you, only hear your voice.
3 Thus, it is helpful if you identify yourself, but this is
4 entirely voluntary. And you can also input a pseudonym
5 when you login to the meeting.

6 If you are attending in person and wish to speak on
7 an item, please wait for me to call for public comment,
8 then move towards the podium and form a line, keeping
9 social distancing in place. Please move to the podium
10 directly when you are called to speak in your turn. As
11 with the Zoom attendees, it is helpful if you identify
12 yourself when you begin speaking. But again, this is
13 entirely voluntary, and you are free to refer to yourself
14 as a pseudonym or not give a name. Please speak into the
15 microphone so that everyone participating remotely can
16 hear you, and so your remarks can be recorded in the
17 meeting record.

18 I would also like to remind everyone of the rules of
19 the road under Bagley-Keene. Both board members and
20 members of the public may only discuss items that are on
21 the agenda for today when those items are up for the
22 discussion. The public can also bring up additional
23 topics when the Board takes up the agenda item for that
24 purpose, which is the agenda item I mentioned -- number
25 5 -- today.

1 In addition, items not on the agenda can be
2 suggested for discussion at future meetings when the
3 Board takes up the agenda item designated for that
4 purpose, and that is number 6 today.

5 The Board welcomes public comment on any item of the
6 agenda, and it is the Board's intent to ask for public
7 comment prior to the Board voting on any item. If for
8 some reason I forget to ask for public comment on an
9 agenda item and you wish to speak, please let us know.
10 If you are participating via Zoom, use the raise your
11 hand function so our moderator can recognize you. And if
12 you are in person, please raise your hand and wave at me
13 to let me know I forgot. You will then be called to the
14 podium to provide your comment.

15 Okay. As I mentioned, these hybrid meeting formats
16 are -- the hybrid meeting format -- excuse me -- is
17 somewhat complex. So first, I'd like to thank the team
18 managing the technical aspects of the meeting today.
19 Very grateful to Ms. Trini Hurtado, Ms. Megan Sullivan
20 (ph.), and Mr. Oscar Estrella (ph.).

21 Second, I will explain what to do if those of you
22 attending remotely experience an issue with the remote
23 meeting -- for example, the audio dropping. If something
24 happens, please email info@coppa.ca.gov. That's I-N, for
25 Nancy, F, for Frank, O at C-P-P-A dot California -- C-A

1 dot gov. This will be monitored throughout the meeting.
2 If there is an issue that affects the remote meeting, we
3 will pause the meeting to let our technical staff work on
4 fixing the issue. And again, I thank everybody for
5 patience if we need it.

6 We will take a lunch break when appropriate and
7 shorter breaks as needed. I will announce each break and
8 when we plan to return so that members of the public can
9 leave and come back if they wish before we begin again.

10 My thanks to all the board members for their
11 service, and to all the people working to make this
12 meeting possible. I would like to thank the team from
13 the Office of the Attorney General supporting us today.
14 Mr. Milad Dalju is acting as our main counsel. Ms. Trini
15 Hurtado, whom I mentioned, and her team of conference
16 services experts have organized the meeting
17 infrastructure and are moderating today. I would also
18 like to thank the team of expert attorneys from the
19 Office of the Attorney General who are supporting the
20 Agency in its substantive work. I will say a little bit
21 more about that later in the meeting.

22 From the CPPA, I would like to thank Ashkan Soltani,
23 our executive director; Brian Souble, our acting general
24 counsel; Vongayi Chitambira, our deputy director of
25 administration; and all the CPPA staff for their work

1 behind the scenes.

2 I'd also like to continue to express my gratitude to
3 the team at the Department of Consumer Affairs for
4 managing our communications list and website. And the
5 staff at the Business, Consumer Services and Housing
6 Agency, the Department of Consumer Affairs, the
7 Department of General Services, the Office of the
8 Attorney General, and the other agencies who also
9 continue to help behind the scenes as we grow our agency.

10 I will now call the meeting to order and ask our
11 moderator, Ms. Hurtado, to please conduct the roll call.

12 **MODERATOR HURTADO:** Good morning. I'll begin the
13 roll call. Ms. De la Torre? Mr. Le?

14 **BOARD MEMBER LE:** Present.

15 **MODERATOR HURTADO:** Ms. Sierra?

16 **BOARD MEMBER SIERRA:** Present.

17 **MODERATOR HURTADO:** Mr. Thompson?

18 **BOARD MEMBER THOMPSON:** Present.

19 **MODERATOR HURTADO:** Ms. Urban?

20 **CHAIRPERSON URBAN:** Present.

21 **MODERATOR HURTADO:** There are four members present
22 and one not present.

23 **CHAIRPERSON URBAN:** Thank you very much, Ms.
24 Hurtado. The Board has established a quorum. I would
25 like to say that Ms. De la Torre regrets that she cannot

1 be with us today. And we will go ahead and continue. I
2 would also like to let Board members know that we will be
3 taking a roll call vote on any action items.

4 All right. The next on the agenda is agenda item
5 number 2. This will cover a brief clarification on one
6 of the changes the Board made to the Incompatible
7 Activities Statement for board members during our May
8 26th, 2022 meeting. I'm actually going to take this item
9 out of order. We'll skip it now and return to it after
10 the next two agenda items.

11 So with that, we will move to agenda items number 3
12 and 4, which we will discuss together. Agenda item
13 number 3 is titled Discussion and Possible Action
14 Regarding Proposed Regulations, Sections 7000-7304, to
15 Implement, Interpret, and Make Specific the California
16 Privacy Act of 2018, as Amended by the California Privacy
17 Rights Act of 2020, Including Possible Notice of Proposed
18 Action. Agenda item 4 is titled Delegation of Authority
19 to the Executive Director for Rulemaking Functions.

20 We're going to discuss them together because there
21 is only one potential action here. That is, the Board
22 will be hearing from staff on -- and will be discussing
23 whether to approve -- starting the formal rulemaking
24 process for this proposed rulemaking package, which
25 includes authorizing the executive director to take the

1 steps necessary to do this. Because we're a new agency
2 and a new board -- it was my mistake -- I mistakenly
3 split this when I drafted the agenda. So we will take
4 them together.

5 I will say, first, a bit about the process related
6 to these items and a bit about the purpose of the
7 discussion. And then a description of the draft proposed
8 regulatory text will be presented by Counsel.

9 So to briefly recap the process so far -- and again,
10 for everyone who's been following along through our work,
11 thank you for your patience as I work to bring up to
12 speed anyone who's just joining us -- the Board has been
13 working since last fall in subcommittees with counsel
14 from the Agency and the Office of the Attorney General to
15 work on draft regulations under -- as we are requested to
16 do under the CPRA as it amends the CCPA.

17 We have requested preliminary written comments which
18 we received last fall. We held informational sessions
19 with experts from academia and other agencies. We held
20 stakeholder sessions where we heard from stakeholders.
21 And all of that information was gathered up and went into
22 the draft -- a package of draft proposed regulations,
23 which is part of the meeting materials for these agenda
24 items today.

25 Now I'm going to say a little bit about where we are

1 and how the Bagley-Keene Open Meeting Act interacts with
2 rulemaking because this is a source of some confusion, I
3 think, and it's completely understandable confusion.
4 Indeed, staff have prepared an FAQ -- frequently asked
5 questions -- document that you can find on our website on
6 the regulations page to help explain this, because it's
7 just not intuitive to a lot of people.

8 So for those of you who are familiar, again, thanks
9 for your patience. I've explained this at a few public
10 events, but of course not everyone is going to be
11 familiar with how boards and commissions operate under
12 the Bagley-Keene Open Meeting Act and how that interacts
13 with the California Administrative Procedure Act. So
14 I'll just walk through it briefly.

15 I'll actually start with the California APA. When
16 an agency in California writes regulations to implement
17 to statute, it must follow the APA which requires a
18 formal process to ensure that the public has input. If
19 you look at the materials for agenda item 5-A from our
20 May 26th, 2022 board meeting, you'll find a slide
21 presentation from the Rulemaking Process Subcommittee.
22 On slide 2 there's a graphic that describes the APA
23 process at a high level.

24 In short, once a rulemaking package is ready, it is
25 published with a Notice of Proposed Action and some

1 explanatory materials, including an initial statement of
2 reasons which explains the background on the Agency's
3 reasoning. That package is subject to a period of at
4 least forty-five days during which the public can submit
5 written comments to the Agency on the proposed rulemaking
6 package. And indeed, they can, you know -- they can send
7 email. You can submit comments in sort of any way during
8 that forty-five-day -- at least -- period.

9 There's also usually a hearing -- and if I'm
10 recalling our May 26th conversation correctly, we're
11 definitely planning to have a hearing. Mr. Thompson is
12 nodding, and that was the consensus. So there will be a
13 hearing as well.

14 The Agency will consider all of these formal
15 comments. If it makes substantial changes in response,
16 then there will be another time period for written
17 comments of at least fifteen days. The Agency will
18 summarize and respond to all those comments in the final
19 statement of reasons that is submitted with the final
20 rulemaking package to the Office of Administrative Law.
21 It's a very high-level overview, but it's just so
22 everyone has a picture of how rulemaking happens should
23 we approve the package to go forward for rulemaking and
24 that there are robust procedures for public comment,
25 which we are very much looking forward to.

1 We are not there yet -- and this is the part that I
2 think is -- can be puzzling. The Agency has not yet
3 commenced the formal rulemaking process, so why are we
4 here today? That's where the Bagley-Keene Open Meeting
5 Act comes in. The California Privacy Protection Agency
6 is governed by this Board. Under our implementing
7 statute, the Board holds the Agency's rulemaking
8 authority, which means that it is our job to approve
9 commencing the formal rulemaking process.

10 The Board is governed by the Bagley-Keene Open
11 Meeting Act, which means that all of our discussions are
12 considered in public meetings that are noticed at least
13 ten calendar days in advance, and any materials that we
14 use for the meeting that are distributed to us are also
15 available to the public. So in practice, what that means
16 is that the public gets to see our draft regulations and
17 listen to and comment on our discussion about the process
18 before we ever start the formal rulemaking.

19 This is different from what many regulatory
20 advocates are familiar with -- especially for Federal
21 rulemaking -- but also for other state agencies that are
22 not governed by boards, because in most situations the
23 draft rules aren't published with the notice to start the
24 formal rulemaking process. So we are one -- we're a step
25 ahead of that and have put the rules out in advance of

1 that.

2 So what are we considering today? Today we will be
3 considering a motion to start the formal rulemaking
4 process and authorize the steps needed to accomplish
5 that. Should that motion carry, then the formal
6 rulemaking process will commence. But it is not a
7 decision by the Board on whether to adopt the final rules
8 or whether to amend them. The Board will need to have
9 further meetings to discuss public comment and make
10 further decisions about the rules. So accordingly, the
11 motion before us will be whether to approve the draft
12 proposed regulatory text for the formal rulemaking
13 process and authorize the executive director to take the
14 steps necessary to initiate that.

15 To support our discussion, we have in front of us
16 the draft proposed regulatory text, which counsel will
17 introduce in a moment. We also have a draft initial
18 statement of reasons. This is supportive material that
19 will be on the regulatory package. And I'm really
20 grateful to the staff and counsel for getting it ready
21 for us so we have this background information, too.

22 I also want to thank staff and counsel for the
23 careful, thorough work they have done on this draft
24 proposed regulatory text. In my view, this is very
25 impressive work on a very difficult timeline that takes

1 into account a lot of really helpful feedback from the
2 public.

3 I would also like to thank them specifically for
4 getting both Board and the public the draft text so
5 quickly after the May 26th board meeting in which we
6 discussed process. Indeed, the very next day. This gave
7 us all the maximum time to review before today's meeting.
8 And I would also like to thank them for getting a draft
9 ISOR ready for us to serve as background.

10 These materials support our discussion, of course,
11 but also provide that extra measure of transparency, and
12 notice for the public that Bagley-Keene requires well
13 before the formal process commences. And I just want to
14 say I know it was a lot of work, and I really value that
15 work.

16 I will now turn things over to attorneys from the
17 team at the Office of the Attorney General that has been
18 assisting the Agency in putting together the draft
19 regulations, acting as counsel for the Agency. This team
20 and members of the team from the Agency itself
21 (indiscernible) tireless in considering all the
22 preliminary information we've gathered and working with
23 the Board subcommittees and Agency staff to carefully
24 draft regulatory text. They're peerless in their
25 expertise. They have experience with consumer law

1 generally, privacy law, and specifically the California
2 Consumer Privacy Act and the existing CCPA regulations
3 and California administrative law.

4 I would like to especially thank the two members of
5 the team who are presenting to us today. Deputy Attorney
6 General Lisa Kim, and Senior Deputy Attorney General
7 Stacey Schesser. I will now turn it over to them for an
8 overview of the draft proposed regulatory text, after
9 which we will turn to Board questions and discussion
10 followed by public comment.

11 Deputy Attorney General Kim, thank you very much for
12 all your work on this and for presenting to us today.
13 Please go ahead.

14 **DEPUTY ATTORNEY GENERAL KIM:** Thank you very much,
15 Chairperson Urban. Good morning. My name is Lisa Kim,
16 as Chairperson Urban stated. And I've been assisting the
17 Agency in preparing and drafting the regulations and with
18 regard to this general rulemaking process. Supervising
19 Deputy Attorney General Stacey Schesser and I will be
20 providing a general overview on a high level of the
21 proposed regulations, and I'm happy to answer any
22 questions that you may have about the particular sections
23 or anything, or if you'd like me to speak in greater
24 depth with regard to any of the particular sections
25 throughout.

1 But as an initial matter, I just also wanted to
2 point out to you -- just as Chairperson Urban
3 mentioned -- the ISOR -- or we call it the ISOR for
4 short, but it's the Initial Statement of Reasons -- is a
5 very helpful and useful document. It basically answers
6 the question of why is the regulation necessary, and what
7 benefits does it provide. And so if there's any
8 particular thing that you wanted to go back to at a later
9 time, it's a great place to start.

10 Also I thought I'd point out -- in case it wasn't
11 obvious -- but the PDFs that are on our meeting materials
12 on our website are actually bookmarked. So if you open
13 up the bookmark tab, it's a very useful tool that I use
14 particularly often, and it's easy to navigate through the
15 document for both the regulations and the ISOR.

16 I wanted to note, also, that since providing the
17 actual draft regulations to the Board, we have caught a
18 few nonsubstantive errors just with regard to formatting
19 and that sort of thing, and so we intend to correct those
20 prior to commencing any kind of formal rulemaking. So I
21 want to give that heads up to you all.

22 So speaking about the general overview of the
23 proposed regulations, the proposed regulations generally
24 do three things. The first thing it does is update
25 existing CCPA regulations to harmonize them with the CPRA

1 amendments to the CCPA, and to address any confusion that
2 exists in the marketplace even now. The second thing it
3 does is it operationalizes new rights and new concepts
4 that were introduced by the CPRA amendments. And
5 thirdly, it reorganizes and consolidates some of the
6 requirements in the law, so that it is easier to follow
7 and understand. It basically restates the law,
8 consolidates them into one place, just so that it aids in
9 the understanding.

10 I'll work through the -- there are nine articles
11 currently. And the first eight articles are basically
12 the same, but they've been added to. Article 9 covers
13 investigations and enforcement, and Ms. Schesser will be
14 covering that when I'm done with the first eight. But I
15 just want to walk you through the different articles and
16 point out the three components that I had just mentioned.

17 So starting with Article 1, that is the section that
18 deals with general provisions of the CCPA regulations.
19 It covers definitions that are used throughout the
20 regulations themselves. And again, here is an example of
21 how we're updating the existing CCPA regulations. One
22 example would be the use of the term consent. That is a
23 new term that was introduced by the CPRA amendments, and
24 it replaces affirmative authorization, which is what we
25 had previously used for that term. And so affirmative

1 authorization is deleted, and so there's an example of
2 how we're updating to align the regulations to the
3 existing law.

4 Second is with regard to implementing new concepts.
5 We include in this section a Section 7004, which has to
6 do with giving consumer consent. And it addresses this
7 idea of -- that was introduced by the CPRA amendments
8 that has to do with the fact that consent that is
9 obtained through the use of dark patterns is not
10 considered consent. And so what -- the question is left
11 for the office -- or the agencies to explain what is a
12 dark pattern. And so Section 7004 sets forth that in
13 greater detail and provides many examples for the public
14 to understand that.

15 An example of how we restate and reorganize the law
16 to aid in understanding would be Section 7002, which is
17 also in that general provision. This pertains to data
18 minimization and purpose limitations that were newly
19 introduced in Civil Code Section 1798.100. Now this is
20 something that is in the law, but we brought them into
21 the regs to help businesses understand what is required
22 of them when it comes to only collecting information
23 that's necessary and proportionate to the purpose that it
24 serves.

25 And then also, again, another example of us

1 restating the law and reorganizing it so that it's easier
2 for the public to understand is Section 7003, which sets
3 forth all the requirements for disclosures. It puts all
4 the information about how disclosures to consumers -- it
5 puts that all in one place instead of repeating it over
6 and over again in the separate sections that deal with
7 the particular notices to be given to consumers. And so
8 we thought that that would make a lot more sense for
9 consumers to be able to understand.

10 Moving on to Article 2. Article 2 has to do with
11 the different required disclosures that the CCPA expects
12 businesses to give to consumers. Again, here we are
13 updating existing CCPA regs to align them to the new
14 language of the law. There's updating that has been done
15 in the notice of collection requirements that pertains to
16 third parties that are controlling the collection of
17 personal information on the first party's online or
18 offline premises. We have also updated the notice of the
19 right to opt out of sale, because the CPRA amends the
20 CCPRA to extend that right to both sale and sharing of
21 personal information.

22 Some of the new concepts that are introduced in this
23 section have to do with the limit the use of my sensitive
24 personal information link. That is something that was
25 newly introduced -- a new right that was newly introduced

1 by the CPRA amendments, and so that has been
2 operationalized in Article 2.

3 And also, with regard to the reorganization and the
4 restatement of the law, we have section -- a good example
5 of that is the section on privacy policies. It looks
6 like there's a lot of red in that section, but in
7 actuality it's not changed very much substantively. It's
8 just been reorganized to sort of -- to map out or to
9 follow the organization in which most businesses put
10 their privacy policies together currently so that it's
11 easier for the public and businesses in particular to
12 understand what is required to be in the privacy
13 statement.

14 Moving on to Article 3. Article 3 is the business
15 practices for handling consumer requests. This was
16 previously the section that set forth all the methods and
17 the timelines and specifications with regard to CCPA
18 requests that are made to businesses under the CCPA.
19 Again, here we have updated existing regulations. We
20 have extended the right to opt out of sale, to include
21 the right to opt out of sale and sharing of personal
22 information. We have updated the methods by which
23 consumers can submit their CCPA requests to align to the
24 existing law -- the changes that were made to the law.
25 We have corrected that -- or we have clarified that the

1 right to know and the right to delete no longer applies
2 to household information, because that is a change that
3 was made by the CPRA amendments to the CCPA.

4 We have also, in Article 3, operationalized the new
5 rights introduced by the CPRA. Specifically, the right
6 to correct, as well as the right to limit the use of my
7 sensitive personal information. There we have noted
8 which methods should be used or offered by the business
9 with regard to submitting those requests, as well as
10 which timelines by which a business must respond to those
11 requests.

12 A few other things -- there's a lot in there, and
13 I'm kind of covering it at a high level -- but another
14 example of something that we've done there to
15 operationalize things is the opt-out preference signal.
16 The opt-out preference signal in Civil Code Section
17 1798.185 Subsection (a)(19) and (a)(20) are -- is
18 authority that was given to the Agency to set forth the
19 requirements for opt-out preference signal.

20 This is a section -- this section has often been
21 misunderstood with regard to interpretations that the
22 opt-out preference signal is optional to respond to by
23 business, but this is not what the law itself says. And
24 so this section here -- which I believe is 1725 --
25 7025 -- Section 7025 -- sets forth how, you know, the law

1 works. And so the regulations, as well as the ISOR,
2 address this head on and clearly explain how the statute
3 works.

4 Finally, with regard to the reorganization that was
5 made in Article 3, there were some things that we did in
6 that section to kind of aid in the public's understanding
7 of the regulations. And one that I can point out to is
8 with regard to the right to limit the use of sensitive
9 personal information. There are many exceptions to that
10 right, and the exceptions are somewhat spread out
11 throughout all of the CCPA. And so what we did was we
12 tried to consolidate those and set them forth very
13 clearly so that businesses understand what are the
14 exceptions that apply to the request to limit.

15 Article 4 is the section that deals with service
16 providers, contractors, and third parties. Again, we
17 update the existing CCPA regulations in there. There
18 were amendments that were made to the CCPA by the CPRA
19 that speak to the purposes for which service providers
20 can process personal information. So that's been updated
21 to the line -- to the language of the statute.

22 There's new concepts that were added there, because
23 there is a new -- a group of persons that have been
24 introduced into the CCPA by Prop 24 -- the CPRA -- and
25 that is the term contractors. So we clarified what

1 requirements applied to contractors and updated that as
2 well.

3 And finally, we reorganized -- or provided some
4 reorganization and restated all the contractual
5 requirements that the CPRA amendments add to the CCPA.
6 And that pertains to certain contract requirements of
7 what must be in a contract with a service provider or a
8 contractor. Some of this is all spread out, again,
9 throughout the statute, and what we did is we pulled them
10 all from the different subsections to put them in one
11 place, so it was very clear that businesses understand
12 what is required of a contract with a service provider or
13 a contractor.

14 Similarly, there is a new requirement in the CCPA by
15 the CPRA amendments that pertain to contractual -- a
16 contract to be in place with regard to third parties.
17 And this is a new section within the CCPA, and so that
18 has been clearly set forth and included in this section.

19 Finally, for my portion, Articles 5 through 8.
20 These are pretty much the same as before. This has to do
21 with verification, and special rules consumers under the
22 age of sixteen, nondiscrimination, and training and
23 record keeping. There has been updating throughout those
24 articles that align the language of the regulations with
25 the CPRA amendments to the CCPA, but on the most part

1 they're very -- they pretty much track similarly to what
2 they said before.

3 Now I'm going to turn over to my colleague, Ms.
4 Schesser, and she will cover Article 9.

5 **SUPERVISING DEPUTY ATTORNEY GENERAL SCHESSER:** Thank
6 you, Ms. Kim. Article 9 -- again, I'm going to go
7 through a high-level overview as Ms. Kim just did so
8 eloquently for the first articles, from Article 1 through
9 Article 8. Article 9 covers investigation and
10 enforcement.

11 These provisions outline first what is required to
12 be in a public complaint to the Agency, which leads to an
13 investigation and is governed by Civil Code Section
14 1798.199.45. For example, the proposed regulation
15 provides how sworn complaints may be submitted to the
16 Agency, and it also balances maintaining the
17 confidentiality of what's alleged in those complaints to
18 balance the Agency's interest in conducting its
19 investigation. The article then goes on to outline how
20 the Agency may open its own investigations and permits
21 the Agency to open a matter at its own determination.

22 The next provision establishes requirements for
23 probable cause hearings. This is a threshold procedural
24 requirement before the administrative enforcement process
25 may begin. The context to this is -- this section -- is

1 particularly important, as the CPRA amendments to the
2 CCPA codified in Civil Code Section 1798.199.55 and is a
3 requirement for the Agency's administrative enforcement
4 process.

5 Importantly, any probable cause determination is not
6 a final decision on the merits of the entire
7 investigation. It is a preliminary hurdle that must be
8 cleared in order to proceed with an enforcement action.
9 The process for conducting an administrative hearing --
10 which follows a probable cause finding -- is codified in
11 the APA starting at Government Code Section 11.500. The
12 process is highly detailed, and there is no need for
13 further regulations in this area.

14 Article 9 also establishes regulations for how the
15 Agency resolves an investigation through the filing of a
16 stipulated order entered by the Board. For example, if
17 the parties were to reach a negotiated resolution without
18 an administrative hearing.

19 Finally, the last section outlines the Agency's
20 audit authority, and is pursuant to 1798.185(a)(18).
21 Audit is an investigatory tool and similar to
22 administrative subpoena. It covers who the Agency may
23 audit, how a subject is selected for audit, and how any
24 personal information shall be protected under an existing
25 legal framework for a state agency. Thank you.

1 **CHAIRPERSON URBAN:** Sorry, the mask is stymieing me.
2 Thank you both very much for that helpful presentation.
3 Are there questions or comment -- and it's all right if
4 we ask you questions, yes? You're ready for -- okay.
5 Great. Are there comments or questions from board
6 members?

7 **BOARD MEMBER LE:** I can go ahead.

8 **CHAIRPERSON URBAN:** Mr. Le, please.

9 **BOARD MEMBER LE:** Yeah. I just, you know, want to
10 thank you all for your work. These are very detailed.
11 You know, it's going to be a while for us -- for me, at
12 least -- to process all of these. But you know, I think
13 you did a really good job of, you know, providing
14 examples for businesses and California consumers, and you
15 know, making sure that these rules -- especially the
16 stuff around dark patterns -- make sure that we get
17 actual consent and that consumers actually know what
18 they're getting into and have the least barriers to just
19 browsing the internet and protecting their privacy at the
20 same time. So yeah. So thank you.

21 **CHAIRPERSON URBAN:** Thank you, Mr. Le. Ms. Sierra?

22 **BOARD MEMBER SIERRA:** Yes. Thank you, Chair Urban.

23 And I, too, very much want to thank --

24 **CHAIRPERSON URBAN:** Ms. Sierra, can you speak closer
25 to the microphone? Thank you.

1 **BOARD MEMBER SIERRA:** Is that better?

2 **CHAIRPERSON URBAN:** Yeah.

3 **BOARD MEMBER SIERRA:** So I too would very much like
4 to thank Deputy Attorney General Lisa Kim, Supervising
5 Deputy Attorney General Stacey Schesser for all this
6 work. This is -- I'm very, very impressed as well. And
7 I am finding working through and reading the initial
8 statement of reasons -- the ISOR -- extremely helpful.
9 And I think it's going to be very helpful to the public
10 as well as all of us as board members, and to businesses
11 to really understand the thinking, and the rationale, and
12 what was considered. So you know, kudos to you both for
13 all this work on this.

14 You know, just for example, I'm looking at when you
15 were speaking at the data minimization. You know, I
16 think the explanation in the ISOR is extremely helpful on
17 that point. And I also very much appreciate toward the
18 latter part of the initial statement of reasons, the
19 different concepts that were considered, and the
20 balancing, and the thought that went behind some of those
21 decisions on those key concepts. So I think that's very,
22 very helpful.

23 So I think, you know, as we are going through this
24 and, you know, listening to the public comment that we
25 receive on these, you know, I will be guided by these and

1 will -- I'm very open to hearing all the different
2 perspectives on these issues. But right now seeing this
3 proposed draft, I feel like it does provide a lot of
4 clarity. I think the clarity was going to help both
5 businesses and consumers. I think the different examples
6 are very helpful. And I'll be very interested in hearing
7 the different thoughts on them. So thank you, again.

8 **CHAIRPERSON URBAN:** Thank you, Ms. Sierra. Other
9 comments or questions on -- yes, Mr. Thompson. Please,
10 go ahead.

11 **BOARD MEMBER THOMPSON:** Yeah. I want to echo the
12 comments that have been made and thank the staff and the
13 rest of the Board for this incredible milestone that
14 we've reached in this process. This has been an
15 interesting journey since we started as an agency a
16 little over a year ago, and this is a really significant
17 and major milestone. Thank you for the fine work that
18 has gone into this product. You know, I think we all
19 share a desire to ensure that we issue regulations and
20 enforce those regulations in a way that protects
21 consumers privacy in a way -- and allow consumers to
22 understand and make informed decisions about protecting
23 their own privacy and balancing that with clarity and
24 regulatory certainty for those who are regulated under
25 these regulations.

1 Like Mr. Le said, I'm still digesting the
2 regulations and the initial statement of reasons, and
3 what I've seen thus far, I think we're doing a good job
4 in striking that balance and taking a mix of approaches.
5 From mandates on the regulated entities, definition of
6 affirmative rights that consumers possess, and then
7 harnessing market forces where appropriate to ensure that
8 privacy is protected. So I'm really happy that we've got
9 this far and thank you for all your fine work.

10 **CHAIRPERSON URBAN:** Thank you, Mr. Thompson.

11 Further questions or comments at the moment?

12 All right. Seeing none. I already said thank you,
13 but I really can't thank you enough. And I also really
14 appreciate the Board's careful attention to what is, of
15 course, a very important task for the Board and also a
16 particularly complex one. And the Board's assertions of
17 how they're looking forward to public comments -- which I
18 am as well. I think that will help us as we work through
19 the regulations -- hearing comment from all stakeholders
20 in California through the formal process. So I'm looking
21 forward to that.

22 I just will go ahead and read the draft motion that
23 I've put together so we have that, and then we will ask
24 for public comments before we move forward. So the
25 motion that I think that we are considering is to approve

1 the proposed regulatory text for Sections 7000 to 7304
2 and authorize the executive director to take all steps
3 necessary to initiate the rulemaking process and public
4 comment period, make any nonsubstantive changes to the
5 package, and set the matter for a hearing.

6 And so that gets us up to accepting public comment,
7 doing a hearing, and then of course there's the process
8 that committee outlined for us. The Board will need to
9 meet in order to discuss the regulations in more detail,
10 to discuss public comment, and to decide where we are at
11 that stage of the process. But this would get the
12 regulations into the formal rulemaking process.

13 With that, I would like to call for public comment
14 on this topic, which is the combination of agenda items 3
15 and 4. We are hoping that we can make this very smooth
16 with the technical complexity notwithstanding. So if
17 everyone can be just a little bit patient and follow
18 directions for a second, it will help.

19 So for those of you attending via Zoom, if you'd
20 like to comment and you have your hand raised, thanks for
21 being proactive, but please lower it now. We'll wait a
22 second, and then staff will lower any additional hands
23 and I'll ask people to raise them again.

24 The reason we're doing this is because we've had
25 people raise hands and then walk away and forget that

1 they were there, and we're trying to avoid that and make
2 sure that we hear from everyone who wants to speak on
3 this. So if you give us a second to do that, while we
4 wait, if any members of the public attending in person
5 here in Oakland would like to comment, please rise and
6 form a line behind the podium. Respect social
7 distancing.

8 Okay. Trini, are the hands down? Okay. Great.
9 All right. Thanks, everyone on Zoom, for your patience.
10 Now if you are attending and would like to comment on
11 this topic, please raise your hand using the raise your
12 hand function on Zoom. And we'll wait a second to let
13 the queue build on Zoom.

14 **MODERATOR HURTADO:** Should I begin?

15 **CHAIRPERSON URBAN:** Sure. Could you let me know how
16 many?

17 **MODERATOR HURTADO:** Right now, there's one hand
18 raised.

19 **CHAIRPERSON URBAN:** Okay. Wonderful. Thank you.
20 Before we start speaking, I'd just again like to remind
21 everyone to stay on topic so that we are in compliance
22 with Bagley-Keene. Please keep your comments to three
23 minutes or less so every speaker has a chance to speak,
24 and of course just let us know if you have questions. We
25 look forward to hearing from you. So yes, Ms. Hurtado,

1 please begin.

2 **MODERATOR HURTADO:** Okay. Our first speaker is
3 Lucine Chenkezian (ph.). You may now speak. You have
4 three minutes.

5 **MS. CHENKEZIAN:** Lucine Chenkezian, counsel at Civil
6 Justice Association of California. Thank you for the
7 opportunity to comment. We are still in the process of
8 reviewing the proposed regulations but have a few initial
9 points we would like to raise today.

10 Regarding the proposed symmetry choice standard for
11 dark pattern, it is overly broad and likely unworkable.
12 The regulations can support clarity by specifying the
13 definition of dark patterns. This focused on design
14 practices that amount to consumer fraud. The consumer
15 fraud approach is a well-developed and highly effective
16 standard, while the symmetry choice standard would
17 interfere with design choices that seek to promote
18 benefits to consumers while navigating a product or
19 service experience.

20 As to the global opt-out preference signal, the CPRA
21 clearly states that businesses have the option of
22 honoring a global opt-out signal or providing a do not
23 sell button. It is Agency overreach to try to remove the
24 choice created by the statute. On a related note, we
25 appreciate the alternative link option and would request

1 clarification that this is in the menu of options for
2 opt-out.

3 To the extent that new regulations are created
4 around ADS or other areas, we would request the
5 enforcement deadline be extended by at least six to
6 twelve months. Thank you, again.

7 **CHAIRPERSON URBAN:** Thank you very much. Ms.
8 Hurtado, is there further comment?

9 **MODERATOR HURTADO:** Yes. We have one more
10 commenter. Our next commenter is Titi Guyen -- Nguyen.
11 Sorry. One moment while we promote you to panelist.

12 Oh. There they are. Okay. You now have three
13 minutes. You may speak when you're ready. You might
14 need to unmute.

15 We just received a message that they did not raise
16 their hand.

17 **CHAIRPERSON URBAN:** Oh. Okay. All right. Sorry
18 for cold calling.

19 **MODERATOR HURTADO:** The hand was raised though. I
20 promise.

21 **CHAIRPERSON URBAN:** Okay. Is there anyone else on
22 Zoom?

23 **MODERATOR HURTADO:** No. No more hands are raised at
24 this time.

25 **CHAIRPERSON URBAN:** Wonderful. Thank you very much.

1 No one in person has stood up, so I'll just give a
2 moment. I apologize. I am a law professor in my day
3 job, and I don't mean to put people on the spot, but it's
4 kind of part of my job. And I want to be sure everyone
5 has a chance. If you're just thinking that you have time
6 to decide a comment.

7 All right. So thanks to the woman from CJAC for the
8 comment. And we really do look forward to comments that
9 we get through the formal process. I will say a little
10 bit about what I personally hope to see in comments.

11 If you are a consumer, just let us know what your
12 experience is. I mean, let us know anything you'd like,
13 but if you can let us know something about your
14 experience, that would be very helpful. If you're a
15 business looking to comply, it would also be very helpful
16 to have specific as to any successes you've had
17 complying, any challenges that you have complying,
18 challenges that you might anticipate, or successes you
19 might anticipate with the amendments to the rules. And
20 to let us know specifically how that might affect you and
21 any ideas that you have for addressing it, including
22 regulatory language if you can. So those would be
23 particularly helpful comments when we get to the formal
24 rulemaking process.

25 Are there any other Board comments or questions

1 before we go? Mr. Le?

2 **BOARD MEMBER LE:** Yeah. I just want to second the
3 request that, you know, if you do have regulatory
4 language suggestions, please submit those. You know, so
5 that we can consider those and not just have to guess,
6 you know, what changes that you would like or suggest.

7 **CHAIRPERSON URBAN:** Thank you, Mr. Le. Also we
8 can't change the statute.

9 **BOARD MEMBER LE:** Yes.

10 **MODERATOR HURTADO:** Chair Urban?

11 **CHAIRPERSON URBAN:** Yes.

12 **MODERATOR HURTADO:** Excuse me. I don't mean to
13 interrupt, but we do have one more hand raised, if you
14 want to --

15 **CHAIRPERSON URBAN:** Oh. Okay. Sure. We will --
16 let's go back to public comments since we do have another
17 hand raised, and then we will move on.

18 **MODERATOR HURTADO:** Okay. The next commenter is
19 Howard's Pixel (ph.). You have -- one moment while we
20 promote you.

21 Okay. Howard's Pixel, you have three minutes. You
22 may speak when you're ready. Please unmute.

23 **MR. PIXEL:** I finally found the button. I'm sorry
24 for delaying my comment.

25 **MODERATOR HURTADO:** No worries.

1 **MR. PIXEL:** I think it's a well-done draft and I'm
2 concerned about the lack of specificity for being able to
3 opt-out. The practice right now of suppressing the --
4 the cookies is very varied among sites. Some sites do it
5 right up -- up front. Or you know, one click to do it.
6 Others, it's buried in the privacy language. Now I
7 believe you dealt with the privacy language, but I don't
8 think you've dealt adequately with trying to promote some
9 kind of a standard so that users know exactly what to do.
10 That's the first comment.

11 And the second is that it should be somehow recorded
12 so that you don't have to answer every time you go to a
13 site. We don't know whether the cookie settings
14 (indiscernible) is maintained between sessions maybe
15 (indiscernible). Thank you for the opportunity to speak.

16 **CHAIRPERSON URBAN:** Thank you very much, Mr. Pixel.
17 Ms. Hurtado, is that?

18 **MODERATOR HURTADO:** That was the only hand that was
19 raised.

20 **CHAIRPERSON URBAN:** Wonderful. Thank you very much.
21 Thank you to those who engaged in public comment. We
22 appreciate that, and we do look forward to comments
23 during the formal proceeding should we approve it.

24 And with that, may I have a motion to approve the
25 proposed regulatory text for Sections 7000 to 7304, and

1 authorize the executive director to take all steps
2 necessary to initiate the rulemaking process and public
3 comment period, make any nonsubstantive changes to the
4 package, and set the matter for a hearing.

5 **BOARD MEMBER SIERRA:** I'll so move.

6 **CHAIRPERSON URBAN:** Thank you. May I have a second?

7 **BOARD MEMBER LE:** Yeah. I'll second.

8 **CHAIRPERSON URBAN:** Thank you. I have a motion from
9 Ms. Sierra and a second from Mr. Le. Ms. Hurtado, would
10 you please call the roll call vote?

11 **MODERATOR HURTADO:** Of course. Ms. De la Torre?
12 Mr. Le?

13 **BOARD MEMBER LE:** Aye.

14 **MODERATOR HURTADO:** Ms. Sierra?

15 **BOARD MEMBER SIERRA:** Aye.

16 **MODERATOR HURTADO:** Mr. Thompson?

17 **BOARD MEMBER THOMPSON:** Aye.

18 **MODERATOR HURTADO:** Ms. Urban?

19 **CHAIRPERSON URBAN:** Aye.

20 **MODERATOR HURTADO:** There are four ayes and one
21 absent.

22 **CHAIRPERSON URBAN:** Thank you very much, Ms.
23 Hurtado. The motion carries with a vote of four to zero.
24 Thank you very much to the Board, of course the staff,
25 and counsel, and to everyone in the public. And I will

1 look forward to seeing the formal rulemaking process for
2 this package.

3 Congratulations, everyone. I feel like this is a
4 big step to get our regulations into the formal process.
5 And thank you.

6 With that, we will return to agenda item number 2.
7 And thanks for everyone's patience. My understanding is
8 that this is a brief clarification, but I will turn it
9 over to Mr. Brian Soublet, our acting general counsel, to
10 say a little bit more.

11 **MR. SOUBLET:** Good morning and thank you Chair
12 Urban. We just had a very short period of time in order
13 to get agenda items for this morning's board meeting, and
14 at the time I thought there was something that needed to
15 be more clarified on the item that we had discussed at
16 the last board meeting. However, after looking at the
17 language and then taking a deeper dive into the statute,
18 I don't think there's anything we need to address with
19 respect to that item this morning. So there's no further
20 discussion that's actually warranted on it at this time.
21 We will just proceed with what had been authorized by the
22 Board at the prior board meeting.

23 **CHAIRPERSON URBAN:** Thank you, Mr. Soublet. Any
24 questions from the Board? Okay. Wonderful. Thank you,
25 Mr. Soublet. So the version of the Incompatible

1 Activities Statement as amended by the Board last time
2 will be circulated and put on the website.

3 **MR. SOUBLET:** That is correct.

4 **CHAIRPERSON URBAN:** Wonderful. Thank you.

5 **MR. SOUBLET:** Thank you.

6 **CHAIRPERSON URBAN:** Thank you very much. Is there
7 any public comment on this item?

8 **MODERATOR HURTADO:** I see no hands raised at this
9 time on Zoom.

10 **CHAIRPERSON URBAN:** Thank you. Anyone here in
11 person who would like to comment?

12 All right. I'm seeing no requests for public
13 comment in person either. We'll move to agenda item
14 number 5, public comments on items not on the agenda.
15 This is the item I mentioned at the top of the meeting,
16 in which the Board invites comments on items that are not
17 otherwise on the agenda.

18 Before we proceed with public comment on this,
19 please note that the only action the Board can take is to
20 listen to comments and consider whether to discuss the
21 topic at a future meeting. No other action can be taken
22 on an item at this meeting. Although this may seem at
23 times like board members are not being responsive, we do
24 not intend to be, and following these guidelines is
25 critical to ensure that the rules of the Open Meeting Act

1 are followed and to avoid compromising either the
2 commenters goals or the Board's mission.

3 So with that, is there anyone who would like to
4 comment on items not on the agenda on Zoom?

5 **MODERATOR HURTADO:** There are no commenters at this
6 time.

7 **CHAIRPERSON URBAN:** All right. Comments from
8 someone in person? I see we do have a commenter.

9 **MR. LOMBARD:** Yes.

10 **CHAIRPERSON URBAN:** Please step forward. You have
11 three minutes.

12 **MR. LOMBARD:** Thank you. Good morning, Chair and
13 members of the board. My name is Edwin Lombard. And I
14 am here as a small-business owner, and I consult with
15 the -- and represent -- small, black-owned businesses
16 throughout the state of California.

17 I've been working hard to keep black businesses
18 apprised of the privacy regulations that you are trying
19 to implement, but the Agency has not been forthcoming
20 about its process. It's lack of outreach to small
21 businesses are the consequences businesses will face as a
22 result of these regulations.

23 Further, I'm concerned about the message the Board
24 is sending about its willingness to hear more from the
25 public, as it opted for a staff-lead meeting -- staff-led

1 meeting during the upcoming public comment period.

2 In conversations I've had with black businesses
3 across the state, it's become clear the Board should be
4 taking more -- talking more with small, black-owned
5 businesses and not less. More needs to be done to reach
6 out to businesses where they are and help them gather
7 input on regulations that will affect their bottom line.

8 While releasing the draft regulations is a big step
9 in the right direction, they're incomplete. The Board
10 has already indicated that there are multiple issues that
11 have not been addressed, so we don't even have a full
12 draft to reveal and comment on. There are enormous
13 compliance costs associated with these regulations, and
14 the claim that small businesses will not have to show to
15 the burden of these costs is simply not true.

16 Small businesses rely increasingly on online
17 platforms and making these -- and making these platforms
18 more costly and less effective will have a direct impact
19 on them and the consumers and communities they serve.
20 How are the members of the public -- especially small-
21 business owners whose livelihoods are impacted by these
22 regulations -- expected to participate in the upcoming
23 public comment periods if the members of the Board might
24 not even show up.

25 We are asking for a transparent, inclusive process

1 informed by input from California small businesses.
2 California cannot afford to implement regulations that
3 force small businesses to close their doors, especially
4 as minority-owned businesses have already been
5 disproportionately affected by the pandemic and so many
6 other ongoing issues.

7 Also in your last meeting, the Board expressed
8 preference in conducting staff-meeting-like approach
9 during the public hearing testimony, which means the
10 Board's presence will not -- may not be necessary if my
11 understanding is correct.

12 **MODERATOR HURTADO:** Thirty seconds.

13 **MR. LOMBARD:** If true, this is unfortunate. Lastly,
14 the Board needs to commit to a part of the regulation, or
15 in some form or capacity that the enforcement deadline
16 will be extended for six months to give businesses time
17 to comply. This is far -- this is fair in light of the
18 Board's lateness in adopting regulations. It's not too
19 late to get this right for California. Thank you.

20 **CHAIRPERSON URBAN:** Thank you very much, Mr.
21 Lombard. Is there further public comment? Yes, there's
22 a public comment on Zoom. All right.

23 **MODERATOR HURTADO:** It takes a second to transfer
24 over. Our next speaker is Mitchel CH -- Michelle CHCC.

25 There we go. Just one moment. Michelle?

1 **MR. LOPEZ:** Hi. Yes. Sorry, it's -- I was supposed
2 to be Luis Lopez.

3 **MODERATOR HURTADO:** Okay. Mr. Lopez, you have three
4 minutes to speak. Your time begins now.

5 **MR. LOPEZ:** Good afternoon, Chair and members of the
6 Board. My name is Luis Lopez and I'm here on the behalf
7 of the California Hispanic Chamber of Commerce.

8 It is important to remember that privacy regulations
9 will impact California businesses of all sizes who
10 operate online or use online services to reach and serve
11 customers. We appreciate that the Agency is now
12 releasing its draft privacy regulations, which will
13 impact millions of California businesses -- including
14 approximately 1.2 million minority-owned businesses.
15 While this has been a significant undertaking, our
16 members have serious concerns about the lack of
17 transparency regarding this process and the effect the
18 regulations will have on their ability to serve their
19 communities.

20 Some board members and staff have previously
21 indicated that the Agency will miss its July 1st, 2022
22 statutory deadline to adopt regulations. However, we
23 have not heard when the Agency will actually adopt new
24 regulations, or -- as important -- if and when the
25 enforcement deadline will be extended to ensure ample

1 time for businesses to comply with the new regulations.

2 The Board needs to commit as part of the
3 regulations -- or in some formal capacity -- that the
4 enforcement deadline will be extended by six months to
5 give businesses time to comply. This is fair in light of
6 the Board's lateness in adopting the regulations. Will
7 you let these small businesses know today how long you
8 will extend the enforcement -- the enforcement deadline
9 to make sure they have enough time to prepare for them as
10 intended in Proposition 24?

11 As you are all well aware, the pandemic has forced
12 small businesses to learn on the fly to connect with and
13 serve their customers online just to stay afloat.
14 Thousands of businesses were not able to make the
15 transition. The last thing our state needs is to force
16 the closures of more small businesses in an attempt to
17 rush a complex regularity framework that can have severe
18 unintended consequences. These consequences are largely
19 avoidable.

20 I strongly encourage you to engage more small
21 businesses in these process. Be transparent about what
22 you are and are not doing, and study -- study the impact
23 of these regulations on small businesses in our state.
24 We're all counting on you to get this right. Thank you.

25 **CHAIRPERSON URBAN:** Thank you very much, Mr. Lopez.

1 Ms. Hurtado?

2 **MODERATOR HURTADO:** There are no other commenters at
3 this time.

4 **CHAIRPERSON URBAN:** All right. Then I would like to
5 thank our commenters for this item. We very much
6 appreciate your engagement and participation. And we
7 will move to agenda item number 6, which is the
8 opportunity to discuss future agenda items.

9 I have a running list that I went through in the
10 last meeting. I can go through it again, but I won't
11 unless you want me to. And would like to ask if the
12 Board have any agenda items you'd like to suggest that
13 have come up?

14 **BOARD MEMBER LE:** I -- I -- I would.

15 **CHAIRPERSON URBAN:** Yes, Mr. Le.

16 **BOARD MEMBER LE:** I mean, in regards to these public
17 comments, can we -- and it may even be good to ask the
18 staff -- but can we get a legal opinion on what we can
19 share around enforcement deadlines? I do know this is
20 something that the public is interested in, but we are
21 also -- as a Board and as an Agency -- not allowed to say
22 a lot of things because of underground rulemaking rules.

23 Is there any way we could share that with the
24 public? Maybe an explanation about underground
25 rulemaking or anything like that? Or I'd like to hear --

1 maybe -- your all thoughts on if that would be a helpful
2 agenda item.

3 **CHAIRPERSON URBAN:** Thank you, Mr. Le. So an agenda
4 item to give us the parameters on what we can discuss and
5 maybe options.

6 **BOARD MEMBER LE:** Yeah. And we don't -- I mean, I
7 would like to hear the staff's opinion, too, if that's
8 allowed on whether that's something that we should do, or
9 we can do. Because, yeah, I do think there's a
10 communication gap that, you know, we are -- as a Board,
11 by the rules and by statute -- kind of constrained by.

12 **CHAIRPERSON URBAN:** Thank you, Mr. Le. I'll put
13 that on the list. That makes sense to me. Any other
14 requests or questions from the Board?

15 **BOARD MEMBER THOMPSON:** I would --

16 **CHAIRPERSON URBAN:** Yes, Mr. Thompson.

17 **BOARD MEMBER THOMPSON:** I'd echo Mr. Le's
18 observation and I think he's spot on to agendize that for
19 a future meeting. I think we probably -- I want to have
20 the ability to discuss how we're going to process
21 changes --

22 **CHAIRPERSON URBAN:** Okay.

23 **BOARD MEMBER THOMPSON:** -- proposed changes to the
24 rules on a future agenda. May not use that item, but I
25 want to have the option.

1 **CHAIRPERSON URBAN:** All right. Any further items?

2 **BOARD MEMBER SIERRA:** I don't have anything
3 additional.

4 **CHAIRPERSON URBAN:** Okay. Wonderful. So I have a
5 legal opinion and possibly guidance from staff on what
6 Board and the Agency can disclose on enforcement
7 practices and enforcement deadlines, and maybe what
8 options are. And an agenda item that would allow us to
9 discuss how to process proposed changes to the rules that
10 we receive in the public comment process.

11 **BOARD MEMBER THOMPSON:** Yeah. They could be -- I
12 wouldn't limit it to --

13 **CHAIRPERSON URBAN:** Okay.

14 **BOARD MEMBER THOMPSON:** -- received through the
15 public comment process, because they could be generated
16 by ourselves as well.

17 **CHAIRPERSON URBAN:** Right. Okay. Sure. I was just
18 imagining what meeting that would be. Okay. Thank you
19 all very much. And are there any public -- excuse me --
20 any agenda items or comments on potential agenda items
21 from the public?

22 **MODERATOR HURTADO:** We do have one hand raised.

23 **CHAIRPERSON URBAN:** Okay.

24 **MODERATOR HURTADO:** Okay. Our speaker is Jeremy
25 Barnett (ph.). Mr. Barnett, you have three minutes to

1 speak. You may begin now.

2 **MR. BARNETT:** Thank you very much. I greatly
3 appreciate all the work of this committee and for the
4 evolution of CCPA and CRPA to help move things forward.
5 I think -- I -- I -- I think that we all acknowledge that
6 the need for clarity and transparency in working with,
7 you know, certainly online privacy is really important.

8 I wanted to suggest that perhaps in the future when
9 we're discussing -- or as the committee is looking at
10 enforcement -- that perhaps there's an agenda item
11 relative to -- I'll call it tools and technologies --
12 that can help companies comply. It feels like there's a
13 lot of emphasis on the -- the regulations and the
14 language around it. But I know -- you know, as a
15 technology company -- it's really difficult for a lot of
16 companies to comply when they don't have the tools or
17 understanding in house to help them, you know, identify,
18 monitor, manage the myriad data elements that are being
19 requested to be -- to be managed. So as a -- both a
20 regulatory body and as a leader in the state of
21 California -- to help companies figure out how to do
22 this, it would be really helpful.

23 And maybe it's, you know -- it's something of an
24 adjunct advisory board or something like that to help the
25 committee understand -- I mean, California, we are -- we

1 are developing the technology that both causes the --
2 the -- the privacy concerns, as well as the technologies
3 that help people identify the privacy concerns. Like, we
4 have rich, rich resources right here in the state, you
5 know, from the North and the South ends of it.

6 And I just wonder how a public-private partnership
7 can be formulated to help address this, because there are
8 spectacular opportunities for -- for that, specifically
9 in California. Where we can lead by regulation, and we
10 can lead by enforcement, and we can lead by technology.
11 I think it would really be a wonderful opportunity to
12 figure out how do we -- how do we create such a
13 partnership --

14 **MODERATOR HURTADO:** Thirty second warning.

15 **MR. BARNETT:** -- advisory board. Yeah. Thank you.
16 That's all.

17 **CHAIRPERSON URBAN:** Thank you very much, Mr.
18 Barnett. Public Awareness and Guidance Subcommittee,
19 does this sound like something for you to think about, or
20 do you want me to just keep it on my list for general
21 agenda items?

22 **BOARD MEMBER LE:** You know, I -- I -- I thought that
23 was more -- that comment was more around, you know, tools
24 to comply with the privacy regulations.

25 **CHAIRPERSON URBAN:** Um-hum. Yeah.

1 **BOARD MEMBER LE:** I mean, that could be something
2 for our committee to talk about. But I also think it --
3 you know, regarding that idea -- and I know that in
4 Europe they have tools, and maybe it would be better as,
5 like, a stakeholder session where we can comment. But
6 perhaps we could take it up in our committee and then
7 come back to the Board.

8 **CHAIRPERSON URBAN:** Okay. Sure. I don't mean to --
9 I'm not telling you what to do. I'm just trying to
10 direct traffic and make sure that we don't lose it and
11 that we have the right people thinking about it.

12 **BOARD MEMBER LE:** Yeah.

13 **CHAIRPERSON URBAN:** Okay. So we will leave it with
14 the Public Awareness and Guidance Subcommittee for the
15 moment and you'll let us know what you think is a good
16 approach.

17 **BOARD MEMBER LE:** Yeah.

18 **CHAIRPERSON URBAN:** Wonderful. Thank you very much.
19 Are there any further public comments?

20 **MODERATOR HURTADO:** Not at this time.

21 **CHAIRPERSON URBAN:** All right. Thank you all very
22 much. Our final agenda item is number 7, adjournment. I
23 would like to, again, thank everyone -- board members,
24 staff, members of the public -- for all of your
25 contributions to the meeting and to all of the Board's

1 work. Particularly the work that we have been discussing
2 in the meeting today. It is really, greatly appreciated.
3 May I have a motion to adjourn the meeting?

4 **BOARD MEMBER LE:** I'll place that move.

5 **CHAIRPERSON URBAN:** Thank you. Thank you. Mr. Le
6 has moved. Is there a second?

7 **BOARD MEMBER THOMPSON:** Second.

8 **CHAIRPERSON URBAN:** Thank you. I have a motion and
9 a second. Ms. Hurtado, could you please conduct the roll
10 call vote?

11 **MODERATOR HURTADO:** Ms. De la Torre? Mr. Le?

12 **BOARD MEMBER LE:** Aye.

13 **MODERATOR HURTADO:** Ms. Sierra?

14 **BOARD MEMBER SIERRA:** Aye.

15 **MODERATOR HURTADO:** Mr. Thompson?

16 **BOARD MEMBER THOMPSON:** Aye.

17 **MODERATOR HURTADO:** Ms. Urban?

18 **CHAIRPERSON URBAN:** Aye.

19 **MODERATOR HURTADO:** There are four ayes and one
20 absent.

21 **CHAIRPERSON URBAN:** Thank you very much, Ms.
22 Hurtado. The motion has been approved by a vote of four
23 to zero. This meeting of the California Privacy
24 Protection Agency Board is now adjourned. Thank you.

25 (End of recording)

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