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CALIFORNIA PRIVATE PROTECTION AGENCY

TRANSCRIPTION OF RECORDED BOARD MEETING

JULY 28, 2022

SACRAMENTO, CALIFORNIA

Present (Via Zoom):

- TRINI HURTADO, Moderator
- JENNIFER M. URBAN, Chairperson
- ANGELA SIERRA, Board Member
- CHRIS THOMPSON, Board Member
- LYDIA DE LA TORRE, Board Member
- VINHCENT LE, Board Member
- BRIAN G. SOUBLET, General Counsel
- MAUREEN MAHONEY, Deputy Director
- NELSON R. RICHARDS, Staff Attorney
- MILAD DALJU, Board counsel

Transcribed by: Colin Richilano,
eScribers, LLC
Phoenix, Arizona

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1 for questions and discussion by the board members. I
2 will also ask for public comment on each agenda item.
3 Each speaker in the public comments session will be
4 limited to three minutes per agenda item.

5 Let's take a moment now for those of you who might
6 wish to participate to note that if you wish to speak on
7 an item, you will please use the raise your hand
8 function, which is in the reaction feature on the bottom
9 of your Zoom screen. So if you would like to take a
10 moment to locate that now, please do.

11 Please also note that our moderator will call on you
12 after you raise your hand and will request that you
13 unmute yourself for comment. When your comment is
14 completed, the moderator will mute you. It is helpful if
15 you identify yourself, but this is entirely voluntary and
16 you can input a pseudonym when you log into the meeting
17 as well.

18 My thanks to the board members for their service and
19 everyone working to make the meeting possible, especially
20 everyone on staff at the California Privacy Protection
21 Agency and the Office of the Attorney General supporting
22 us today, particularly for a special meeting, which
23 requires a lot of work on short notice.

24 Mr. Milad Dalju, who is acting as our meeting
25 counsel -- thank you, Mr. Dalju -- Ms. Trini Hurtado, who

1 is our moderator, and Ms. Stacy Heinsen, who organized
2 administrative staffing and resources.

3 I would also like to thank Brian Soublet, our
4 interim general counsel, Nelson Richards, California
5 Privacy Protection Agency attorney who is here with us
6 today, and Von Chitambira, who is our deputy director of
7 administration.

8 And as ever, I would like to express my gratitude
9 for the team at the Department of Consumer Affairs for
10 managing our communications and the Business, Consumer
11 Services and Housing Agency, Department of Consumer
12 Affairs, Department of General Services, The Office of
13 the Attorney General, and other agencies who continue to
14 support us.

15 I now call this special meeting to order at 9:05
16 a.m. and will ask our moderator, Ms. Hurtado, to please
17 conduct the roll call.

18 **MS. HURTADO:** Yes, good morning.

19 Ms. Urban?

20 **MS. URBAN:** Present.

21 **MS. HURTADO:** Ms. De La Torre?

22 **MS. DE LA TORRE:** Present.

23 **MS. HURTADO:** Mr. Le?

24 **MR. LE:** Present.

25 **MS. HURTADO:** Ms. Sierra?

1 **MS. SIERRA:** Present.

2 **MS. HURTADO:** Mr. Thompson?

3 **MR. THOMPSON:** Present.

4 **MS. HURTADO:** All members are present.

5 **MS. URBAN:** Thank you very much, Ms. Hurtado. The
6 board has established a quorum. I would like to let the
7 board members know that we will take a roll call vote on
8 action items.

9 Now, as I mentioned, this is a special meeting of
10 the board called pursuant to Government Code Section
11 11125.4, which is part of the Bagley-Keene Open Meeting
12 Act, which allows for board meeting on forty-eight hours'
13 notice instead of our usual ten days' notice for certain
14 purposes when necessary. In particular, this meeting has
15 been called pursuant to Government code Section
16 1125.4(a)(2), which allows for special meetings to
17 consider proposed legislations.

18 As indicated in the agenda, we have convened a
19 special meeting today to discuss a matter of proposed
20 legislation on which the board must consider immediate
21 action.

22 The Bagley-Keene Open Meeting Act at Government Code
23 Section 11125.4(c) requires that the board make a finding
24 of necessity to hold a meeting on less than ten days'
25 advance notice before we proceed. Specifically, to

1 continue with the special meeting, the board must
2 determine whether the delay necessitated by providing ten
3 days' notice would pose a substantial hardship on the
4 board or that immediate action is required to protect the
5 public interest or both.

6 The finding of necessity must be made by a duly
7 seconded motion in open session. Please also note that
8 to pass or carry, the motion to adopt the finding must
9 receive a supermajority vote, either a unanimous vote if
10 less than two-thirds of the members are present or if
11 more members are present, a two-thirds majority. So
12 today, we would need a two-thirds majority, which because
13 we are five members I believe is four out of five. If
14 the motion does not pass or carry by the required
15 supermajority vote, the special meeting cannot go
16 forward. The finding of necessity requires specific
17 factual findings. These finding will be set forth in the
18 motion.

19 So I will put the motion on the table with the
20 findings, ask for a movement and a second, then call for
21 board discussion and comment, so we all know what we're
22 talking about, then I will call for public comment before
23 we vote.

24 Accordingly, may I please have a motion and a second
25 to adopt the following. Factual finding one: The board

1 finds that providing ten days' advance notice of this
2 meeting would pose a substantial hardship on the board
3 and immediate action is required by the board to protect
4 the public interest, in that the House of Representatives
5 of the United States Congress is actively pursuing a
6 bill, the American Data Protection and Privacy Act (sic),
7 that seeks to preempt much of the California Consumer
8 Privacy Act of 2018 as amended by the California Privacy
9 Rights Act of 2020, and that would have substantial
10 effects on California law and its protections for
11 Californians and that similar bills may be under
12 development in the United States House of Representatives
13 and the United States Senate.

14 Finding two: The board finds that the United States
15 House of Representatives advance the American Data
16 Privacy -- Protection and Privacy Act (sic), excuse me,
17 out of the Energy and Commerce Committee last week.

18 Finding three: The board finds that if the board
19 had to wait a full ten days to meet, to discuss and
20 provide guidance on this legislation, the board could be
21 deprived of the ability to timely take guidance from
22 staff on the effect of this federal legislation on
23 California law, Californians, and the agency, and to
24 deliberate and provide timely direction to agency staff
25 regarding the agency's position or positions and guidance

1 to Congress on the legislation.

2 Finding four: The board finds that if it is not
3 able to meet prior to Congress taking further steps to
4 advance the American Data Protection and Privacy Act
5 (sic) or similar legislation, California law could be
6 severely effective -- affected. California privacy
7 rights could be compromised and the public interests
8 could be harmed.

9 Finding five: Based on these facts and
10 circumstances, insufficient time exists for the board to
11 provide ten days' advanced notice of this special meeting
12 and meeting upon short notice is necessary and proper.

13 May I thus please have a motion to adopt these
14 factual findings and to determine that, one, providing
15 ten days' advanced notice pursuant to Government Code
16 Section 11125 would impose a substantial hardship on the
17 board, two, immediate action is necessary to protect the
18 public interest, and three, it is necessary and proper to
19 proceed with this special meeting pursuant to Government
20 Code Section 11125.4(c).

21 **MS. DE LA TORRE:** I so move.

22 **MS. URBAN:** Thank you, Ms. de la Torre.

23 Is there a second to the motion?

24 **MS. SIERRA:** I will second.

25 **MS. URBAN:** Thank you, Ms. Sierra. The motion has

1 been made by Ms. de la Torre and seconded by Ms. Sierra.

2 Thank you very much.

3 Now, are there questions or comments from board
4 members on the pending motion? Okay. Thank you very
5 much.

6 In that case, is there any public comment from those
7 in the audience on the pending motion?

8 **MS. HURTADO:** I see no hands raised at this time.

9 **MS. URBAN:** Thank you very much, Ms. Hurtado. I'll
10 pause once more for any thoughts that might have occurred
11 to members of the board. And seeing none, I will call
12 the question and ask Ms. Hurtado to conduct a roll call
13 vote. The motion will carry or pass if it receives a
14 unanimous vote or a vote of four to five.

15 Ms. Hurtado -- or excuse me. Four. Of at least
16 four members in favor.

17 Ms. Hurtado, would you please perform the roll call
18 vote?

19 **MS. HURTADO:** Yes.

20 Ms. de la Torre?

21 **MS. DE LA TORRE:** Aye.

22 **MS. HURTADO:** Mr. Le?

23 **MR. LE:** Aye.

24 **MS. HURTADO:** Ms. Sierra?

25 **MS. SIERRA:** Aye.

1 **MS. HURTADO:** Mr. Thompson?

2 **MR. THOMPSON:** Aye.

3 **MS. HURTADO:** Chair Urban?

4 **MS. URBAN:** Aye.

5 **MS. HURTADO:** All are ayes.

6 **MS. URBAN:** Thank you very much, Ms. -- thank you
7 very much, Ms. Hurtado. The required supermajority is
8 achieved and the motion carries by a vote of five to
9 zero.

10 Given that the motion carries, we will continue with
11 a special meeting and move to agenda item two, which is
12 discussion and possible action on proposed federal
13 privacy legislation, including the American Data
14 Protection and Privacy Act (sic) and similar legislation.
15 As noted, this discussion and possible action is under
16 the authority of Government code 11125.4(a)(2).

17 I now draw your attention to the materials for
18 agenda item two, which includes two short memos from our
19 deputy director for policy and legislation, Maureen
20 Mahoney, some letters from the governor of California,
21 some attorneys general, and the speaker of the California
22 Assembly, as well as the current version of the ADPPA.

23 I'm delighted now to introduce Maureen Mahoney, our
24 deputy director of policy and legislation, who will be
25 briefing us today. She joined the California Privacy

1 Protection Agency on May 4th. As deputy director of
2 policy and legislation, she manages the agency's policy
3 and legislative portfolio, which includes providing
4 technical advice and assistance to us and to the
5 California Legislature on privacy legislation and working
6 with authorities in California in other jurisdictions to
7 ensure consistent privacy protections per our
8 responsibility under 1798.199.40.

9 Deputy director Mahoney joined the agency from
10 Consumer Reports, where she worked for nearly a decade on
11 privacy and technology issues including privacy, data
12 security, data breach notification, right to repair, and
13 telemarketing legislation. Before that, she received her
14 PhD in history from the University of Wisconsin-Madison.

15 I will now hand things over to Deputy Director
16 Mahoney. Please hold your questions until the
17 presentation is complete -- unless, of course, Deputy
18 Director, say if you prefer otherwise -- and after we
19 hear from our deputy director, we will have some
20 discussion.

21 **MS. MAHONEY:** Thank you, Chairperson, members of the
22 board. I'm here to present an analysis and recommended
23 agency position on HR8152, the ADPPA, a federal privacy
24 bill that advanced out of the United States House of
25 Representatives Energy and Commerce Committee last week.

1 It provides the right to access, delete, and correct
2 covered data, with additional protections for sensitive
3 covered data. There's data minimization language as
4 well.

5 However, it seeks to broadly preempt state
6 comprehensive privacy laws, including the California
7 Consumer Privacy Act, Colorado Privacy Act, and the
8 Connecticut Data Privacy Act, as well as data book and
9 registry laws in California, Vermont, and Maine's
10 broadband privacy law. It provides specific carveouts
11 for some sectoral privacy laws, it's just those relating
12 to employee privacy and facial recognition, some specific
13 laws such as the Illinois Biometric Information Privacy
14 Act, and portions of certain laws, such as the negligent
15 data breach private right of action in the state's CPA.

16 However, most protections Californians currently
17 enjoy under the CPA would likely be preempted, including
18 notably the CCPA's floor for privacy protections,
19 California's ability to strengthen the law in the future,
20 and the agency's ability to protect Californian's privacy
21 rights under the California law.

22 ADPPA would extend certain privacy protections to
23 states where they do not currently exist. However, due
24 to its broad potential language, ADPPA would likely have
25 significant effects on California law. These could

1 include removing the unique floor for privacy protections
2 created by the CPRA, the CPRA amendments to the CCPA
3 state that it may be amended by the legislature, provided
4 that such amendments are consistent with and further the
5 purpose of and intent of the act. This means that
6 currently California enjoys a floor of privacy
7 protections. Second, creating a ceiling on privacy
8 protections for Californians that could be raised only by
9 Congress. This could immediately affect several privacy
10 bills from advancing through the California Legislature
11 in its current session that likely would be preempted by
12 ADPPA. It could prevent future fixes by the California
13 legislature, by California regulation, or by citizen
14 ballot initiative intended to respond to future threats
15 to Californians' privacy. Other states would also not be
16 able to respond on behalf of their citizens.

17 And third, substantially affecting the agency's
18 ability to fulfill its responsibilities as mandated by
19 the CPRA. In passing the CPRA, Californians created the
20 agency, invested it with the responsibility and authority
21 to implement and enforce the CCPA, and this includes
22 issuing regulations, auditing businesses' compliance, and
23 providing administrative enforcement of the CCPA on
24 behalf of Californians. Preempting most of the
25 substantive provisions of the law that created the agency

1 as the ADPPA seeks to do could nearly eliminate the
2 agency's ability to carry out its mandate of protecting
3 the privacy of California residents under California law.

4 ADPPA currently purports to provide the agency with
5 the ability to enforce a new federal law. However, the
6 language in the bill still raises significant
7 uncertainties for the agency if it were it to seek to
8 enforce the federal bill as the California legislature
9 may need to take separate action to give the agency the
10 ability to enforce the federal law.

11 And finally, in some cases ADPPA provisions would
12 provide substantially less protection to Californians
13 than they currently enjoy under the CCPA as amended by
14 CPRA. I'll just provide one example: removing the opt
15 out of automated decision-making. CPRA directs the
16 agency to develop regulations providing access and optout
17 rates with respect to automated decision-making and
18 requiring meaningful information about the logic of such
19 decisions, protections that are not included in the
20 federal bill. And these are crucial components of any
21 privacy and civil rights law. And I'll refer the board
22 to staff's written analysis and the meeting materials for
23 additional examples.

24 So staff has two recommendations. One is to oppose
25 the ADPPA as it advanced out of the House Energy and

1 Commerce Committee and second is to oppose any bill that
2 seeks to preempt the California Consumer Privacy Act or
3 provides substantially weaker protections than the CCPA
4 as amended by CPRA or prevents the agency California
5 legislature or voters to the ballot initiative from
6 strengthening the privacy protections for Californians in
7 the future or significantly compromises the agency's
8 authority or ability to fulfill its statutory
9 responsibility and mandate on behalf of Californians.
10 Thank you and I'm available to answer any questions.

11 **MS. URBAN:** Thank you very much, Deputy Director
12 Mahoney. We really appreciate that thorough and yet very
13 well digested analysis.

14 We'll undertake some discussion. For everyone on
15 the board, let's undertake some discussion, after which I
16 will formulate any appropriate motion or motions. Then
17 once we have those on the table, then we will ask for
18 public comment, once everyone in the audience can hear
19 what we have to say to begin.

20 I'll go ahead and begin. Thank you again, Deputy
21 Director Mahoney, for briefing us on this crucial issue
22 and for all of the staff who have been working to
23 understand the issue and to bring it to us.

24 I'm very concerned about the effect that the
25 American Data Protection and Privacy Act (sic) and any

1 federal bills with similar preemption provisions would
2 have on Californians and California law. When I say
3 that, I do want to be clear that I certainly commend
4 Congress, and the House Energy and Commerce Committee
5 especially, for working I think very sincerely and hard
6 to protect Americans' privacy rights. Californians, for
7 fifty years at least, have enjoyed privacy rights in our
8 Constitution and have continuously built on those. And
9 we certainly think that Americans generally should have
10 the privacy rights that they deserve. I really
11 appreciate the work that the sponsors of the ADPPA and
12 the other bills have been undertaking.

13 At the same time, it is the agency's role and our
14 responsibility to act as what our implementing
15 legislation, the initiative proposition 24, calls an
16 independent watchdog to protect Californians' privacy
17 rights. Our law is very clear about our role. At
18 1798.199.40(c) of the California Civil Code, "the agency
19 shall, through the implementation of this title, protect
20 the fundamental privacy rights of natural persons with
21 respect to the use of their personal information", and
22 40(1), "the agency shall perform all acts necessary and
23 appropriate in order to exercise its power, authority,
24 and jurisdiction to balance the goals of strengthening
25 consumer privacy while giving attention to the impact on

1 businesses".

2 Our role is very clear and our role was set out for
3 us directly by the California voters in the initiative
4 statute proposition 24, the California Privacy Rights Act
5 of 2020. Given that, I greatly respect Congress's
6 efforts here, but I must say that I support staff's
7 recommendation that we do not support it as drafted and
8 that we -- and I would say we need to register some very
9 specific concerns.

10 First is timing. Californians have these rights and
11 protections right now, today. Today Californians can
12 exercise the right to access, the right to opt out, the
13 right to delete today. Right now today the attorney
14 general in California is enforcing rights on behalf of
15 Californians and has been for a while. Right now today
16 we have a set of regulations promulgated by the attorney
17 general to give guidance to California consumers and
18 businesses and the agency is undertaking another round of
19 regulations. I am very concerned about what might happen
20 with the implementation of a new federal law with regards
21 to the rights that Californians have today.

22 That brings me to the fact that I feel it is really
23 important to emphasize the point that Deputy Director
24 Mahoney made about the floor and privacy protections that
25 Californians voted for in the initiative process and the

1 ability for California to respond to Californians, both
2 consumers and businesses, with regard to future changes.

3 In the initiative process, Californians amended the
4 existing CCPA to require that any amendments by the
5 California legislature be consistent with and further the
6 purpose of the Act. In practical terms, this prevents
7 unnecessary weakening of the law.

8 The federal law does not have this protection and it
9 would preempt, that is remove, this protection for
10 Californians. Even if the ADPPA itself were the
11 strongest possible law today, it could be weakened in the
12 future. And as a member of this board, I do not feel as
13 though I can support a bill when my role and duty is as
14 set forth in our initiative, to protect Californians.
15 And this is such a fundamental part of that protection.

16 This is not because I doubt this Congress's
17 intentions. It is because it is a possibility that
18 Californians specifically chose to guard against in the
19 initiative process and it is because that choice, as set
20 forth in Speaker Rendon's letter, to which I direct
21 everyone who's interested, California's protective floor
22 is a response, a direct response, to something we have
23 already seen attempted in California and have every
24 reason to believe will be attempted in the future.

25 Similarly, the ceiling. So the federal law as

1 currently drafted, or bill as currently drafted, would
2 set a ceiling by preempting California and other states'
3 ability to amend the law with regard to things covered by
4 the federal law in the future. In my view, it is again
5 the agency's responsibility to stand up for Californians
6 here. 1798.199.40(h) says that the agency "shall monitor
7 relevant developments relating to the protection of
8 personal information and in particular, the development
9 of information and communication technologies and
10 commercial practices". We actually have that
11 responsibility. And I believe that it is our job not to
12 abdicate that responsibility.

13 Now, again, I do appreciate that having
14 harmonization is a valuable thing for Americans. And
15 again, we have a duty to promote consistent application
16 of privacy laws. I also greatly appreciate the thought
17 that many of the people working on the bill in Congress,
18 its drafters, have applied. So there are a number of
19 important carveouts from preemption. A number of federal
20 laws that already existed. A number of existing state
21 laws to recognize the innovation in the states. For
22 example, the Biometric Information Privacy Act out of
23 Illinois, one of the bill's drafters' state, which was a
24 very innovative law and it's carved out of the
25 preemption. These carveouts recognize innovation in the

1 states and previous work at the federal level.

2 California should be fully recognized, too.

3 I also want to thank our representative Eshoo for
4 proposing an amendment that would have the ADPPA continue
5 and be strong, but would allow states to build on it in
6 the future. That, I think, was a very important
7 intervention and I want to thank our California coalition
8 of representatives who are on the Energy and Commerce
9 Committee, all of whom voted for it. It did not
10 ultimately pass, but I think that was a very important
11 recognition of the fact that while Congress can set a
12 very useful floor and protect privacy rights for all
13 Americans, states need to be able to be responsive. And
14 California in particular, I feel, needs to be aware of
15 its protections via the floor. I think we should -- we
16 should take every step we can to make sure that
17 Californians don't lose that protection.

18 So in the end, I support the conclusions and the
19 memos from staff. I would like to also see room for
20 staff to -- I would like to see room for staff, excuse
21 me, to oppose on behalf of the agency as needed. I would
22 also like to see room for staff to be able to support a
23 different federal bill or a changed federal bill that
24 would fulfill Californians' interest. For example, would
25 have a true floor and didn't undermine California's

1 rights. It didn't have the kind of ceiling that would
2 prevent California or other states from protecting their
3 residents' rights in the future. So I would like to see
4 all of those things. I would like to support those
5 conclusions and I would like to, if we can, provide a
6 positive path forward for staff on behalf of the agency.

7 So that's my sort of general take on the issue and I
8 would like to hear from other board members. Could you
9 use your raise your hand either physically or the little
10 icon, if you would like to speak? Thank you.

11 Mr. Thompson and then Ms. de la Torre and then Ms.
12 Sierra.

13 **MR. THOMPSON:** Thank you, Chairperson Urban. I
14 agree with your comment. I think you summed up the
15 situation very well.

16 You know, I would consider myself to be
17 pro-innovation and pro business. I'm also pro-privacy.
18 And for that reason, I'm glad that Congress is acting in
19 this area to create a federal privacy law.

20 It appears to me that there is a false choice in
21 this bill, however, and that needs to be called out and
22 has been called out, effectively, by the governor, by the
23 speaker of the assembly, by Attorney General Bonta and
24 nine other attorneys general.

25 And the false choice is that the bill is -- the

1 federal bill is treating privacy rights as though they
2 are in limited supply. And the strong rights of
3 Californians and others have to be taken away in order to
4 provide weaker rights federally. And I think that is a
5 false choice. And it has been very well articulated by a
6 number of the people mentioned, Speaker Rendon, Governor
7 Newsom, Attorney General Bonta, Representative Eshoo, and
8 others that there is an alternative. And the alternative
9 is that we can have both. We can have a federal floor
10 that enables states to continue to innovate in this
11 policy area.

12 It's been done in a number of areas previously where
13 there is continued state latitude to act. The one I'm
14 most familiar with is the clean air act, which I think is
15 a similar set of circumstances where a state, in this
16 case and in that case California, acted first. And the
17 federal government recognized the need for the state to
18 continue to act in that regard.

19 As has been pointed out by others, the Health
20 Insurance Portability Act and Gramm-Leach-Bliley also
21 have similar federal floors that don't allow states to
22 continue to act.

23 There's a concept that gets talked about a lot in
24 Washington DC And elsewhere that states are the
25 laboratories of democracy. And really, California's

1 action here has been a catalyst for federal action.
2 California and Colorado and Connecticut -- I don't know
3 if there's something about states that start with C --
4 that have acted in this regard have really driven the
5 policy debate here.

6 And one of the things that we don't want to get lost
7 is that technological innovation moves really fast.
8 Government does not move as fast as technological
9 innovation, but the states are in a much better position
10 to respond and to continue to keep up with technological
11 innovation than the federal government. I say that as
12 somebody who worked for the federal government for a long
13 time.

14 In this area, California's been active for years and
15 you know, has been involved in this activity for many
16 years while the federal government has just been putting
17 its shoes on to get involved. And we need to be able to
18 continue to act to protect Californians' rights and to
19 drive forward and adapt to other technological standards
20 or technological innovation.

21 So I agree with your analysis. I agree that we need
22 to continue to act in accordance with demanded -- mandate
23 of roughly fifty-six percent of California voters who
24 wanted strong privacy protections. And voice our opinion
25 and support for our California delegation and other

1 elected leaders acting to protect the rights of
2 Californians in this regard. I have a few other thoughts
3 on this, but I will hold them for later.

4 **MS. URBAN:** Wonderful. Thank you very much, Mr.
5 Thompson.

6 Ms. de la Torre and then Ms. Sierra.

7 **MS. DE LA TORRE:** Thank you. I want to start by
8 thanking Deputy Director Mahoney for all the work that
9 she has done for us in terms of analyzing the federal
10 proposal, presenting it to us right now, and just
11 following up with the quick developments in Washington.
12 I'm sure that she has put long hours into this. And I
13 just want to, on behalf of myself and I'm sure on behalf
14 of all the other members of the board to thank her for
15 the work that she has done already and to encourage her
16 to just keep doing what she's doing because she's really
17 valuable for the agency and for us.

18 I couldn't agree more with the words that were
19 expressed by our chairperson Ms. Urban in terms of the
20 mandate that this agency has. And I think that the
21 thoughts that Mr. Thompson share, in terms of the false
22 choice narrative, are also very important and I have them
23 in mind.

24 There is a couple of things that I also wanted to
25 mention in addition to the ones that have already been

1 mentioned. And if Ms. Mahoney will allow me, they
2 include some questions and I hope that you might be able
3 to answer, but it is okay if maybe we haven't done yet
4 the analysis to have an answer for them.

5 So the first question that I have is in regards to
6 this preemption, right, there is -- the logic of
7 preemption to me doesn't really align with ensuring that
8 Californians or for that much or residents of any state
9 enjoy the highest possible privacy protections. There is
10 other ways to deal with that, share power between the
11 states and federal that will enable that. And they are
12 basically what Mr. Thompson just described and Ms. Urban
13 referred to.

14 But there's an argument to be made in preemption
15 where it can be necessary to preempt a state law when
16 there is misalignment between the state law and the
17 federal law in a way that might either make compliance
18 impossible or maybe confuse consumers.

19 As Mr. Soltani knows well, and I know well, the CPRA
20 was really designed to increase the protections enjoyed
21 by Californians so as to enable basically equivalence
22 between the protections in California and the protections
23 in Europe. And therefore, it's a structure in a way
24 that's fully compatible with the European framework and
25 other international frameworks.

1 So my question for Direct Mahoney is whether perhaps
2 the federal law is misaligned with those international
3 frameworks in a way that creates incompatibilities with
4 California. And the reasoning for the question is that
5 if the federal law is also aligned with this framework,
6 in my view then there's no possibility of incompatibility
7 between the federal law and the state law, right. Like,
8 we are all aligned with this international frameworks. I
9 don't see a logic for preemption based on the idea that
10 we're creating some form of inconsistency that will
11 prevent compliance or potentially confuse consumers.
12 Have we analyzed this and is there an answer that you
13 could provide, Ms. Mahoney?

14 **MS. MAHONEY:** That's a very good question. While I
15 can't speak to incompatibility with ADPPA with
16 international frameworks, I do agree that carving out
17 California or allowing for a true floor in allowing the
18 states to go further, it you know, fully support
19 interoperability because California in its statute
20 directs us to work towards compatibility and
21 interoperability with other jurisdictions in other states
22 and internationally. So I would agree that, you know,
23 preemption does not necessarily provide better
24 protections in terms of interoperability.

25 **MS. DE LA TORRE:** And a follow-up question, and

1 again to the extent that we have done this analysis, it
2 is also clear to me that there's an opportunity for
3 California to seek what is called adequacy when it comes
4 to crossover data transfers from the European Union and
5 other similar frameworks. In my opinion, California has
6 the strongest path to adequacy that we have ever had in
7 any jurisdiction in this country. It seems to me that
8 the preemption as proposed will significantly limit, if
9 not completely foreclose, the possibility of California
10 seeking adequacy. Is that how you understand the
11 preemption, Ms. Mahoney, in terms of the possible
12 effects?

13 **MS. MAHONEY:** My understanding that, you know, one
14 of the goals in adopting the CPRA was to work towards
15 adequacy with international models, so I would agree that
16 preemption would raise concerns in that respect.

17 **MS. DE LA TORRE:** Thank you. And I have a final
18 comment, and this comes from, you know, having dedicated
19 several years to study privacy laws at the state level.
20 As I read the preemption clause, it's really broad. I
21 mean, it sits on top of an also really broad law. I
22 don't have a historical reference for something like this
23 happening in the U.S. in the area of privacy before. So
24 it states, if I am correct, that no state or political
25 subdivision can basically enact it, enact a law that will

1 catch up on anything that's covered by the federal law
2 other than -- and then there's exceptions.

3 Si the first comment there is that if we're saying
4 no state or political subdivision, we're not only talking
5 about preempting the states. We're also talking about
6 preempting counties and preempting cities from enacting
7 any law that would touch upon anything that is covered by
8 this very broad federal law. Is that reading correct,
9 Ms. Mahoney?

10 **MS. MAHONEY:** I agree that the preemption language
11 is quite broad and it could affect additional
12 jurisdictions. You know, I will point out that there are
13 certain carveouts for certain, you know, sectoral privacy
14 issues, but I agree with your statement.

15 **MS. DE LA TORRE:** Thank you so much. I understand,
16 again, that this is not within the mandate of something
17 that will be done by the agency, but I notice that there
18 is different organizations in the privacy sphere that
19 have taken positions on the federal law. And I wonder if
20 any of these organizations has done a research to compare
21 the federal law, not only with CPRA, but also with these
22 other, multiple state laws here in California and other
23 states or local laws; that they will de facto be
24 preempting. Is there a list? Has anybody compiled a
25 list of what will be basically found to be invalid if

1 this law is enacted as it is, to your knowledge?

2 **MS. MAHONEY:** I don't believe that anyone's done a
3 full comprehensive list, although certainly there have
4 been discussions about some of the bills, some of the
5 laws that will be affected.

6 **MS. DE LA TORRE:** Thank you. I think that it seems
7 to me really unwise to broadly preempt laws that nobody
8 has taken the time to identify or analyze. We can be
9 talking not only about weakening the rights of
10 Californians as it was described by our deputy director,
11 which will be within the mandate of the agency, but also
12 multiple other state laws that are in assistance,
13 multiple other political subdivision laws, laws from
14 cities or counties. And this is particularly concerning
15 to me in an era where we're looking at a situation where
16 Roe has been repealed.

17 I think that at the minimum, we should identify the
18 laws that might be currently offering protections for
19 women who are seeking reproductive healthcare, whether
20 here in California or in other states that may today
21 enjoy protections of laws that can be repealed without --
22 now it seems to me -- any analysis or thought. And for
23 those reasons, in addition to the reasons that Ms. Urban
24 summarized well and Mr. Thompson also summarized really
25 well, I fully support the recommendation of the staff.

1 I want to have -- last thing that I wanted to share,
2 but I'm going to reserve that for the end of the
3 conversation. Thank you so much for answering my
4 questions, Ms. Mahoney.

5 **MS. URBAN:** Thank you very much, Ms. De La Torre.

6 And Ms. Sierra, you have a comment? And I believe
7 we will be circling back. Oh, after Mr. Le. All right.
8 Please go ahead, Ms. Sierra.

9 **MS. SIERRA:** Okay. (Indiscernible). Thank you so
10 much, Chair Urban. And I'm not sure my hand is still up,
11 though over that.

12 So I am very much in agreement with the comments and
13 the concerns that have been expressed this morning. And
14 I too, Ms. Mahoney, thank you so much for your work on
15 this. This is, you know, such a critical juncture for
16 all of us and the information you provided has been
17 extremely helpful.

18 So again, I do share the concerns and I too just
19 feel, you know, such a responsibility to our state and
20 to, you know, the voters who expressed, you know, their
21 will in proposition 24 and the CPRA. And I too also
22 agree that the provision that provides the floor in
23 California and does expressly provide that California can
24 amend and strengthen state privacy laws in the future,
25 that it is just a critical aspect of a CPRA. And I just

1 feel that that in itself, you know, can't get lost.
2 Especially in this area in which we all, you know, in
3 this country are going to be facing. We're in an area
4 where there's going to be technology innovations has been
5 brought up.

6 And I agree with the sentiment and I think it's been
7 proven through our leadership in California on privacy
8 and other issues that the states are in the best position
9 to really react and address to changes in technology.
10 And we are going to be able to be far more nimble in that
11 area. And so you know, those reasons to me really
12 impact, you know, my feeling of support, fully support of
13 the staff's recommendations in this area.

14 And you know, the other point I just wanted to make
15 is that I am also concerned about any provisions that are
16 going to cause uncertainty with respect to the
17 enforcement that our agency and the states are really
18 responsible and in a good position to enforce as
19 regulators in this area. And having been a civil
20 prosecutor in the past at the California Department of
21 Justice, you know, I just have a real concern that to the
22 extent that there are the enforcement provisions and the
23 enforcement authority for the states and our agency with
24 respect to either investigations or bringing actions, if
25 those are weakened or just if there are issues of not as

1 much clarity or confusion about those that that can
2 really weaken our effectiveness as an agency, whether
3 it's enforcing federal law or state law. And ultimately,
4 that would really be to the detriment of consumers. So
5 I'm really concerned about those areas as well.

6 And with that, again, I echo the concerns that had
7 been expressed. I really do -- I think Mr. Thompson's
8 point about the false choice, I fully agree with that.
9 You know, that there is room for federal legislation. I
10 think this work is so important. But at the same time,
11 allowing the states to be able to address what is going
12 to be very important for its residents. So thank you.

13 **MS. URBAN:** Thank you very much, Ms. Sierra.

14 Mr. Le, you had your hand up, you had your hand
15 down. Is your hand up?

16 **MR. LE:** Yes, my hand is up.

17 **MS. URBAN:** Wonderful. Please go ahead.

18 **MR. LE:** Yeah, I'm not going to say too much. I
19 believe, you know, Chair Urban and the rest of the board
20 members have already articulated many of the points I
21 wanted to make here. I very much support the ADPPA as a
22 floor, not a ceiling for privacy rights. And I think
23 based on the discussions we've had here today, you know,
24 our mandate and the recommendations of the staff, you
25 know, I'm inclined to oppose the ADPPA, unless it is

1 amended in such a way that it preserves the rights of
2 Californians that we currently have under the CPRA that
3 we have today. And also in a way that preserved the
4 right for California to legislate to protect kids'
5 privacy. You know, privacy around reproductive health
6 care or you know, efforts to limit biometric surveillance
7 and things like that.

8 I mean, staff have covered in their memo many of the
9 ways that the ADPPA would not quite live up to the
10 standards that the CPRA already has given Californians.
11 You know, I want to highlight in particular that, you
12 know, preemption would mean that Californians no longer
13 have the right to opt out of automated decision-making.
14 You know, something that our subcommittee has been
15 working on. Or to get meaningful information when an
16 automated system profiles them or makes a high stakes
17 decision around who has access to jobs, health care,
18 credit, housing, you name it.

19 I think California's law covers more service
20 providers, you know, such as those processing data for
21 government entities. I think the CCPA, with the help of
22 the AG, clearly covers inferences made around us that the
23 ADPPA does not protect as clearly. You know, it
24 requires -- it allows the agency to do audits. It
25 requires impact assessments from more types of businesses

1 whose processing presents a significant risk to our
2 privacy. And also, you know, it gives California the
3 ability to enforce this law where the FTC may not have
4 the resources or the attention to focus on California.
5 So while I am excited about the prospect of a national
6 privacy law, I believe it does not need to come at the
7 expense of the privacy rights we have here in California.

8 So I believe as a board member, you know, it's my
9 responsibility to protect and strengthen California's
10 privacy rights. And so I think I'm inclined to join with
11 the governor, the attorney general, the speaker of the
12 house, to voice concern around the preemption in the
13 ADPPA and will likely vote to oppose it unless amended.

14 **MS. URBAN:** Thank you very much, Mr. Le.

15 I want to briefly circle back in response to some
16 comments that my fellow board members made. And I'm
17 fully in agreement with, I think, everything that I've
18 heard here today. I would also like to emphasize Mr.
19 Thompson's point about a false choice and I would like to
20 emphasize Ms. de la Torre's point, which I would sum up
21 is about unintended consequences. When a change this
22 substantial is made to preempt so broadly what states,
23 counties, cities, other jurisdictions are doing, that
24 will have a very broad reaching effect, some of which
25 will be very specific.

1 Ms. De La Torre mentioned women seeking reproductive
2 health care. There may be children seeking to get away
3 from an abusive situation. There may be, you know, any
4 number of specific scenarios that we may not have thought
5 of right now this second and that Congress has not
6 thought of right now this second that this could affect.

7 And so while, again, I really do support what
8 Congress is generally doing here, I worry greatly about
9 the breadth of the preemption and how far it would end up
10 reaching. And I'm concerned that even with the things
11 that we've identified today, we haven't been able to do a
12 full accounting, as Ms. De La Torre suggested. And of
13 course we don't know exactly what the future holds. So I
14 would hope that Congress would be willing to future proof
15 its law and to allow states to act on behalf of their
16 residents.

17 All right. After listening -- well, actually, I
18 believe that Ms. De La Torre may have had another point
19 and possibly Mr. Thompson.

20 Did you want to circle back? Please raise your hand
21 if you would like.

22 Yes, Ms. de la Torre. You're still on mute.

23 **MS. DE LA TORRE:** Thank you. I just wanted to
24 circle back to suggest that one of the course of actions
25 that the agency could take is related to promoting

1 awareness. And this is within our mandate under
2 California Civil Code 1798.199.40(d). It's the mandate
3 of the agency to promote public awareness and
4 understanding of the risks, rules, responsibilities,
5 safeguards, and rights in relation to the collection,
6 use, sale, and disclosure of personal information,
7 including the rights of minors. I do not read this
8 mandate as limited to CCPA and CPRA and I think it's
9 really important for us to consider even though we still
10 have limited staff and limited resources. Whether it
11 should be a priority of the agency moving forward to work
12 on a public awareness campaign so that the public can
13 understand the rights that they currently have, as Ms.
14 Urban pointed, right now. Because it is important for
15 them to be aware of those rights in order for them to be
16 understanding what will be the consequences of an
17 enactment of a law that preempts those rights at the
18 federal level.

19 And again, I understand that we have limited
20 resources. Mr. Soltani has just, you know, done an
21 amazing job himself, just supporting so many different
22 initiatives. And we have the rule making, which requires
23 a lot of resources. But I think at this point, it's wise
24 to pause for a second and think if rule making should be
25 our top priority in terms of enforcement or maybe there

1 is room to make public awareness also a top priority at
2 this point.

3 **MS. URBAN:** Thank you, Ms. De La Torre.

4 Mr. Le, I believe you are on the public awareness
5 subcommittee.

6 **MR. LE:** Yeah. Yeah, I just wanted to note that,
7 you know, that is something that's come up in a public
8 awareness subcommittee. We actually have -- Mr. Soltani
9 has been actually great in getting us resources to do a
10 public awareness campaign and you know, that is
11 definitely -- is in the works to inform Californians
12 about the rights they have. Yeah, I don't know if now is
13 the right time to maybe share some more about that, but
14 just to let you know, it's in the books. There's budget
15 for it. And then -- yeah, hopefully that will be ruling
16 out in the next -- you know, shortly.

17 **MS. URBAN:** Thank you, Mr. Le. That is, I'm
18 heartened to hear that as well.

19 And Mr. Thompson?

20 **MR. THOMPSON:** Thank you. I was going to ask Ms.
21 Mahoney to elaborate on a point that was in her
22 memorandum. Because I think it's helpful to illustrate
23 what the actual effects of this proposed legislation
24 could be on the rights that people have in the state of
25 California currently. In my experience and observation,

1 people want privacy protection. That is something that
2 they value. And it is the job of government, us and
3 others, to make the barriers to them getting those
4 privacy -- or securing their privacy protections if they
5 so choose, to make sure the barriers are not inordinately
6 high.

7 And one of the things that jumped out to me, Ms.
8 Mahoney, in your memorandum is on page 3, the section
9 about adding a requirement to authenticate global optout
10 requests. I was wondering if you could briefly describe
11 the difference between what a person who is under
12 California's current law would experience versus this
13 proposed law.

14 **MS. MAHONEY:** Sure, so as you noted, one of the most
15 important things with respect to any privacy law is
16 making sure that consumers can easily take advantage of
17 those rights. And a key part of that in California,
18 which is currently required by regulation is added to the
19 statute by proposition 24, is requiring businesses to
20 honor browser privacy controls as a global optout, so
21 that consumers don't have to go to hundreds if not
22 thousands of different sites one by one in order to
23 exercise their preferences.

24 In California, this statute has -- and regulations
25 have also been designed to not add any unnecessary

1 friction in that process. For example, you know, not
2 allowing businesses to pummel consumers with
3 authentication or verification requests when they do
4 that. So that would subvert the intent of providing
5 smooth optout if your inbox is filling up with requests
6 to confirm that you actually wanted to do that. And new
7 language that has been put into the ADPPA could
8 potentially compromise that and undermine kind of the
9 smooth operation of a global optout.

10 **MR. THOMPSON:** Thank you.

11 So in my words, that would be if I signal that I
12 want to opt out, I should not be repeatedly asked are you
13 sure, are you sure, are you sure, are you sure? Can you
14 please prove you're Chris Thompson? And those are --
15 those are the differences in what people in California
16 experience versus what would be the experience,
17 potentially, under the federal bill, is the repeated
18 request to verify that you actually do want the privacy
19 protections you indicated you wanted and that you are who
20 you say you are.

21 The other quick point I wanted to make, obviously we
22 are most familiar with and are charged with the privacy
23 protections of consumers in the State of California. And
24 you included in the packet the letter from the -- I think
25 it's ten attorneys general. But wanted to just highlight

1 that this is not only about California, it is about other
2 states as well. And the ability of other states to act
3 in this area and to protect the states that already have
4 acted in this area.

5 And I was -- it's gratifying to see that the
6 attorneys general in California, Connecticut, Illinois,
7 Maine, Massachusetts, Nevada, New Jersey, New Mexico, New
8 York, and Washington state are all voicing a similar
9 view. So I would repeat, we are charged with protection
10 of privacy rights in California, but this is about more
11 than just California.

12 **MS. URBAN:** Thank you very much, Mr. Thompson.

13 So I certainly don't want to cut off discussion, but
14 I will go ahead and pause for a moment to let you know,
15 as I've been listening and having read the materials,
16 what I think might be a model to start with, in terms of
17 how we might offer a position and provide direction and
18 authority to staff.

19 I'll first say that Ms. de la Torre's point about
20 public awareness -- I think that's something that we, by
21 affirmation, you know, could all nod and say yeah, yes,
22 we think that's a great idea. But with regards to taking
23 positions and providing sufficient authority, I suggest
24 that we consider three motions. And we could combine
25 them. I just find it mentally easier to make sure we

1 have our points very, very clear for staff separately.

2 So I suggest that I first request a motion to
3 approve agency staff's recommendation to oppose the
4 American Data Privacy and Protection Act as currently
5 drafted. And I will get to what might happen if it would
6 change.

7 And then I suggest that second, I would request a
8 motion to approve agency staff's recommendation to oppose
9 any federal bill that seeks to do the things that are
10 listed in Ms. Mahoney's memo, which is preempt the
11 California Consumer Privacy Act, provide substantially
12 weaker protections than the CCPA as amended by the CPRA,
13 prevents the agency, California Legislature, or voters
14 through ballot initiative from strengthening privacy
15 protections for Californians in the future -- I might add
16 or generally responding to technological, social, and
17 business changes -- or significantly compromises the
18 agency's authority or ability to fulfill its statutory
19 responsibilities or mandate on behalf of Californians.
20 And I think that we could sort of have an introduction
21 that this was the staff's judgment, so that they have the
22 ability to respond as things change, if they do.

23 And then in terms of my desire and I think others'
24 desire, to be clear that we do appreciate federal work
25 that would protect privacy rights for all Americans

1 without compromising states' ability to act, I might
2 suggest having a motion to authorize agency staff to
3 support a federal bill that does X, Y, or Z in their
4 judgment. And I would suggest that doesn't broadly
5 preempt our act or that in general does create a true
6 floor for privacy protection that protects Californians
7 current rights and that California and other states could
8 build on in the future.

9 And we could work on the wording, but in general,
10 those would be the sort of three points that I suggest
11 that we -- that we hit when authorizing staff and giving
12 them some guidance.

13 And do we have any comments on that sort of
14 formulation, did I miss anything, does that make sense?

15 **MS. DE LA TORRE:** That makes sense.

16 **MR. THOMPSON:** I think what you described -- sorry.
17 Go ahead, Ms. de la Torre.

18 **MS. DE LA TORRE:** No. Go ahead. I was just saying
19 that it makes sense to me.

20 **MR. THOMPSON:** Yeah, it makes sense to me as well,
21 the elements you described, and I would defer to your
22 judgment on whether it's one or multiple motions.

23 **MS. URBAN:** Thank you, Mr. Thompson and Ms. de la
24 Torre.

25 Anyone else? All right. Then I will try to put

1 those into motion language and once we have them on the
2 table, we will take public comment, so the public has all
3 the information for public comment.

4 First, may I have a motion to approve agency staff's
5 recommendation to oppose the American Data Privacy
6 Protection Act (sic) as currently drafted?

7 **MR. LE:** I'll so move.

8 **MS. URBAN:** Thank you, Mr. Le.

9 May I have a second?

10 **MR. THOMPSON:** Second.

11 **MS. URBAN:** Thank you, Mr. Thompson.

12 The motion is made by Mr. Le and seconded by Mr.
13 Thompson.

14 Second, may I have a motion to approve agency
15 staff's recommendation to oppose any federal bill that in
16 agency staff's judgment seeks to broadly preempt the
17 California Consumer Privacy Act or provides substantially
18 weaker protections than the California Consumer Privacy
19 Act as amended by the California Privacy Rights Act or
20 prevents the agency, the California legislature, or
21 voters through the ballot initiative from strengthening
22 privacy protections for Californians in the future or
23 generally responding to technological, social, or
24 business change or significantly compromises the agency's
25 authority or ability to fulfill its statutory

1 responsibilities and mandate on behalf of Californians?

2 **MS. SIERRA:** I will so move.

3 **MS. URBAN:** Thank you, Ms. Sierra.

4 Do I have a second?

5 **MS. DE LA TORRE:** I second.

6 **MR. LE:** I'll --

7 **MS. URBAN:** Thank you, Ms. de la Torre.

8 I have a motion from Ms. Sierra and a second from
9 Ms. de la Torre.

10 Third, may I have a motion to approve agency
11 staff -- excuse me. Let me start over. I have to think
12 it through.

13 Third, may I have a motion to authorize agency staff
14 to support any federal bill that does not, in staff's
15 judgment, preempt the California Privacy Protection Act
16 of 2018 as amended by the California Privacy Rights Act
17 in 2020 or that in general creates a true floor for
18 privacy protection that protects Californians current
19 rights and that California and other states could build
20 on in the future.

21 **MR. THOMPSON:** So moved.

22 **MS. URBAN:** Thank you, Mr. Thompson.

23 Do I have a second?

24 **MS. SIERRA:** I'll second.

25 **MS. URBAN:** Thank you, Ms. Sierra.

1 I have a motion from Mr. Thompson and a second from
2 Ms. Sierra.

3 So those motions are now on the table and I would
4 like to ask for public comment. And just to remind
5 everyone of the process, please use the raise your hand
6 function and our moderator, Ms. Hurtado, will call on
7 you. She needs to call on you and unmute you, just so
8 you know. So she'll let you know when you can talk.
9 Each speaker is limited to three minutes.

10 In addition, I need to please remind everyone that
11 as required by the Bagley-Keene Open Meeting Act, our
12 discussion is limited to this agenda item. Other topics,
13 for example the current rulemaking, are not proper topics
14 for discussion. And this is always important. It's
15 especially important for a special meeting.

16 And in addition, as a reminder, the board generally
17 really can only listen and not respond directly. It may
18 seem as though we're being unresponsive, but we do not
19 intend this and we are listening.

20 So with that, is there any public comment from the
21 audience on this item or these motions?

22 **MS. HURTADO:** Yes, and I just promoted him over.
23 And he went away.

24 **MR. PARAMPATHU:** I'm here --

25 **MS. HURTADO:** Okay. We'll go to the --

1 **MR. PARAMPATHU:** -- if it was me.

2 **MS. HURTADO:** Oh, there you are. Mr. -- I don't
3 want to mess up your last name. So you now have three
4 minutes and your time starts now.

5 **MR. PARAMPATHU:** Thank you.

6 Good morning, chair members. George Parampathu,
7 speaking on behalf of ACLU California Action. We
8 strongly oppose the ADPPA's inclusion of a broad
9 preemption clause. Any federal privacy law should serve
10 as a floor, providing baseline protections for all
11 Americans, not as a ceiling limiting stronger state laws.

12 The ADPPA's preemption clause will not just
13 constrain California's ability to protect privacy rights
14 going forward, but will also wreak havoc on all levels of
15 existing state privacy protections.

16 As noted by Deputy Director Mahoney, the ADPPA will
17 erase much of this agency's regulations and authority,
18 strike out bio-components of the California Consumer
19 Privacy Act and other laws passed by our legislature,
20 override crucial portions of the California Privacy
21 Rights Act passed directly by Californians, and undermine
22 our Constitution's guarantee of an inalienable right to
23 privacy. We strongly urge the agency to voice concerns
24 about the ADPPA's preemption clause directly to Congress.
25 Thank you.

1 **MS. URBAN:** Thank you very much, Mr. Parampathu.
2 Ms. Hurtado, do we have further public comment?

3 **MS. HURTADO:** Yes, we do. One moment, please.

4 Mr. Webber, you are next to speak. I will be moving
5 you over. It will be just one moment.

6 The next speaker is Barry Webber. And it seems
7 like --

8 **MS. URBAN:** Thank you. And I will add one more
9 piece of information for speakers, which is that you're
10 welcome to turn on your camera or not. I forgot to
11 mention that. It's up to you if you are participating
12 via the Zoom platform.

13 **MS. HURTADO:** Mr. Webber? Okay. Mr. Webber, you
14 may unmute yourself at any time. You have three minutes.
15 and your time starts now.

16 **MR. WEBER:** Thank you. This is Barry Weber from
17 Assured SPC. We're a consulting organization who helps
18 other organizations implement sensible privacy and data
19 security programs.

20 So I really appreciate this meeting -- it's very
21 timely -- and support everything that has been said in
22 this -- in this meeting. This is just -- I think the
23 work that the CPPA does is -- is incredibly good.

24 The one thing I want to mention, which was I thought
25 very innovative, was the discussion associated with

1 awareness campaigns. And it struck me that I know that
2 the attorney general's office of Colorado also has funds
3 for awareness campaigns. And just as a suggestion, it
4 may be an interesting thing to do to consider
5 collaborating across states in a message not only to the
6 individual states, but to the populations in general
7 about privacy and a useful way of communicating the
8 issues that the CPPA is raising at this time. Thank you.

9 **MS. URBAN:** Thank you very much, Mr. Weber.

10 Ms. Hurtado?

11 **MS. HURTADO:** Yes, one moment.

12 Our next speaker is Thomas Gerhart.

13 Mr. Gerhart, one moment while I move you over. Just
14 be one moment. Okay. Oh, there he is.

15 Okay. Mr. Gerhart, you have three minutes to speak.

16 I just saw him move over. Okay. For whatever
17 reason, it's not allowing me to move him over. I will
18 allow him to talk.

19 This will not allow you to turn your camera on, Mr.
20 Gerhart, but you are able to speak. You may speak now.
21 You have three minutes.

22 **MR. GERHART:** Hello. My name is Thomas Gerhart.
23 I'm just a concerned citizen on the matter. I really
24 appreciate what the board is doing.

25 I wanted to go on record and say, you know, I like

1 the idea of the cross state line collaboration. I feel
2 like not only is there the opportunity there for the
3 public interest -- or the informational campaigns, but
4 there may be some alternatives or some ability to create
5 some sort of, like, a petition for citizens to sign and
6 then, you know, on the state levels work with our state
7 legislators in the House of Representatives to maybe
8 build some opposition beyond just, you know, taking a
9 position, opposing a bill, and talk to them about what we
10 would like to see in it.

11 And especially I think it would add a little bit
12 more strength behind what we're doing, or what you're
13 doing, for our privacy laws and trying to protect them
14 from this if, you know, us and Colorado and I -- I've
15 already forgotten the third state that starts with a C.
16 But if we call kind of came together and said hey, look.
17 We have this many citizens who have signed this petition.
18 It could be a joint position that we sign, where you
19 specify what state you're from. This is our position on
20 it. We don't want to see our privacy laws undermined.
21 You can build up a floor for the states who don't have
22 privacy laws, but you shouldn't limit the states that do,
23 if you could push forward these changes, in addition to
24 taking your position opposing the ADPPA.

25 Thank you very much for the time and thank you for

1 all that you're doing.

2 **MS. URBAN:** Thank you very much, Mr. Gerhart.

3 Ms. Hurtado?

4 **MS. HURTADO:** Okay. Our next speaker is Jodi
5 Masters-Gonzalez. It will be just one moment.

6 **MS. URBAN:** You know, Ms. Hurtado, I was just
7 noticing I think Mr. Weber is still promoted. Maybe was
8 he --

9 **MS. HURTADO:** That's my issue. I can't get him back
10 over there.

11 **MS. URBAN:** Okay. Sorry, Mr. Weber, but you are
12 still promoted. But we did appreciate your comment.

13 **MS. HURTADO:** Okay. Jodi Masters-Gonzalez. We're
14 just waiting for her to move over.

15 **MS. MASTERS-GONZALEZ:** Good morning. Are you able
16 to hear me?

17 **MS. HURTADO:** Yes, you are able -- yes, we can hear
18 you. Your time starts now.

19 **MR. MASTERS-GONZALEZ:** Great. I just want to say
20 thank you very much to the California Privacy Protection
21 Agency Board for holding this special meeting and
22 inviting us to speak. I am a researcher at AI ethics,
23 algorithmic risk. Public policy is where my domain of
24 research and practice lies. I'm also a fellow and
25 certified auditor of independent AI systems, which is

1 actually a governance, oversight, and accountability
2 framework.

3 And in this area, I strongly oppose the federal
4 legislation, in particular the components that remove
5 protection from opting out of the automated decision-
6 making. As some of you know or may not fully aware that
7 there -- the number of bills and legislation that's been
8 proposed across the board in the last 12 months related
9 to these types of systems, the volume is unreal, it's so
10 much.

11 And we absolutely -- automated decision-making is a
12 hundred percent what is here, what is coming with full
13 force. And we have to do everything we can to protect
14 our citizens and their rights and their ability to opt
15 out, as well as, you know, other associated capabilities.
16 But opting out, for sure, you know, is a really good
17 first step and we have to protect that. Thank you very
18 much.

19 **MS. URBAN:** Thank you very much, Dr.
20 Masters-Gonzalez.

21 Ms. Hurtado, is there further public comment?

22 **MS. HURTADO:** Yes, the next commenter is Haley
23 Tsukayama.

24 Okay. Ms. Tsukayama, I'm just going to allow you to
25 talk. So that means that your camera won't be available,

1 but you can speak freely. You've been unmuted. You now
2 have three minutes to speak.

3 **MS. TSUKAYAMA:** Hi. I'm Haley Tsukayama. I'm a
4 senior legislative activist at the Electronic Frontier
5 Foundation. I just really want to thank you all for
6 talking about this subject today, and we really
7 appreciate the agency's work here.

8 EFF is not in opposition to this bill, but we have
9 serious concerns, which we have communicated to Congress.
10 We've written letters and blog posts particularly around
11 the issue of preemption, which is one of our three major
12 issues with the bill. I do want to echo what many of you
13 have said, which is that, you know, we support the staff
14 conclusions that this would broadly preempt many laws in
15 California and that, you know, we have a firm position as
16 an organization not to let federal laws roll back privacy
17 protections we have currently on the books in the states.

18 You know, obviously, this is a California agency,
19 but this is a national issue. As Ms. Mahoney mentioned,
20 you know, we're really looking at laws being rolled back;
21 broadband privacy laws, genetic information privacy laws
22 being rolled back across the country. And then of course
23 freezing states from being able to act in the future;
24 that's really concerning to us.

25 There are, of course, privacy law models for floor

1 not ceiling, the Health Information Privacy -- sorry,
2 Health Information Portability and Accountability Act
3 (sic) is a floor, not a ceiling. The Fair Credit
4 Reporting Act is a floor, not a ceiling. We have
5 mentioned this to Congress and we're really glad to see
6 you all speak up, so thank you so much.

7 **MS. URBAN:** Thank you very much.

8 **MS. HURTADO:** Okay. Our next speaker is going to be
9 Alastair MacTaggart.

10 Mr. MacTaggart, you've been unmuted. You now have
11 three minutes.

12 **MR. MACTAGGART:** Okay. Thank you. Can you hear me?

13 **MS. HURTADO:** Yes.

14 **MR. MACTAGGART:** Thank you, Chair Urban and the rest
15 of the board. My name's Alastair MacTaggart, and I'm the
16 founder of Californians for Consumer Privacy. And our
17 organization's spearheaded efforts along with many other
18 speaker groups today to help establish the California
19 Consumer Privacy Act and then the California Privacy
20 Rights Act, which is prop 24. And I would like to voice
21 strong support for the staff recommendation that came in
22 the memos and the board votes today and generally, for
23 support for any proposals which seek to protect the law
24 from being preempted.

25 I would like to commend the work of Deputy Director

1 Dr. Mahoney and thank the governor and Speaker Rendon and
2 the attorney general for their strong advocacy against
3 the subject of preemption.

4 You know, there's a lot to like in ADPPA for much of
5 America. But it would represent a giant step backwards
6 for Californians in many really important areas,
7 including government surveillance and including, you
8 know, auditing and including, you know, many other areas.

9 And so you know, one of the speakers talked about a
10 citizen petition. We had a citizen petition, which 9.4
11 million Californians voted for, so. I would urge the
12 board to do whatever it takes to get the message out.
13 You have a lot of financial resources and the statute
14 specifically instructs the board and the agency to engage
15 in public awareness around risks to privacy.

16 This is a vital risk to the privacy of Californians
17 today and I think you have absolutely statutory authority
18 to expend resources and really raise the alarm that this
19 proposal -- which is purported to be stronger than
20 California, it's actually massively weaker in many areas
21 and would really hurt the hard-won privacy rights of
22 Californians.

23 Thank you for your time and thank you again for all
24 your work. All the board members I know worked
25 incredibly hard on this, as well as Director Ashkan and

1 Deputy Director Mahoney and the rest of the staff. So I
2 wanted to thank everybody, and that's my comment.

3 **MS. URBAN:** Thank you very much, Mr. MacTaggart.

4 Ms. Hurtado, do we have further public comment?

5 **MS. HURTADO:** Yes, we do. The next public comment
6 is going to be -- I'm assuming it's WA People's Privacy.

7 You've been unmuted. You now have three minutes.

8 **MS. MORALES:** Thank you so much. I hope you can
9 hear me.

10 **MS. HURTADO:** Yes, we can.

11 **MS. MORALES:** Cool. My name is Maya Morales. I'm
12 an organizer zooming in from Washington State, and I
13 would like to thank you all so much for your work on data
14 privacy.

15 After working to pass several municipal ballot
16 initiatives with a group of other organizers in 2021,
17 including a privacy protecting law, I founded and
18 organized the entity called WA People's Privacy here,
19 with sights on passing strong data privacy laws and
20 restrictions on surveillance in both Washington State and
21 possibly other states.

22 Organizers here worked so hard to stop a weak bill
23 from passing in our state. And not only do Washington
24 residents value privacy, the good majority of us also
25 value the right to access abortion and genderaffirming

1 health care, the right to public assembly, and
2 environmental and climate justice work. These are all
3 activities under threat in our nation right now.

4 When I learned that the ADPPA would preempt stronger
5 laws, I immediately realized that both California and
6 Washington state would be key players. And we all dug
7 into a deep reading of the bill with other Washington
8 privacy organizers.

9 People all over the country want the right to
10 protect our privacy via the democratic process. And in a
11 ever-evolving landscape of surveillance threats and data
12 harms that are continually growing and changing, states,
13 counties, and municipalities must be able to meet the
14 needs of our residents.

15 It's important to be crystal clear about who
16 preemption serves and who it harms. Preemption
17 privileges the needs of corporations over the needs of
18 people. So the decision that California will make on
19 preemption, whether to advocate for a singular exemption
20 for its own state or whether to defend the rights of all
21 states in this moment in solidarity with people all over
22 this nation, it really hits to the core of our democracy
23 and the rights and liberties that we all hold valuable.

24 Tech and data harms have developed far faster than
25 our laws have. And the idea of preempting future laws,

1 even if there are a few carveouts in that preemption, is
2 deeply unwise. It's important to note that this is
3 unfavored -- it is unfavored in marginalized communities
4 that will, of course, take the brunt of preemptive laws.
5 Preemption will prevent states, counties, and
6 municipalities all over this nation from using the law to
7 further protect immigrants of color, LGBTQIA folks, black
8 and indigenous and people of color who are overtargeted
9 by surveillance, and poor and houseless individuals, and
10 even with those with issues of language and disability
11 access that are not addressed by the ADPPA.

12 I really appreciate the comments of Ms. de la Torre
13 and Mr. Thompson regarding the gravity of this board's
14 decision and I really appreciate your time.

15 **MS. URBAN:** Thank you very much, Ms. Morales.

16 Ms. Hurtado, do we have further public comment?

17 **MS. HURTADO:** Yes, our next speaker is Jon.

18 Jon, you have been unmuted. You now may speak. You
19 have three minutes. It begins now.

20 **MR. PINCUS:** Thank you for the opportunity to
21 comment today and thank you for all the work you've been
22 doing on this issue. And in particular to Ms. Mahoney,
23 for her extraordinary efforts.

24 I'm Jon Pincus, a technologist and entrepreneur. I
25 lived in California for years and may well move back

1 there in the future, but currently live in Bellevue,
2 Washington.

3 I fully support the first two motions and would ask
4 you to strengthen the third to authorize agency staff to
5 support a federal bill that doesn't preempt CPRA and that
6 in general creates a floor that California and other
7 states can build on in the future. So we place the or
8 with an and.

9 As you highlight, the preemption clause not only
10 eliminates existing state laws like CPRA and local laws
11 like Seattle's broadband privacy ordinance, it also puts
12 a ceiling on these future protections. Washington's AG
13 opposes preemption and so do grassroots activists across
14 the state, including WA People's Privacy.

15 As Ms. de la Torre highlighted, the threats to
16 privacy in post-Roe world really emphasize what's at
17 stake. Here's how Kim Clark of Seattle nonprofit Legal
18 Voice has described ADPPA in a Spokane Spokesman Review
19 article earlier this week.

20 "This bill, at least from the perspective of
21 pregnant people, it really doesn't do much. ADPPA's
22 preemption would prevent states like ours, who do value
23 privacy, from doing more, from providing stronger
24 protections".

25 And as Ms. Morales pointed out, the same loopholes

1 and exemptions in ADPPA that make it easy for so called
2 crisis pregnant centers to share data with vigilantes and
3 red state law enforcement also allow targeting of
4 immigrants, LGBTQ-plus people, unhoused people, people
5 receiving state benefits; all the other groups who are
6 most impacted by surveillance and data abuse. Preemption
7 stops our states from protecting them as well.

8 Again, I agree with what everybody has said. ADPPA
9 does have some very good features and hopefully at least
10 some of these problems will be fixed before it hits the
11 floor. Even so, even if all the issues CCPA and EFF and
12 ACLU and WA People's Privacy and others have identified
13 with ADPPA were somehow magically addressed, preemption
14 would still be a problem. Technology changes quickly and
15 as Chris Thompson quoted Louis Brandeis, states are the
16 laboratories of democracy.

17 As a tech leader, California's particularly
18 well-placed to help here, as is Washington. So thank you
19 again for fighting for privacy rights for people in
20 California and all across the country.

21 **MS. URBAN:** Thank you very much, Mr. Pincus

22 Ms. Hurtado, is there any further public comment?

23 **MS. HURTADO:** Yes, we have one more speaker, Jon
24 Leibowitz.

25 Mr. Leibowitz, you've been unmuted. You now have

1 three minutes. Your time starts now.

2 **MR. LEIBOWITZ:** Okay. Thank you. Thank you so
3 much. And I want to thank everybody who has spoken and
4 of course everybody on the panel. You know, we all share
5 the same goal.

6 So for those of you who don't know me, I'm the
7 former FTC chair, appointed by President Obama. And when
8 I worked at the FTC, we brought major cases against
9 Google and Facebook for not honoring their privacy
10 commitments. We called for a strong federal law in 2012
11 that would give all consumers control -- all Americans
12 more control over their data. I don't have a claim here.
13 I'm just speaking on behalf of myself and really for
14 stronger protections for all Americans.

15 So Mr. Thompson said that California -- he's
16 absolutely right, and Mr. Pincus said this too -- is a
17 laboratory for democracy. It certainly is, and you
18 passed the first privacy law and that's critically
19 important. We wouldn't be moving federally, I suspect --
20 or the federal -- or the Congress wouldn't be moving if
21 it wasn't for the California law, in part. But the House
22 bill, I believe, though certainly not perfect, is far
23 stronger than existing California law. And let me tell
24 you why I believe that.

25 So first of all, it has greater civil rights

1 protections. And I think that's why -- that is why a lot
2 of the civil rights groups support -- as well as privacy
3 groups, of course -- support the federal legislation.

4 Second, it has greater protection for kids. It
5 would force Google, Facebook, and other large data
6 collectors to stop the kind of willful blindness they've
7 engaged in that allows them to advertise to kids in ways
8 that would be illegal if they knew that they were
9 advertising to kids. So they'll have to combine
10 databases.

11 Third, it has a private right of action, which
12 California only has for a breach, and it has a private
13 right of action for a violation; that's why many
14 businesses oppose the legislation.

15 And most importantly, it has stronger privacy
16 protections. Data minimization, a universal optout
17 potential for consumers, authorized by FTC rulemaking,
18 more resources for the FTC, and fining authority for the
19 FTC, which is enormously important.

20 If a federal law passes, Californians will
21 immediately have greater privacy protections. And if it
22 fails, the biggest winners --

23 **MS. HURTADO:** Thirty seconds.

24 **MR. WEBBER:** Okay. Thank you.

25 Are the cyberazi who Hoover up all of our data.

1 Data moves interstate commerce. We need a national
2 solution. But we'll only have a robust federal law if
3 everyone makes some sacrifices, including businesses,
4 including states. And so I would urge you to change
5 these recommendations from oppose the ADPPA to work
6 more -- to work to make them better.

7 And with that, I will stop speaking. And thank you
8 so much for --

9 **MS. URBAN:** Thank you very much, Mr. Leibowitz.
10 Ms. Hurtado, do we have any further public comment?

11 **MS. HURTADO:** That was the last public comment for
12 right now.

13 **MS. URBAN:** Okay. Thank you very much.

14 And our many thanks to everyone who took the time to
15 call in and give us their thoughts today. They were all
16 very valuable.

17 I will first pause and ask if the board has further
18 commentary before we take up the motions.

19 Yes, Ms. de la Torre?

20 **MS. DE LA TORRE:** I will appreciate an opportunity
21 to discuss the suggestion that was made by one of the
22 commenters for the third motion, to potentially --

23 **MS. URBAN:** Mr. Pincus?

24 **MS. DE LA TORRE:** Yeah.

25 **MS. URBAN:** Um-hum. Sure, absolutely. All right.

1 Thank you, Ms. de la Torre. Why don't we start with
2 that.

3 So what we have on the table is a motion that gives
4 staff discretion to support any federal bill that in
5 staff's judgment doesn't broadly preempt the California
6 Privacy Protection Act of 2018 as amended by the
7 California Privacy Rights Act of 2020 or that in general
8 creates a true floor for privacy protection, that protect
9 Californians' current rights, and that California and
10 other states could build on in the future.

11 Mr. Pincus' suggested amendment would be to change
12 or to and so that the motion gives staff authorization to
13 support a federal bill that doesn't preempt, in their
14 judgment, broadly and that creates a true floor.

15 My own view of this is I very much appreciate the
16 thought and the friendly amendment -- I think it's a
17 friendly amendment -- from Mr. Pincus. I think that I
18 would prefer to go with more discretion for staff, just
19 to give them room to maneuver. But I certainly endorse
20 the sort of underlying substantive animation of Mr.
21 Pincus' comment. That's my initial thought. Are there
22 other thoughts from board members?

23 **MS. DE LA TORRE:** My thoughts are in line with the
24 thoughts expressed by Chairman Urban. I think it's
25 important to enable staff to have flexibility, given that

1 this is a area where things are quickly developing. At
2 the same time, I think it's important, even if it's not
3 part of the motion itself, to express support for the
4 idea that was mentioned by several commenters of
5 collaborating with other states or with organizations
6 that seek to raise awareness.

7 And have in mind that this law does not only affect
8 the CPRA in California, but all states, all counties, and
9 all municipalities across the U.S. With that, I'm
10 comfortable with voting in favor of the motion as
11 presented.

12 **MS. URBAN:** Thank you, Ms. de la Torre.

13 In that case, what I propose is that we go through
14 the motions and vote, and then we do our two
15 affirmations. One from earlier, which I did get nods
16 from everyone, but I think it would be helpful to do
17 after we've had the chance to hear from the public as
18 well, with regards to public awareness. And then we can
19 see if there's affirmation to give the staff the board's
20 sense of the importance of both of those components of
21 the motion and the importance of this issue not just for
22 California, but for other states, municipalities, and
23 counties. Does that capture what you were thinking, Ms.
24 de la Torre? Please feel free to amend, too.

25 **MS. DE LA TORRE:** Yes, thank you; that's perfect.

1 **MS. URBAN:** Okay. All right. So with that, we have
2 on the table three motions. And first, I will request --
3 or excuse me. First, I will ask for a vote on a motion
4 duly seconded to approve agency staff's recommendation to
5 oppose the American Data Privacy Protection Act as
6 currently drafted.

7 Ms. Hurtado, could you please call the roll vote?

8 **MS. HURTADO:** Yes.

9 Ms. de la Torre?

10 **MS. DE LA TORRE:** Aye.

11 **MS. HURTADO:** Mr. Le?

12 **MR. LE:** Aye.

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

14 **MS. SIERRA:** Aye.

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

16 **MR. THOMPSON:** Aye.

17 **MS. HURTADO:** Chair Urban?

18 **MS. URBAN:** Aye.

19 **MS. HURTADO:** We have five ayes and zero nays.

20 **MS. URBAN:** Thank you very much, Ms. Hurtado. The
21 motion passes with a vote of five to zero.

22 Second, I will please vote on a motion to approve
23 agency staff's recommendation to oppose any federal bill
24 that in agency staff's judgment seeks to broadly preempt
25 the California Consumer Privacy Act or provides

1 substantially weaker protections than the CPA as amended
2 by the California Privacy Rights Act or prevents the
3 agency, the California Legislature, or voters through the
4 ballot initiative from strengthening privacy protections
5 for Californians in the future or responding to
6 technological, social, or business changes or
7 significantly compromises the agency's authority or
8 ability to fulfill its statutory responsibility and
9 mandate on behalf of Californians. This motion has been
10 made and duly seconded.

11 Ms. Hurtado, could you please call the roll call
12 vote?

13 **MS. HURTADO:** Yes.

14 Ms. de la Torre?

15 **MS. DE LA TORRE:** Aye.

16 **MS. HURTADO:** Mr. Le?

17 **MR. LE:** Aye.

18 **MS. HURTADO:** Ms. Sierra?

19 **MS. SIERRA:** Aye.

20 **MS. HURTADO:** Mr. Thompson?

21 **MR. THOMPSON:** Aye.

22 **MS. HURTADO:** Chair Urban?

23 **MS. URBAN:** Aye.

24 **MS. HURTADO:** There were five ayes and zero nays.

25 **MS. URBAN:** Thank you very much, Ms. Hurtado. The

1 motion passes with a vote of five to zero.

2 Third, I ask the board to vote on the motion to
3 authorize agency staff to support a federal bill, any --
4 excuse me. Let me start over, just so I have it exactly
5 right in the transcript.

6 Third, I ask the board to vote on a motion to
7 support -- sorry. I think I've been talking too much.
8 I'm just going to pause for one second and then I'm going
9 to start over.

10 Third, I ask the board to please vote on a motion to
11 authorize the agency staff to support any federal bill
12 that does not, in the agency staff's judgment, broadly
13 preempt the California Privacy Protection Act of 2018 as
14 amended by the California Privacy Rights Act of 2020, or
15 that in general creates a true floor for privacy
16 protection that protects Californians' current rights and
17 that California and other states could build on in the
18 future. This motion has been made and duly seconded.

19 Ms. Hurtado, could you please conduct the roll call
20 vote?

21 **MS. HURTADO:** Yes.

22 Ms. de la Torre?

23 **MR. THOMPSON:** Aye.

24 **MS. HURTADO:** Mr. Le?

25 **MR. LE:** Aye.

1 **MS. HURTADO:** Ms. Sierra?

2 **MS. SIERRA:** Aye.

3 **MS. HURTADO:** Mr. Thompson?

4 **MR. THOMPSON:** Aye.

5 **MS. HURTADO:** Chair Urban?

6 **MS. URBAN:** Aye.

7 **MS. HURTADO:** Five ayes and zero nays.

8 **MS. URBAN:** Thank you, Ms. Hurtado, and thank you to
9 the board. The motion carries with a vote of five to
10 zero. Now we will take up the affirmations.

11 I would actually like to start with the affirmation
12 Ms. de la Torre spoke of most recently that in response
13 to our public commenter, Mr. Pincus, since we just did
14 that motion.

15 Mr. Pincus pointed out that we have an or in our
16 motion, so in theory, staff could support a bill that did
17 one of those two things rather than both of those two
18 things. And he also, as other speakers did, mentioned
19 the importance of other states' ability to protect their
20 residents, also being protected.

21 With that, I suggest that the board, by affirmation,
22 offer its sense and guidance to staff to be aware that
23 both of those components of the motion are important and
24 both should be considered carefully and that the staff
25 also consider the effect of anything that Congress is

1 doing on Californians and how it would affect other
2 states. And as Ms. de la Torre pointed out, also
3 counties and municipalities.

4 This we can do with general, I think, nodding of
5 heads. If people agree, the staff, I think, will have
6 the information they need to move forward. Thank you
7 very much. I see nods from everyone.

8 And so staff, please let us know if you have any
9 further questions, but if you feel like you have good
10 direction -- and Deputy Director Mahoney is nodding -- we
11 will move forward with that.

12 Second, Ms. de la Torre introduced a topic to the
13 board discussion that I think was generally supported by
14 the board and got a lot of support as well, and public
15 comments, which is to give staff the sense that we agree
16 with suggestions to invest in public awareness efforts,
17 in order for Californians to understand the rights that
18 they have and for everyone to understand how this
19 particular federal bill or other laws might affect those.
20 Did I get that summarized okay? Okay. Thank you, Ms. de
21 la Torre.

22 And Mr. Le also spoke up as one of the members of
23 the Public Awareness subcommittee. Did I cover
24 everything from your point of view? Wonderful.

25 All right. Then, again, by affirmation, if we can

1 give staff our sense on that, please just nod. Great.
2 Wonderful. I have nods from all of the board members and
3 ask that the staff please take that into account. Thank
4 you very much.

5 Given that, that is the end of the business that I
6 have for this agenda item. But before we leave, I want
7 to be sure that board members have an opportunity to say
8 anything else that they have not yet had the chance to
9 say on this agenda item.

10 Yes, Ms. de la Torre?

11 **MS. DE LA TORRE:** I just quickly wanted to thank the
12 other board members for their contributions to this
13 discussion. I think it has been really helpful to hear
14 not only my voice, but the voices of the other board
15 members and the commenters. And I just wanted to stress
16 that this is understanding the mandate of the agency as
17 so well was summarized by Ms. Urban and the fact that we
18 are facing a false choice, as Mr. Thompson mentioned, the
19 uncertainties around enforcement that could be brought by
20 a federal law that Ms. Sierra mentioned and all of the
21 different aspects that were highlighted by Mr. Le and in
22 particular those that relate to automated decision-
23 making, which is a fast-evolving field, I am truly
24 satisfied that we came to where we are, which is
25 unanimous support for the staff position.

1 And the final thing is, I want to highlight -- and I
2 understand that the mandate of the agency is limited to
3 California, but I was to highlight that we all have
4 families that live in other states; that we have kids
5 that go to college in other states. So the idea of
6 collaboration with other states and to consider the
7 aspects, in terms of preemption for municipalities, there
8 could be today a law in Atlanta providing limited but
9 needed privacy protections for women seeking reproductive
10 health care in that state. And that law can be
11 preempted. I think that it is the job of the federal
12 legislature to consider those aspects and analyze them
13 before acting.

14 So just summarizing, my thing was just to thank the
15 other board members, summarize all of the contributions,
16 and thank the staff for the work that they have done so
17 far. Thank you.

18 **MS. URBAN:** Thank you very much, Ms. de la Torre.

19 Other final comments? Yes, Mr. Soltani.

20 **MR. SOLTANI:** Thank you, Chairperson Urban.

21 I just wanted to thank -- take a moment to thank the
22 board for their strong and vocal support of this
23 incredibly important and essential issue that affects, as
24 mentioned, not just Californians' privacy, but the
25 privacy of an entire country.

1 As indicated in the comments by the board and the
2 public, privacy is an incredibly complicated issue. And
3 while I appreciate suggestions by advocates and others on
4 how they feel it may be stronger than the California law,
5 I assure you that in my and staff's expert opinion, it is
6 not. Not only for the constitutionally protected floor
7 that California provides, but also from the substantive
8 provisions that we have in our statute and our
9 regulations. As Board Member Thompson alluded to, while
10 the rest of the country is getting started, California
11 has a great deal more experience in not only legislating,
12 but also implementing and enforcing the privacy
13 protections in our law.

14 I too worked at the FTC on enforcement on those rare
15 cases the last commenter mentioned and feel that the
16 California law not only provides stronger protections,
17 but also is better interoperable with frameworks in other
18 states and internationally and better enforceable.

19 I also wanted to thank and share my deepest
20 gratitude for the hard work by Deputy Director Mahoney
21 and the rest of this team that they've undertaken to get
22 us here. I've witnessed the hours and hours of calls
23 that they've all participated in and really want to
24 appreciate and take a moment to appreciate their work.

25 Thank you all for the clear guidance, and I look

1 forward to implementing this direction with staff. Thank
2 you.

3 **MS. URBAN:** Thank you, Executive Director Soltani.

4 And thank you as well for your work, as well as
5 Deputy Director Mahoney's work, and the work of legal
6 staff and others behind the scenes, who have been working
7 truly, I think, night and day to understand the
8 implications of the proposals for California and for the
9 agency in our mandate, so that the board could understand
10 it.

11 I also want to extend my thanks to my fellow board
12 members for being willing to, you know, join a very quick
13 notice meeting, to have come to this meeting so prepared,
14 and to have thought so carefully about these issues on
15 behalf of Californians. It makes me very proud to be
16 part of this board and to have the ability and the honor
17 of representing Californians' interests in this area.

18 I also, again, want to reiterate my thanks to
19 Congress for working on this really important issue and
20 also for working to accommodate California's and other
21 states' concerns. Obviously, we do not think that that
22 work is done, but we do support privacy for all
23 Americans. We simply can't support it at the expense of
24 Californians.

25 Thank you all very, very much. And with that, we

1 will move to agenda item number three, which is
2 adjournment.

3 May I have a motion to adjourn the meeting?

4 **MR. THOMPSON:** So moved.

5 **MS. URBAN:** Thank you very much, Mr. Thompson. Is
6 there a second?

7 **MR. LE:** I'll second.

8 **MS. URBAN:** Thank you, Mr. Le.

9 I have a motion and a second to adjourn the meeting.
10 The board will now vote whether to approve the motion.

11 Ms. Hurtado, could you please conduct the roll call
12 vote?

13 **MS. HURTADO:** Yes.

14 Ms. de la Torre?

15 **MR. THOMPSON:** Aye.

16 **MS. HURTADO:** Mr. Le?

17 **MR. LE:** Aye.

18 **MS. HURTADO:** Ms. Sierra?

19 **MS. SIERRA:** Aye.

20 **MS. HURTADO:** Mr. Thompson?

21 **MR. THOMPSON:** Aye.

22 **MS. HURTADO:** Chair Urban?

23 **MS. URBAN:** Aye.

24 **MS. HURTADO:** There are five ayes and zero nays.

25 **MS. URBAN:** Thank you very much, Ms. Hurtado.

1 And thank you again to all of my fellow board
2 members. The motion passes with a vote of five to zero
3 and a special meeting of the California Privacy
4 Protection Agency Board is now adjourned. Thank you all.

5 (End of recording)

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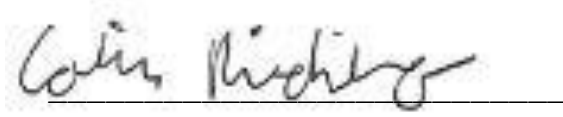
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)
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Colin Richilano
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