

1 CALIFORNIA PRIVACY PROTECTION AGENCY BOARD

2

3 AUDIO TRANSCRIPTION OF RECORDED PUBLIC COMMENT SESSION

4

5

6

FRIDAY, NOVEMBER 8, 2024

7

9:05 AM

8

LENGTH: 5:29:52

9

10

11

12

13

14

15

16

17

18

19

20

21 Transcribed by:

22

iDepo Reporters  
898 North Pacific Coast Highway  
Suite 475  
El Segundo, California 90245  
(323) 393-3768  
www.ideporeporters.com

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Appearances: JENNIFER URBAN, CPPA Board Chairperson  
SERENA MARZION, CPPA Moderator  
VINHCENT LE, CPPA Board Member  
DREW LIEBERT, CPPA Board Member  
ALISTAIR MACTAGGART, CPPA Board Member  
JEFFREY WORTHE, CPPA Board Member  
YADI YOUNSE, Privacy Rights Fellow,  
Oakland Privacy  
PHILIP LAIRD, CPPA Meeting Council  
ASHKAN SOLTANI, CPPA Executive Director  
MS. WHITE, Moderator  
LOU MASTRIA, President and CEO of Digital  
Advertising Alliance  
DALTON CLINE, ESQ., Lawyer in Kentucky  
MATT SCHERER, Workers' Rights Project  
at the Center for Democracy and Technology  
BECCA CRAMER-MOWDER, ACLU CA Action  
ADAR CARVER, ESQ., Lawyer  
GEORGE SEWELL, Security Industry Association  
MATT REGAN, Senior VP of Policy at the Bay  
Area Council  
MICHAEL SHILSTONE, Central City Association  
of Los Angeles  
LUCY CHINKEZIAN, Counsel at the Civil Justice  
Association of California  
LARTEASE TIFFITH, Excutive VP of the  
Interactive Advertising Bureau

1 Appearances (continued):

2 EDWIN LOMBARD, California African-American  
3 Chambers of Commerce

4 GRAHAM DUFAULT, Counsel of ACT, The App  
5 Association

6 SCOTT MILLER, CEO of the Fresno County  
7 Chamber of Commerce

8 JACKSON NUTT-BEERS, San Francisco Chamber  
9 of Commerce

10 VICTOR REYES, Valley Industry Commerce  
11 Association

12 FLO HUNTER

13 GEORGE BOUTROS, Orange County Business  
14 Council

15 NATE HADLEY, Alliance to preserve  
16 California's Innovation and Technology  
17 Economy

18 KYLE SHANNON, AI Salon

19 ANIKA GANDHI, Woodworking Teacher at Anika's  
20 DIY Life

21 GRACE GEDYE, Consumer Reports

22 JUSTINE MURRAY, San Diego Regional Chamber  
23 of Commerce

24 ANNETTE BERNHARDT, UC Berkeley Labor Center

25 TIM NEWMAN, TechEquity

IVAN FERNANDEZ, California Labor Federation  
of Labor Unions and UFCW State Council

RIN ALAJAJI, Electronic Frontier Foundation

KARA WILLIAMS, ESQ., Lawyer at Electronic  
Privacy Information Center

TASIA KIEFFER, Los Angeles County Business  
Federation

1 Appearances (continued):

2 CARMEN COMSTI, California Nurses Association  
3 National Nurses United

4 CLINT OLIVIER, CEO of Central Valley Business  
5 Federation

6 KEILEN FONG, CalAsian Chamber

7 RYAN ALLAIN, California Retailers Association

8 JULIAN CANETE, California Hispanic Chambers of  
9 Commerce

10 GILBERT LARA, Biocom California

11 NAOMI PADRON, Computer & Communications  
12 Industry Association

13 TRAVIS FRAZIER, Association of National  
14 Advertisers

15 ROBERT SINGLETON, Sen. Dir. of Policy and  
16 Public Affairs for the California and US  
17 West region at Chamber of Progress

18 DYLAN HOFFMAN, TechNet

19 RONAK DAYLAMI, CalChamber

20 ANTON VAN SEVENTER, ESQ., Counsel for the  
21 Software and Information Industry Association

22 LETICIA GARCIA, California Grocers Association

23 TONY FICARROTTA, General Counsel for NAI

24 ELIZABETH ALLEN, CPPA Attorney

25 TIFFANY GARCIA, Chief Deputy Executive  
Director of CPPA

MS. COLSON

LISA KIM, Sen. privacy counsel and advisor  
for the CPPA

1 MS. URBAN: Good morning. Welcome to this meeting  
2 of the California Privacy Protection Agency Board. It is  
3 November 8th at 9:05 a.m. I'm Jennifer Urban. I'm the  
4 chairperson of the Board. And I'm pleased to be here in  
5 person with my fellow members of the board, some members of  
6 the public, and to welcome many of you via Zoom as well.

7 Before we get started on the substance of the  
8 meeting, as usual, I have some logistic announcements and  
9 some legal parameters to share with you. First, I'd like to  
10 ask everyone to ensure that your microphone is muted when  
11 you're not speaking, and everyone is -- and that everyone  
12 who is here in person, please silence your cell phones to  
13 avoid interruption.

14 The third and importantly, this meeting is being  
15 recorded, so please be aware of that. We do still encourage  
16 people to wear masks if you're attending in person, given  
17 the continuing circulation of COVID and other viruses. And  
18 we want to be sure that our meetings are accessible to  
19 everyone.

20 As you may know, our temporary ability to meet  
21 remotely and still comply with Bagley-Keene did expire. So  
22 this meeting is in a hybrid format. My fellow board members  
23 and members of the CPPA staff are here in person, along with  
24 some members of the public, while most members of the public  
25 are joining remotely.

1           That hybrid format to which we are committed to  
2 make the meetings as accessible as possible has a number of  
3 technical complexities. So if we have technical kinks  
4 during the meeting, we'll pause the meeting and address the  
5 issue. Our board meetings are physically held at the  
6 California Public Utilities Commission in San Francisco, and  
7 we appreciate the CPUC team for their hospitality and for  
8 not only allowing us to use this hearing room, but also  
9 providing AV assistance today.

10           Let me go over some logistics and meeting  
11 participation. Today's meeting will be run according to the  
12 Bagley-Keen Open Meeting Act as required by law. We will  
13 proceed through the agenda, which is available as the  
14 handout here in San Francisco and also on the CPPA website  
15 under meetings and events for today.

16           Materials for the meeting are also available here  
17 at -- as physical handouts and on the CPPA website. You  
18 will notice board members accessing laptops, phones, and  
19 other devices during the meeting. We are using these  
20 devices solely to access board meeting materials.

21           After each agenda item, there will be an  
22 opportunity for questions and discussion by board members.  
23 I will also ask for public comment on agenda items. Each  
24 speaker will be limited to three minutes per agenda item.  
25 We also have a designated time on the agenda for general

1 public comment. That's Agenda Item number 2.

2 On that point, I want to note that we have, again,  
3 reordered the agenda compared to how we practice in the past  
4 to hear general public comments at the beginning of the  
5 meeting. This was in response to observations from some  
6 stakeholders that they face challenges trying to predict  
7 when the Board might get to a specific agenda item.

8 And so for those folks who can't just stay for the  
9 entire meeting and want to be sure to offer their public  
10 comments, we are scheduling general public comment at the  
11 beginning of the meeting to make that as easy as possible.

12 We have -- if you're participating via Zoom and  
13 you wish to speak on an item, please wait until I call for  
14 public comment on that item and allow staff to prepare for  
15 Zoom public comment. Then please use the "raise your hand"  
16 function, which is a feature at the bottom of your Zoom  
17 screen. And if you wish to speak on an item and you're  
18 joining by phone, please press star nine, that's star nine  
19 on your phone, and that will show the moderator that you're  
20 raising your hand.

21 The moderator will call your name when it's your  
22 turn, and request that you unmute yourself for comment at  
23 that time. Those using the Zoom webinar can use the  
24 "unmute" feature and those dialing in by phone can press  
25 star six to unmute, that's star six. When your comment is

1 completed, the moderator will mute you.

2 Please also note that if you're joining us  
3 remotely, the Board will not be able to see you, only hear  
4 your voice. Accordingly, it's helpful if you identify  
5 yourself, but this is entirely voluntary. And if you're  
6 joining the Zoom webinar, you can also input a pseudonym  
7 when you log into the meeting.

8 If you're attending in person and you wish to  
9 speak on an item, please wait for me to call for public  
10 comment and then proceed towards the podium to my left, and  
11 form a line. Please move to the podium when you're called  
12 to speak in your turn.

13 As with Zoom attendees, it is helpful if you  
14 identify yourself when you begin speaking. But, again, it's  
15 entirely voluntary, and you're free to refer to yourself  
16 with a pseudonym or not give a name.

17 Please do speak into the microphone so everyone  
18 participating remotely can hear you and also so that your  
19 remarks can be recorded in the meeting record. As I  
20 mentioned, the hybrid meeting format is technically rather  
21 complex. And first, I'd like to thank the team for managing  
22 the technical aspects of today's meeting. And second, I  
23 will explain what to do if those of you attending remotely  
24 experience an issue with the remote meeting, for example, if  
25 the audio drops.



1           If something happens, please email  
2 info@coppa.ca.gov. That's India November Foxtrot Oscar at  
3 CPPA dot Charlie Alpha dot gov. This will be monitored  
4 throughout the meeting. If there's an issue that affects  
5 the remote meeting, we'll pause the meeting to -- for our  
6 technical staff to work on the issue.

7           The Board welcomes public comment on any item on  
8 the agenda, and it is our intent to ask for public comment  
9 prior to the Board voting on any agenda item. If for some  
10 reason I forget to ask for public comment and you wish to  
11 speak on that item, please let us know by using the "raise  
12 your hand" functions and the moderator will recognize you or  
13 simply raising your hand and moving towards the podium, if  
14 you are in the room here. Once I see that I forgot, I will  
15 call you to the podium or ask the team to unmute you to  
16 provide your comment.

17           Once again, each speaker will be limited to three  
18 minutes per agenda item for public comments. And if you're  
19 speaking on an agenda item, Bagley-Keene requires that both  
20 board members and members of the public must contain their  
21 comments to that agenda item and we may discuss agendized  
22 items only.

23           There is a sort of broader possibility for the  
24 public when we take up the item for general public comment,  
25 which is number 2 today. However, board members cannot

1 respond, we can only listen. And in addition, agenda items  
2 for future meetings can be suggested for discussion at  
3 future meetings during the agenda item for that purpose,  
4 which is number 9 today.

5 We'll take breaks as needed, including one for  
6 lunch. I'll announce each break and estimate on when we  
7 might plan to return so that members of the public can leave  
8 and come back before we begin again.

9 Please do note that Agenda Item number 10 today is  
10 a closed session item. The Board will leave the room to  
11 consider a closed session item, and when we are finished, we  
12 will return to the public meeting.

13 My thanks to the board members for their service,  
14 and all the people working to make this meeting possible.  
15 I'd like to thank the team supporting us today, Mr. Robert  
16 Stanford and the team of conference services experts I  
17 mentioned have organized the meeting infrastructure.

18 From the CPPA, I'd like to thank Mr. Philip Laird,  
19 who is acting as meeting council today, Mr. Ashkan Soltani,  
20 who will be here remotely in his capacity as executive  
21 director, and all the expert staff who will be briefing us  
22 today.

23 I'd like to thank and welcome our moderator, Ms.  
24 Serena Marzion, and ask her to please conduct the roll call.

25 MS. MARZION: All right. Board Member Le?

1 MR. LE: Present.

2 MS. MARZION: Board Member Liebert?

3 MR. LIEBERT: Present.

4 MS. MARZION: Board Member Mactaggart?

5 MR. MACTAGGART: Here.

6 MS. MARZION: Board Member Worthe?

7 MR. WORTHE: Here.

8 MS. MARZION: Chair Urban?

9 MS. URBAN: Present.

10 MS. MARZION: Madame Chair, you have five present  
11 members and no absences.

12 MS. URBAN: Thank you, Ms. Marzion. The Board has  
13 established a quorum. I would like to remind board members  
14 that we'll take a roll call vote on any action items. With  
15 that, we'll move to Action Item number 2, which is public  
16 comments on items not on the agenda.

17 If you haven't joined us recently, again, we are  
18 doing this at the top of the meeting to provide some  
19 predictability for those members of the public who can't  
20 attend the entire meeting, but would like to comment.

21 Also, as a reminder, please understand the Board  
22 may not discuss or act on any matter raised during the  
23 section, except perhaps to decide whether to place the  
24 matter on a future agenda under the item for that purpose.

25 We are listening. We don't mean to be

1 nonresponsive. Just under Bagley-Keene, we can't respond,  
2 we can only listen. And with that, I will ask both the team  
3 running the Zoom to see if there's public comment in Zoom,  
4 and also invite new members here in person who would like to  
5 comment, move to the podium.

6 MS. MARZION: This is for Agenda Item number 2,  
7 public comment on items not on the agenda. If you'd like to  
8 make a comment at this time, please raise your hand using  
9 the "raised hand" feature, or by pressing star nine if  
10 you're joining us by phone. This is for Agenda Item number  
11 2. And it looks like we have a few hands raised.

12 Claire Morgan, you are unmuted and you have three  
13 minutes.

14 MS. MORGAN: Hello, I don't know if y'all could  
15 hear me, but I'm having some audio issues, so I'm not quite  
16 sure if that is an issue on my end or an issue on --

17 MS. MARZION: We can hear you clearly, Claire.

18 MS. MORGAN: -- the system's end. But I just want  
19 to make sure that the audio is properly working on the Zoom.  
20 Thank you.

21 MS. MARZION: Oh, thank you very much for your  
22 comments.

23 MS. URBAN: Ms. Marzion, could we check that she  
24 could hear that.

25 MS. MARZION: Yes. Did you hear yourself, Claire?

1 (Inaudible).

2 MS. WHITE: Madam Chair, I've checked with others  
3 who are listening remotely. They're able to hear. Claire  
4 e-mailed us as well, and I let her know perhaps to log off  
5 and log back on.

6 MS. URBAN: Wonderful. Thank you very much, Ms.  
7 White.

8 MS. WHITE: Thank you.

9 MS. MARZION: Edwin Lombard, we have three minutes.  
10 Oh, Edwin has dropped his hand.

11 Luigi, go ahead and speak. You have three  
12 minutes.

13 MR. MASTRIA: Thank you. My name's Lou Mastria,  
14 and I'm the president and CEO of the Digital Advertising  
15 Alliance. The DAA is an independent nonprofit that sets and  
16 enforces privacy practices for digital advertising,  
17 empowering millions board of Americans to control how data  
18 is used to advertise to them.

19 Thank you for the opportunity to testify today on  
20 the CPPA's draft regulations. For more than a decade, DAA  
21 has administered a set of self-regulatory principles that  
22 define standards for informing consumers of companies data  
23 collection and use practices, and for offering consumers  
24 over -- control over those data for interest-based  
25 advertising.

1           The DAA supports providing consumers with notice  
2 and opt-out choice surrounding interest-based advertising.  
3 However, the CC -- the CPPA's draft regulations related to  
4 behavioral advertising would threaten business' ability to  
5 use data from their own consumers to advertise products and  
6 services to them. The draft behavioral advertising  
7 regulations are significantly at a step with other state  
8 privacy laws and simply do not align with the CCPA, causing  
9 consumer confusion.

10           First, the creation of this limit for behavioral  
11 advertising, under the proposed regulations, would  
12 contravene the scope and intent of the CPPA. The agency  
13 should not enshrine this concept into law, as it extends  
14 well beyond the CC -- the CPPA's authority to regulate it,  
15 and it unintentionally affects all sorts of consumer  
16 interactions, including expected customer service through  
17 recommendations and similar dynamics. It's basically asking  
18 a shopkeeper to not make recommendations to his or her  
19 customers.

20           Second, the proposed limit would contradict the  
21 approach of approximately 20 other states that have passed  
22 privacy laws.

23           Third, businesses should in fact, be permitted to  
24 advertise to their own customers use on their own digital  
25 properties.

1           So, thank you for the opportunity to present you  
2 with this testimony. We at the DAA look forward to  
3 continuing to work with you as you take steps to update the  
4 draft regulations to align them to the text of the CCPA and  
5 the scope of the agency's regulatory authority. Thank you.

6           MS. MARZION: Thank you for your comment. Dalton  
7 Cline, I'm going to unmute you at this time. You'll have  
8 three minutes to make your comment, so please begin as soon  
9 as you're ready.

10           MR. CLINE: Hi. Hello, board members. Thank you  
11 for the opportunity to speak. I'm a lawyer in Kentucky with  
12 a practice primarily consisting of data privacy and  
13 cybersecurity, and I wanted to offer a comment, mainly to  
14 staff, but also to the Board on the proposed regulations in  
15 Article 12, specifically those dealing with insurance  
16 companies.

17           In my view, I think it's clear from the definition  
18 of consumer that commercial clients of insurance companies  
19 would be included within the scope of the regulations.  
20 However, I've seen commentary online and in talking with  
21 other outside -- other members of outside counsel and  
22 different clients that the industry is not clear, actually,  
23 as to the scope of the general application of the CCPA to  
24 insurance companies.

25           And like I said, specifically with regard to

1 whether the commercial clients of insurance companies such  
2 as those purchasing life or liability director's liability  
3 insurance, that kind of thing, it applies. So I think that  
4 in Section B in the illustrative examples, I think it would  
5 be helpful to the industry if staff could consider including  
6 an illustrative example of commercial insurance clients.

7 Thank you.

8 MS. MARZION: Thank you for your comments.

9 ACLU Ca Action. Go ahead. I'm going to unmute  
10 you at this time. You'll have three minutes to make your  
11 comment, so please begin as soon as you're ready. Oh, and  
12 your hand just went down.

13 Matt Scherer, I'm going to unmute you at this  
14 time. We have three minutes to -- and go ahead and speak  
15 when you're ready.

16 MR. SCHERER: Thank you. Good morning. I'm Matt  
17 Scherer and I lead the Workers' Rights Project at the Center  
18 for Democracy and Technology. I appreciate your work on  
19 this issue, and thank you for taking the time to hear from  
20 stakeholders.

21 I urge you to review and take to heart the  
22 comments from Consumer Reports, the UC Berkeley Labor  
23 Center, and other consumer and workers' rights advocates  
24 that are appearing today and submitting written comments,  
25 particularly on the strong need for clear and meaningful



1 disclosures to consumers and workers when companies use  
2 ADMTs to make key decisions about consumers and workers.

3 I'll focus on the definition of ADMTs. The  
4 proposed definition would apply only to systems that are a  
5 substantial factor in covered decisions. This would  
6 essentially give companies a license to opt themselves out  
7 of the law's requirements. Here's why. Workers and  
8 regulators often don't know which companies are using ADMTs,  
9 much less how those companies are using them.

10 Companies have strong incentives to keep it that  
11 way because it allows them to avoid accountability for error  
12 prone and harmful ADMTs. Consequently, companies are likely  
13 to take advantage of any loopholes that give them discretion  
14 to wiggle out of ADMT disclosure requirements that would  
15 reveal their use of these systems.

16 The substantial factor requirement would create  
17 such a loophole because companies almost always claim that  
18 ADMTs merely make recommendations that are one factor among  
19 many, and that humans have final say in decisions.

20 Companies can easily avoid compliance by adopting  
21 internal policy, saying that the decision makers should not  
22 overly on ADMTs, even if in reality the tool's  
23 recommendations are decisive, and human reviewers defer to  
24 the AI.

25 We know that companies do this. The nonprofit

1 investigative outlet, ProPublica, published a trio of  
2 reports on how Cigna secretly used an algorithm to mass  
3 reject policy holders claims that were supposed to be  
4 reviewed by doctors, and then threatened to fire a physician  
5 who pushed back. Given company's ability to cloak their  
6 ADMT use behind human rubber stamps, this substantial factor  
7 requirement creates a Catch 22.

8           Once a company chooses to assert that a tool is  
9 not a substantial factor, it can continue hiding that system  
10 from consumers, workers, and regulators. And with that  
11 secrecy assured, no one would be able to challenge their  
12 behind closed doors determination that a system is exempt  
13 from disclosure.

14           In other words, the substantial factor requirement  
15 threatens to make ADMT regulations a dead letter, giving  
16 companies the ability to opt-out of complying with the law  
17 completely as appear to as -- appears to have happened with  
18 New York City's ordinance on AI and hiring according to a  
19 study that was released earlier this year.

20           I urge you to go back to the original broader  
21 definition of ADMTs that appeared in the earlier draft  
22 regulations. And it is essential that the CCPA rules be  
23 written in a way that ensures companies cannot use their  
24 information monopoly on ADMTs to avoid transparency and  
25 accountability. Thank you.

1 MS. MARZION: Thank you. ACLU Ca Action, I'm going  
2 to unmute you at this time. You'll have three minutes to  
3 make your comment, so please begin as soon as you're ready.

4 MS. CRAMER-MOWDER: Hello, this is Becca  
5 Cramer-Mowder on behalf of ACLU California Action. We would  
6 encourage you to call for strong protections for civil  
7 rights in light of the presidential transition that's coming  
8 up. We know that California has been doing a lot to shore  
9 up our laws, protecting people who are coming to California  
10 because of who those people are or because they're seeking  
11 healthcare services.

12 However, there are ways that consumer information  
13 can be used to target particularly vulnerable people. And  
14 so we would encourage you especially to be looking at the  
15 strong civil rights protections that are needed for  
16 immigrants, people seeking reproductive services,  
17 transgender people, protestors, and others.

18 Additionally, we would encourage you to identify  
19 red lines that should not be crossed to help protect  
20 Californians as well as people accessing their basic rights  
21 from other states and needing to do so in California.

22 And lastly, we would encourage you to continue  
23 demonstrating the importance of preserving state laws,  
24 including Article 1, Section 1, constitutional right to  
25 privacy in California against federal preemption, to help

1 protect Californians as we shore up privacy rights in an  
2 effort to protect civil rights and civil liberties in the  
3 coming years. Thank you.

4 MS. MARZION: Thank you.

5 Adar Carver, I'm going to unmute you at this time.  
6 You'll have three minutes to make your comment, so please  
7 begin as soon as you're ready.

8 MR. CARVER: Thank you, Jennifer Urban, Chair. My  
9 name's Adar Carver. I am an attorney, a three-time  
10 International Association of Privacy Professionals,  
11 certified. I am interested in the way that we protect data  
12 and the different sorts of data processes.

13 So, as of now, we are protecting data that is  
14 binary, very straightforward, and now we're seeing advent of  
15 technology such as artificial intelligence, which are  
16 creating different algorithms and models that are processing  
17 our data in a more sophisticated fashion.

18 I urge the Board to, as we think about algorithms  
19 and artificial intelligence, to think about also standards  
20 -- higher standard requirements for companies that collect  
21 consumer data so that they may more highly protect or more  
22 -- be more transparent with consumers about those  
23 algorithms.

24 Very finally, I would like to raise an issue  
25 that's not yet maybe as widely applicable. There are new

1 data processing powers through International Business  
2 Machine, Google, Amazon, where they are processing data  
3 using quantum computing or imposing super -- or super --  
4 excuse me. They are using bates that are in super position,  
5 quantumly entangled, and then able to generate floating  
6 operation points per second that are more sophisticated than  
7 even the algorithms.

8 International Business Machine or IBM implements  
9 both algorithmic processing AI, as well as quantum  
10 processing with their Watson machine. So, very finally, I  
11 would like to urge the California Privacy Protection Agency  
12 to have a higher standard for that quantum data processing  
13 of consumer data. Thank you.

14 MS. MARZION: Thank you.

15 George Sewell, I'm going to unmute you at this  
16 time. You'll have three minutes to make your comment, so  
17 please begin as soon as you're ready.

18 MR. SEWELL: Hello, Chair Urban and fellow members  
19 of the Board. My name is George Sewell, and I'm with the  
20 Security Industry Association. SIA represents more than 200  
21 companies headquartered in California that provide a wide  
22 range of products for protecting the physical safety of  
23 people, property, businesses, schools, and critical  
24 infrastructure.

25 Our members are committed to safeguarding personal

1 information in their own business practices, as well as in  
2 the design of the products and services. I would like to  
3 make two points regarding the proposed rules, specifically  
4 the automated decision-making tool section.

5 First, like many other business organizations, we  
6 have concerns about the proposal to create a right to  
7 opt-out of tools used for consumer profiling. This would  
8 interfere with the ability of businesses to conduct first  
9 party advertising to their existing customer base. An  
10 ability that stakeholders had agreed to protect when CCPA  
11 was negotiated. Disrupting established business models in  
12 this way could limit the ability of companies to provide  
13 relevant offers and services to their customers and put  
14 California businesses at a disadvantage.

15 Second, we are concerned with about the  
16 implications of creating a consumer right to opt-out of  
17 training data. This approach is not consistent with the  
18 current practices and training data models, which use  
19 aggregated information and patterns versus specific  
20 identifying data.

21 The unintentional result could be reduced model  
22 quality, reduced accuracy, and increased bias due to less  
23 diverse data. And it could be counterproductive to privacy  
24 protections as an opt-out mechanism would require processing  
25 and retaining personal data in order to track individual's

1 preferences.

2           Such issues underscore, as currently written, the  
3 proposal would extend control over activities falling  
4 outside the scope of the CCPA that have little impact to  
5 privacy expectations and were not meant to be restricted  
6 under the original legislation. Additional analysis and  
7 revision of the proposal is needed to ensure it aligns more  
8 closely with original intent, focusing on genuine privacy  
9 concerns stemming from AI-driven automated decision-making  
10 technology.

11           SIA and our members stand ready to provide any  
12 additional information you may need as these important  
13 issues are considered. Thank you very much for your time  
14 and consideration.

15           MS. MARZION: Thank you.

16           Matt Regan, I'm going to unmute you at this time.  
17 You'll have three minutes to make your comment, so please  
18 begin as soon as you're ready.

19           MR. REGAN: Good morning, board members. My name's  
20 Matt Regan. I'm Senior Vice President of Policy at the Bay  
21 Area Council. We are a regional employer-sponsored public  
22 policy and advocacy organization. About 350 of the Bay  
23 Area's largest employers, both public and private are our  
24 members, and we advocate on issues that are of critical  
25 importance to our region's economy and quality of life.

1           First, I'd like to thank the Board for allowing us  
2 to speak at the front end of this meeting. I participated  
3 in the previous meeting in person, and that was a long day.  
4 So thank you for letting us speak upfront. I do recall at  
5 that meeting a great part of the agenda focused on this  
6 agency's lack of resources, lack of staff, lack of talent in  
7 place to make some critical decisions about the future of  
8 this industry.

9           I think Board Member Mactaggart was even calling  
10 for volunteers, retired members of the tech community to  
11 step in and help with your work. That does not strike me --  
12 with all due respect to the agency and the great work that  
13 you do and the great people that you have, does not strike  
14 me as a body that's yet ready to make some of the critical  
15 decisions that you are in the process of making.

16           We would urge you to start to pump the brakes on  
17 the decision-making process around advanced decision-making  
18 technology. This is a critical part of our future economy.  
19 The Bay Area and San Francisco in particular, where you sit  
20 right now, is the global epicenter for the development of  
21 this technology, and we are deeply concerned that the  
22 decisions made by a self-admittedly under-resourced body  
23 could permanently hamper and put at a disadvantage this  
24 industry that is, you know, a growing part of the Bay Area's  
25 economy.



1           We would like to see these decisions made in a  
2 deliberative process, in a deliberative manner in the  
3 legislature where they have the resources and they have the  
4 people, and they have the ability to make these large  
5 decisions in a -- in a thoughtful -- not that you don't do  
6 it thoughtfully, but in a thoughtful, deliberative, and  
7 resourced manner.

8           So we would urge you to pump the brakes and  
9 consider letting the legislature do the work that you have  
10 admitted that you don't have the resources to do. Thank you  
11 so much.

12           MS. MARZION: Michael Shilstone, I'm going to  
13 unmute you at this time. You'll have three minutes to make  
14 your comments, so please begin as soon as you're ready.

15           MR. SHILSTONE: Hi, there. Sorry about that. Good  
16 morning. Michael Shilstone with Central City Association of  
17 Los Angeles. CCA represents over 300 members from  
18 businesses, nonprofits, and institutions, and we're  
19 committed to enhancing downtown LA's vibrancy and increasing  
20 opportunity across the Southern California region.

21           And we appreciate the goal of these regulations to  
22 limit discrimination, but the way these regulations are  
23 written are too broad, overburdened -- overburdensome, and  
24 will negatively impact independent contractors and the  
25 business community. So language is broad enough to cover

1 many types of routine technologies used in businesses in  
2 many industries, not just cutting edge AI technology,  
3 meaning even inconsequential or everyday uses of ADMT will  
4 have to comply.

5           And I think, you know, echoing what the Bay Area  
6 Council said, we urge the Board to hold on advancing formal  
7 rulemaking until after related legislative processes are  
8 finished. Legislature is currently considering dozens of AI  
9 related bills and examining whether existing law provides  
10 sufficient protections for any number of concerns, defining  
11 key terms, and deciding which agencies should enforce  
12 various AI laws and more.

13           So with that, the Board, we don't think should  
14 unnecessarily get ahead of this process with potentially  
15 damaging rules that could have sweeping impacts. Thank you.  
16 We appreciate consideration of our comments.

17           MS. MARZION: Thank you.

18           Lucy C., I'm going to unmute you this time.  
19 You'll have three minutes to make your comments, so please  
20 begin as soon as you're ready.

21           MS. CHINKEZIAN: Good morning. My name is Lucy  
22 Chinkezian, and I'm counsel at the Civil Justice Association  
23 of California. We would like to thank the agency for the  
24 opportunity to comment on the proposed regulations. CJAC  
25 and others have filed written comments on these regulations,

1 and we have concerns that a number of them have not been  
2 addressed to date.

3 In addition, some of these regulations seem to  
4 exceed what the legislation has authorized. Notably, the  
5 ADMT regulations would create a right to opt-out of  
6 automated decision-making tools. This would impair  
7 business' ability to advertise to its own customers,  
8 requiring a complete overhaul of existing advertising  
9 practices for those customers who choose to opt-out.

10 This is both costly and unreasonably burdensome  
11 for businesses. The primary compromise between business and  
12 legislators in passing the CCPA was to provide consumers  
13 with protections, while also preserving the ability for  
14 businesses to continue to use data from their own customers  
15 to advertise to them without facing the threat of excessive  
16 liability.

17 The proposed regulations also would create a right  
18 to opt-out of ADMT training data. This could negatively  
19 impact retail companies who develop their own ADMT  
20 applications internally.

21 Finally, the CPPA estimates the cost of  
22 implementing these regulations on California businesses to  
23 be \$3.5 billion. This is likely a conservative figure.  
24 Businesses cannot face these exorbitant costs.

25 We urge the agency to be measured in adopting

1 these regulations. It should continue to work with industry  
2 and find attainable compromises, and take care to ensure the  
3 regulations are consistent with the statute. Thank you  
4 again for the opportunity to comment.

5 MS. MARZION: Thank you.

6 Lartease Tiffith, I'm going to unmute you at this  
7 time. You'll have three minutes to make your comment, so  
8 please begin as soon as you're ready.

9 MR. TIFFITH: Great. Thank you very much.

10 Good morning. My name is Lartease Tiffith, and I  
11 am the Executive Vice President of the Interactive  
12 Advertising Bureau or IAB. IAB represents over 700  
13 companies across the advertising and media industries,  
14 advocating on complex issues such as consumer privacy, data  
15 security, global trade data transfer rules.

16 Today I'll like to address significant concerns  
17 with the latest draft regulations on automated  
18 decision-making technology or ADT, and associated risk  
19 assessment requirements. These regulations, like others  
20 from this body, are overly broad and lack the clarity needed  
21 for practical application.

22 Our primary concern lies with the regulation  
23 allowing consumers to opt-out of automated decision-making  
24 tools used for profiling, which could severely impact first  
25 party advertising. Businesses rely on these tools to

1 enhance customer experience and provide product  
2 recommendation based on past purchases. Dislabeling these  
3 features would require complete operational overhauls, which  
4 is unreasonable and goes beyond the California Consumer  
5 Privacy's Act and tenant scope.

6           Moreover, the draft's definition of ADT is overly  
7 broad, covering nearly every technology that processes  
8 personal data and executes a decision, which creates  
9 confusion. Aside from a few explicitly exempt processes,  
10 nearly all computational activities could be subject to risk  
11 assessments and opt-out requirements, burdening businesses  
12 with excessive compliance demands and frustrating consumers  
13 would opt-out from essential services they rely on.

14           The proposed definition of behavioral advertising  
15 is another problematic area by extending opt-outs to a  
16 business's own use of customer data. This goes beyond the  
17 scope of the CCPA, which was passed with an understanding  
18 that businesses could market to their own customers.

19 Redefining this would introduce significant challenges,  
20 particularly given that businesses already comply with  
21 established opt-out mechanisms like email unsubscribes and  
22 the FTCs do not call registry.

23           Finally, the draft mandates extensive disclosures  
24 on ADT logic and output, which may force businesses to  
25 divulge trade secrets. This not only risks intellectual

1 property, but directly contradicts the CCPA's own provisions  
2 prohibiting the disclosures of trade secrets.

3 Furthermore, the agency's economic analysis  
4 estimates a \$3.4 billion compliance cost for California  
5 businesses. And understatement in our view, given the  
6 analysis flaws. The financial burden is significant,  
7 especially for smaller business and diverts resources away  
8 from consumer focused innovation.

9 Additionally, the requirement for businesses to  
10 submit annual risk assessments to the CPPA will lead to a  
11 backlog of paperwork, which we believe is unnecessary.  
12 Businesses should only be required to submit assessments  
13 upon requests. To clarify, these regulations should specify  
14 that the --

15 MS. MARZION: That is your time. Thank you.

16 Edwin Lombard, I'm going to unmute you at this  
17 time. You'll have three minutes to make your comment, so  
18 please begin as soon as you're ready.

19 MR. LOMBARD: Thank you. Good morning, CPA -- CPPA  
20 board members. I'm Edwin Lombard, representing the  
21 California African-American Chambers of Commerce. On behalf  
22 of our membership, I have a couple of key points I would  
23 like to highlight.

24 For almost three years, I have testified and done  
25 my good faith effort to ask CPPA to be mindful of the

1 economic harm that is coming if the CPPA regulation is not  
2 done reasonably and balanced as required in Proposition 24,  
3 Section 3(c)(1), which reads as follows; the rights of  
4 consumers and the responsibilities of businesses should be  
5 implemented with the goal of strengthening consumer privacy  
6 while giving attention to the impact on business and  
7 innovation.

8 Our businesses are alarmed by the findings that  
9 the standardized regulatory impact assessment, SRIA, and I  
10 have asked each of you, are you prepared to vote on  
11 regulations that will, number 1, make California's pay 3.5  
12 billion for CPPA regulations and add ongoing costs of \$1  
13 billion for the next 10 years? Number 2, cut 98,000 jobs  
14 and tell us that finding alternative jobs are easier? And,  
15 three, let businesses leave California and tell us that it  
16 has negligible impact on us?

17 Do each of you believe the following statement?  
18 CPPA substantive industry regulations can often be expected  
19 to induce innovation as stated in the SRIA. I respectfully  
20 disagree if anything substantive, industry regulation that  
21 caused billions ends innovation. On AI, CPPA is not  
22 authorized to include AI in the ADMT regulation. I would  
23 like to echo Governor Newsom's edict on AI regulations.

24 We must get this right. I implore the CPPA  
25 collaborate with the legislature and governor on AI and

1 request that CPPA remove AI from the regulation. I would  
2 also like to dispel CPPA from acting like the regulations do  
3 not apply to small and diverse businesses. If the company's  
4 CPPA are aiming to regulate leave California, we are gone  
5 too. When big businesses catch a cold, we catch pneumonia.

6 What you are voting on today is not an academic  
7 exercise without real life consequences. You can  
8 overregulate California and these companies will take the  
9 jobs to Arizona, Texas, and other states. This is -- is  
10 this truly what victory for Californians is?

11 Let me close with this; there is still time to get  
12 this right. A reasonable approach is the only advance to  
13 cybersecurity and risk assessment regulations today, and  
14 collaborate with Governor Newsom and the legislature on ADMT  
15 and AI. Thank you very much.

16 MS. MARZION: Thank you. Initials KN, I'm going to  
17 unmute you at this time. You'll have three minutes to make  
18 your comment, so please begin as soon as you're ready.

19 Graham Dufault, I'm going to unmute you at this  
20 time. You'll have three minutes to make your comment, so  
21 please begin as soon as you're ready.

22 MR. DUFAULT: Well, thank you so much, Chair and  
23 members of the Board. And I really appreciate you making  
24 this so accessible for us and the opportunity to  
25 participate.



1           My name is Graham Dufault. I'm general counsel of  
2 ACT, The App Association. We're a trade group. We  
3 represent small business software and connected device  
4 makers. We are part of a larger sector that's about \$1.8  
5 trillion in the app economy throughout the US, and it  
6 supports about 6.1 million jobs. So it's a big industry and  
7 we're small companies participating in it.

8           For association members privacy is a really  
9 important part of their job, and it is 100 percent about  
10 meeting consumer expectations. As makers of software driven  
11 devices and services, their ability to cultivate trust is  
12 foundational, and the job is really not easy without name  
13 recognition. They can't afford to buy Super Bowl ads, and  
14 so the job is often tougher in that respect than it is for  
15 big companies.

16           But just because they're small doesn't mean these  
17 rules won't affect them significantly, and I think the  
18 regulatory impact assessment itself points that out. They  
19 may find themselves either over CCPAs underlying thresholds  
20 or serving clients that must comply and therefore have to  
21 comply by contract. They're also some of the most important  
22 consumers of services that we know have to comply like ad  
23 technologies, online marketplaces, search cloud, and they  
24 have a big stake in how usable these services are.

25           So we believe the proposal in so far as it

1 mandates additional comprehensive requirements tied to ADMTs  
2 falls short on our priorities. First, we believe they would  
3 undermine our members' efforts to meet consumer  
4 expectations, and that's because the proposed rule would  
5 mandate covered companies to issue sort of an intrusive  
6 complex notice and opt-out mechanism for information about  
7 consumers with existing relationships.

8           And so requiring additional digital red tape  
9 between consumer and contracted for services would only  
10 frustrate their ability to access what they already expect  
11 to receive. And it would also throw tons of detail and  
12 information that these consumers that most will find not as  
13 relevant to privacy decision-making, and that creates an  
14 unwieldy sort of detour, raises false red flags, and a flow  
15 of communication between business and consumer that must --  
16 it must respect context to be effective.

17           Secondly, the rules would impose new costs. We  
18 believe without any additional benefit for consumers, and  
19 that's because California already requires comprehensive  
20 disclosure about what companies do with consumer data. It  
21 also already requires companies to address core privacy  
22 risks by mandating responses to consumer requests, including  
23 universal opt-out.

24           And so layering additional standalone,  
25 exceptionally comprehensive opt-out and notice burdens on

1 consumers, specifically for ADMTS, adds costs without any  
2 benefit beyond what oaccrues from existing protections. So  
3 it's not clear that there's this fundamentally different  
4 privacy risk posed by the use of ADMTs that are unaddressed  
5 by the other broader requirements in California law.

6 And the statutory provision here, we believe must  
7 be interpreted in that broader context. A highly complex  
8 and separate, you know, notice and opt-out regime just isn't  
9 required in our view under the law and will actually harm  
10 the overarching purpose of CCPA and your mission here. And  
11 so for these reasons, we do urge CPPA to reconsider --

12 MS. MARZION: Thank you. That is your time.

13 Scott Miller, I'm going to unmute you at this  
14 time. You'll have three minutes to make your comments, so  
15 please begin as soon as you're ready.

16 MR. MILLER: Thank you very much for the  
17 opportunity to speak. I'm Scott Miller. I'm the CEO of the  
18 Fresno County Chamber of Commerce. We represent about 1000  
19 businesses, large and small in Fresno County. And I'll keep  
20 my comments brief because so many people have been so  
21 eloquent about it.

22 But our Board and membership believes that this  
23 process should be slowed down and should be led by the  
24 governor and the legislature, and that the rules should be  
25 made after a much larger process throughout the state. I

1 agree with one of my colleagues who spoke earlier and said  
2 that when big businesses get hurt, little businesses also  
3 get hurt, the suppliers, the -- even the landlords, the --  
4 and all of the downstream people who are involved with these  
5 things will get hurt.

6 And in our county, we cannot afford to lose any  
7 more businesses to other states. So, again, we believe that  
8 California should be the leader -- the global leader in AI.  
9 And we really urge you to slow the process down. Thank you  
10 for the opportunity to speak.

11 MS. MARZION: Thank you.

12 Jackson, I'm going to unmute you at this time.  
13 You'll have three minutes to make your comments, so please  
14 begin as soon as you're ready.

15 MR. NUTT-BEERS: Good morning, Chair Urban and  
16 members of the California Privacy Protection Agency Board.  
17 My name is Jackson Nutt-Beers, speaking on behalf of the San  
18 Francisco Chamber of Commerce.

19 While our members value consumer protections, we  
20 caution against overregulation that could hinder innovation  
21 and exceed the agency's authority, especially where it  
22 extends into general AI regulation. AI policies should be  
23 guided by the legislature and the governor, who can  
24 comprehensively evaluate implications across various sectors  
25 and set a cohesive policy direction rather than by isolated

1 agency action.

2 AI represents a massive growth opportunity for  
3 California and has hasty restrictive regulations with risk  
4 undermining the state's competing edge and the economic  
5 gains AI can provide. Given the legislature's ongoing AI  
6 related initiatives, we urge the California Privacy  
7 Protection Agency Board to pause formal rulemaking until  
8 these efforts conclude, allowing alignment with state  
9 priorities and statutory authority. Thank you.

10 MS. MARZION: Thank you.

11 Victor Reyes, I'm going to mute you this time.  
12 You'll have three minutes to make your comments, so please  
13 begin as soon as you're ready.

14 MR. REYES: Hi, good morning, Chair and Board  
15 Members. My name is Victor Reyes, here on behalf of VICA,  
16 the Valley Industry Commerce Association. We're a business  
17 advocacy association in the San Fernando Valley,  
18 representing over 400 businesses and 245,000 in LA County.

19 Today I want to discuss the draft regulations  
20 regarding the automated decision-making technology and its  
21 potential implications for California's economy and our  
22 businesses. While we appreciate the need for consumer  
23 protection, the proposed regulations could result in  
24 significant unintended consequences.

25 The requirement for businesses to provide multiple

1 constant notifications and conduit extensive audits, could  
2 lead to consumer frustration and discourage them from  
3 completing online transactions. Small businesses, which  
4 depend on digital engagement, will particularly struggle  
5 with the burdensome regulations.

6 The complexity of compliance could drive up costly  
7 significant and forcing many to divert resources away from  
8 innovation just to meet regulatory demands. For example, a  
9 food delivery platform would face a challenge of treating  
10 each operational update as a significant decision, creating  
11 a regulatory environment that could hinder their ability to  
12 improve efficiency and service.

13 Furthermore, the potential economic ramifications  
14 are stark. Assessments indicate that the regulations could  
15 lead to a reduction of 27 billion in California's gross  
16 product and hundreds of thousands of jobs lost by 2034. And  
17 this is absolutely unacceptable in our current economic  
18 climate.

19 We also urge the agency to align its approach with  
20 the governor's executive order on AI, which emphasizes the  
21 promotion of beneficial technology use while avoiding a  
22 fragmented regulatory landscape. It's vital that these  
23 discussions occur in a transparent and inclusive manner, led  
24 by the legislature to ensure that all stakeholders have a  
25 voice.

1           It's for these reasons that we strongly encourage  
2 the agency to reconsider advancing these draft regulations  
3 without further stakeholder engagement. A more thoughtful  
4 approach is essential to protect consumers while fostering  
5 an environment that is nurturing of innovation and  
6 supporting California's economy. Thank you.

7           MS. MARZION: Thank you. Flo Hunter, I'm going to  
8 unmute you at this time. You'll have three minutes, so  
9 please begin as soon as you're ready.

10          MS. HUNTER: Hi, I just have a question. I've been  
11 hearing a lot of public comment on ADMTs during this section  
12 of public comments, which I thought was for items that were  
13 not on the agenda. I just want to confirm that there will  
14 be time on the agenda -- on Agenda Item 3 for comments, or  
15 should I have my speaker speak now.

16          MS. URBAN: Thank you so much for the question.  
17 Yes, this is open public comments so people can choose on  
18 what they would like to comment. We will also have public  
19 comments specifically on that agenda item.

20          MS. HUNTER: Thank you.

21          MS. MARZION: George Boutros, I'm going to unmute  
22 you this time. You'll have three minutes to make your  
23 comments, so please begin as soon as you're ready.

24          MR. BOUTROS: Hello, and thank you and good  
25 morning, Chair and Board Members. My name is George

1 Boutros, and I'm here on behalf of Orange County Business  
2 Council. Thank you for allowing me to speak this morning,  
3 specifically on Agenda Item number 3 regarding your  
4 consideration for formal rulemaking on automated  
5 decision-making technology risk assessments among other  
6 things.

7           These new risk assessments require -- requirements  
8 add significant costs to California businesses and would  
9 impact operations. Risk assessments require a weighing of  
10 sometimes unquantifiable costs and benefits, including the  
11 potential for discrimination, economic, and reputational  
12 harms, the potential for inducing stress or anxiety, among  
13 other things.

14           These burdensome regulations could apply to any  
15 company that works with independent contractors and uses  
16 technology to assist in structuring that work, including  
17 companies and industries like financial services, housing,  
18 insurance, education, healthcare, and some everyday retail  
19 goods like groceries and pharmaceuticals, among a slew of  
20 other business industries.

21           Complying with these in complex regulations,  
22 providing opt-out -- opt-out rights, technical disclosures,  
23 and risk assessment could lead to fewer job opportunities  
24 for a local workforce and make it too complicated and costly  
25 for our local businesses to innovate throughout the state.



1           In summary, Orange County Business Council is  
2           opposed to burdensome privacy regulations that would stifle  
3           commerce while providing little protection to the consumer.  
4           With that, I thank you for giving me the time to speak today  
5           and bring forward these concerns that impact businesses in  
6           Orange County and throughout the state. Thank you for your  
7           time and consideration.

8           MS. MARZION: Thank you. Nate Hadley, I'm going to  
9           mute you at this time. You'll have three minutes, so please  
10          begin as soon as you're ready.

11          MR. HADLEY: Thank you so much. Sorry. I -- my  
12          name's Nate Hadley. I represent the alliance to preserve  
13          California's innovation and technology economy. We consist  
14          of about 80 different organizations, some of which have  
15          spoken today. And I'll let the smarter folks talk on the  
16          ADMT impacts and things like that.

17          We wanted to raise a few concerns outside of the  
18          agenda items today. One being, first, thank you, Board  
19          members, for pushing this meeting back to a later date that  
20          wasn't on a holiday that many of the Californians observe.

21          Unfortunately, we -- a few of our members are  
22          struck between a rock and a hard place, wanting to  
23          participate in today's hearing with the CPPA, and also want  
24          to participate in the California Air Resource Board that is  
25          meeting right now as well, looking to also add costs to the

1 California economy.

2 We -- with the impact assessment that we've  
3 rigorously reviewed and the standardized regulatory impact  
4 assessment that you've put out, we are -- we are grossly  
5 concerned with the impact that your own numbers implies that  
6 66 percent of the businesses that you show are going to be  
7 impacted are actually small businesses that don't have the  
8 overhead.

9 The fact that we are okay with a job loss of  
10 100,000 or more jobs after we've already had a large job  
11 loss in the industry -- the technology industry with a lot  
12 of layoffs in the past two years, we're not okay with losing  
13 jobs and forcing businesses to choose whether they want to  
14 do business in California or do business elsewhere.

15 We pride ourselves just as the governor does and  
16 his -- and the legislature that we are the technology and  
17 innovation capital of the world. We want to make sure that  
18 we are preserved here in California. We don't want to see  
19 job losses and \$30 plus billion impacts to profit margins  
20 within the small business industry on top of a \$27 billion  
21 gross state product loss.

22 And then from there, that's just the start. Each  
23 year after year with the cybersecurity audits, the ADMT  
24 audits, the risk assessment audits, we're -- it's just -- it  
25 continues to go on. And we're already facing a \$68 billion

1 deficit in California that we're not okay with more being  
2 added to that. So, thank you very much for the time.

3 MS. MARZION: Thank you.

4 Kyle Shannon, I'm going to unmute you at this  
5 time. You'll have three minutes to make your comment, so  
6 please begin as soon as you're ready.

7 Kyle Shannon, please begin as soon as you're  
8 ready.

9 MR. SHANNON: Hello? Can you hear me now? Can you  
10 hear me now.

11 MS. MARZION: We can hear you, but not very loud.  
12 If you can speak up a little bit louder. Thank you.

13 MR. SHANNON: How about that? Is that better.

14 MS. MARZION: Much better. Thank you.

15 MR. SHANNON: Okay. Great. Thank you, Chair Urban  
16 and Board members for the opportunity to speak today. I'm  
17 Kyle Shannon. I'm the founder of the AI Salon, a community  
18 of nearly 2,000 AI optimists creators and business  
19 professionals with many members in California. I'm also CEO  
20 of Storyvine, an automated video storytelling platform with  
21 enhanced AI features.

22 Over the years, I've seen how technology can  
23 transform industries and improve lives if it's allowed to  
24 grow thoughtfully and sustainably. Today I'd like to  
25 discuss the proposed opt-outs for the automated

1 decision-making technologies or ADMTs.

2 First, regarding the consumer opt-out of AI data  
3 processing, I fully support the idea that consumers should  
4 have the right to opt-out. However, the requirement that  
5 small businesses maintain an alternative non-AI or perhaps  
6 manual data processing system is overly burdensome. For  
7 small businesses like mine, maintaining two separate systems  
8 just to process a small number of opt-outs is simply not  
9 feasible.

10 The reality for those of us -- for those who  
11 prefer non-AI alternatives, it's fair to suggest they look  
12 elsewhere, just like they do with online college  
13 applications that no longer maintain paper or manual  
14 options, or automated toll booths that no longer take cash.  
15 We need to ensure that the regulations don't hinder small  
16 businesses by imposing impractical requirements.

17 The second opt-out proposal allows consumers to  
18 prevent their data from being used to train AI models. I  
19 understand and support the need for this option, but we must  
20 also understand the risk if too many people opt-out. Every  
21 system, whether AI or human, learns and improves with data.  
22 All of us and all businesses use historical data to improve  
23 our decision-making. Restricting AI from learning the --  
24 with data risks reducing its effectiveness, negatively  
25 impacting both consumers and businesses.

1           Moving on to risk assessments. To make ADMT risk  
2 assessments feasible for small businesses, I propose a  
3 tiered approach. Low risk tools, such as those used for  
4 consumer management or routine payment processing, should be  
5 exempt from extensive assessments. A simple checklist or  
6 vendor certification should suffice for basic compliance.  
7 For more complex tools, guided templates would allow  
8 businesses to complete the compliance without hiring costly  
9 consultants.

10           In closing, standardized easy to use notice  
11 templates would help streamline compliance and phase  
12 deadlines would allow small businesses the time they need to  
13 adapt without disrupting their operations. Let's focus on  
14 protecting consumers while also fostering innovation and  
15 supporting the growth of small businesses in this evolving  
16 AI landscape. Thank you so much for your consideration and  
17 time.

18           MS. MARZION: Thank you.

19           Anika Gandhi, I'm going to unmute you at this  
20 time. You'll have three minutes, so please begin as soon as  
21 you're ready.

22           Anika Gandhi, please begin as soon as you're  
23 ready.

24           MS. GANDHI: Can you hear me.

25           MS. MARZION: If you could speak up a little bit

1 louder.

2 MS. GANDHI: Is that better.

3 MS. MARZION: Yes, that's better.

4 MS. GANDHI: Okay. Good morning, Chair Urban and  
5 Board members. Thank you for helping keep Californian's  
6 data safe and secure. Thank you also for allowing me to  
7 offer my views on the draft regulations for businesses like  
8 mine that rely on automated data-driven online advertising.

9 I'm concerned that these regulations will  
10 negatively impact my website and badly hurt my growing  
11 business. I am Anika Gandhi and I live in Orange County.  
12 I'm an engineer turned online woodworking teacher, and I  
13 help people learn woodworking skills to complete all kinds  
14 of household and small construction projects.

15 My website, Anika's DIY Life, helps me earn money  
16 in three ways. First, businesses pay me to play sponsored  
17 content in front of the audience, second, I sell  
18 advertising, and third, people sign up on my website for  
19 tutorial sessions. I can only generate income if people  
20 visit my website.

21 Even as a small website or a small business, my  
22 website gets more than 100,000 hits annually. So the  
23 regulation will require me to create all sorts of new user  
24 notices and pop-up notifications. And I'm worried that  
25 confusing notices and pop-up screens will drive people away,

1 and they will leave before ever really visiting my site.

2 My business will quickly shift from growing to  
3 shrinking because we all know that people quickly abandon  
4 websites that are difficult to navigate and full of pop-ups.  
5 If few people visit my website, my business will really  
6 suffer. I will lose sponsors, make less money selling ads,  
7 and have fewer people sign up for the courses.

8 Also, if people opt-out of the data powered  
9 advertising, which they may do simply because they are  
10 confused by the pop-up screens, all digital ads will become  
11 far less valuable because they will not reach the right  
12 people. Forty percent of my revenue comes from digital ad  
13 sales, so that will seriously hurt my business.

14 I appreciate your efforts in keeping Californian's  
15 data secure, but the draft regulations will make it so much  
16 harder for me and other small independent publishers to stay  
17 in business. Please continue reviewing these regulations.  
18 It is wrong to move forward with these regulations when it  
19 is clear how they will be hurting small businesses. Thank  
20 you so much for allowing me to speak today.

21 MS. MARZION: Thank you.

22 Grace Gedye, I'm going to unmute you this time.  
23 You'll have three minutes to make your comments, so please  
24 begin as soon as you're ready.

25 MS. GEDYE: Hi, there. I'm Grace Gedye, and I'm

1 with Consumer Reports where I work on AI policy. Consumer  
2 Reports represents 6 million consumers across the country.  
3 I'd first like to thank the Board for rejiggering the  
4 schedule to make it easier for stakeholders to comment. I  
5 plan to wait until the next agenda item to comment on the  
6 ADMT regs, but since so many commenters have not done that,  
7 I have decided to jump in too.

8 I also want to thank their agency for the work on  
9 these draft rules. The effort to give Californian consumers  
10 some transparency and agency when it comes to automated  
11 decision systems is particularly important. Every day,  
12 Californians are being evaluated for rental units,  
13 mortgages, health services, job opportunities, and spots in  
14 top schools by automated decision systems.

15 These predictive AI systems may, in practice,  
16 function poorly. They may latch onto factors that tend to  
17 correlate with the desired outcome, but are not in fact  
18 important. For example, a hiring algorithm may notice that  
19 in the past a company was more likely to hire applicants  
20 with bookshelves in the backgrounds of their video  
21 interviews. They might therefore rate candidates highly in  
22 part based on the presence of a bookshelf. That's a real  
23 example, by the way. AI hiring company Retorio was found to  
24 work precisely that way.

25 Every day, Californians are completely in the dark



1 about how their personal data is being repurposed to make  
2 these decisions. For these reasons, I commend the CPPA for  
3 working on the ADMT rulemaking. These rules are clearly in  
4 the public interest and well within the agency's authority  
5 under CPRA Section 1798.185, subsection 15.

6 I don't doubt the agency heard from business  
7 groups pushing back on these rules with every rationale  
8 imaginable. Business groups, large and small, will always  
9 have more resources and more staff to show up at every  
10 public meeting and have their point of view heard. But the  
11 balance of who shows up to Board meetings is not  
12 representative of what Californians want. It's  
13 representative of who has the money to advance their  
14 interests.

15 Since consumers can't always show up to Board  
16 meetings, Consumer Reports commissioned a nationally  
17 representative poll of more than 2000 US adults by NORC at  
18 the University of Chicago. Their survey focused on how  
19 people feel about the use of AI and algorithms to make  
20 decisions about their lives, such as allowing algorithms to  
21 evaluate virtual job interviews or allowing algorithms to  
22 screen you as a potential tenant.

23 Across these examples and more, majorities of  
24 Americans said they were uncomfortable with AI or algorithms  
25 making these kinds of decisions. We also asked Americans

1 about whether they'd want to know specifically what  
2 information in AI system used about them to make a job  
3 decision. We also asked whether they'd want the opportunity  
4 to correct any incorrect personal information an ADMT relied  
5 on.

6           These two forms of transparency -- these are two  
7 forms of transparency these draft rules would provide.  
8 Overwhelmingly, and across all demographic groups, including  
9 age, income, and political self-identification, Americans  
10 did want that information. CR looks forward to providing  
11 more detailed feedback on the draft rules once they --

12           MS. MARZION: That is your time. Thank you.

13           Justine Murray, you -- I'm going to unmute you at  
14 this time. You'll have three minutes to make your comment,  
15 so please begin as soon as you're ready.

16           MR. MURRAY: Good morning, Chair and Board members  
17 of the California Privacy Protection Agency. My name's  
18 Justine Murray. I'm speaking on behalf of the San Diego  
19 Regional Chamber of Commerce. I'm the executive director of  
20 public affairs. We represent over 2,200 member businesses  
21 and over 300,000 jobs. Our mission is to make the San Diego  
22 region the best place to live and work.

23           San Diego is also home to some of the state and  
24 the country's top tech companies. We're greatly concerned  
25 with the proposed draft rulemaking actions that many have

1 been speaking about this morning. Brushing the regulation  
2 will impose significant burdens to California consumers,  
3 innovators, and businesses.

4 While we understand the need to create consumer  
5 protection guardrails in evolving technology, it is crucial  
6 that rules and regulations are created from a purposeful and  
7 thorough engagement process that takes in the economic  
8 realities of this industry. We're concerned that the agency  
9 is developing a framework for regulating AI without  
10 providing sufficient opportunity to receive or consider  
11 feedback from all pertinent stakeholders.

12 As you've heard from others, the proposed action  
13 is not in line with the governor's executive order on AI  
14 that directs agencies to consider how to deploy AI for the  
15 benefits of Californians while avoiding overly burdensome  
16 and confusing regulations across various state agencies.  
17 Our state is a global leader -- leader in AI research  
18 development and deployment.

19 The San Diego region is also poised to be an up  
20 and coming hub for AI technology. Experts have said that we  
21 are poised to be the eighth biggest AI hub in the country  
22 given its position as a leader in the state's innovation  
23 economy. Rushing to regulation harms our consumers, small  
24 businesses, our state's economy, and San Diego's ability to  
25 harbor a successful binational regional economy.

1 Under these proposed actions, organizations using  
2 ADMT would need to provide pre-use notices to consumers and  
3 allow them to opt-out and be tasked with conducting audits,  
4 these technologies to attempt to identify risks of bias.  
5 This could require changes to existing systems and workflows  
6 and new novel compliance changes.

7 Implementing transparency measures will stifle  
8 innovation and discouraged new developments because every  
9 time a business implements a new automated technology, it  
10 must conduct new risk assessments and draft new disclosures.

11 Proper regulation of AI and similar tech  
12 distinguishes between the everyday uses of these  
13 technologies and the truly critical uses of these  
14 technologies that have significant real world consequences.  
15 We urge you to consider not moving forward with the proposed  
16 rulemaking, and engage in a robust and deliberative process  
17 regarding any potential rulemaking and regulations that  
18 defect the deployment of AI technology in California and in  
19 San Diego. Thank you.

20 MS. MARZION: Thank you.

21 Annette Bernhardt, I'm going to unmute you at this  
22 time. You'll have three minutes. And go ahead and speak  
23 when you're ready.

24 MS. BERNHARDT: Good morning, everybody. My name  
25 is Annette Bernhardt, and I direct the technology and work

1 program at the UC Berkeley Labor Center. With the advent of  
2 big data and artificial intelligence, employers in a wide  
3 range of industries are increasingly capturing, buying, and  
4 analyzing worker data, electronically monitoring workers,  
5 and importantly, using algorithmic management to make  
6 critical employment related decisions.

7 And yet, California is the first and only place in  
8 the US where workers are starting to gain basic rights over  
9 their data and how employers use that data to make critical  
10 decisions about them. That's why labor groups and other  
11 worker advocates are paying such close attention to the CCPA  
12 rulemaking process because the stakes are high.

13 These proposed regulations will be absolutely  
14 critical to realizing the promise of the CCPA to protect  
15 both workers and consumers in the rapidly escalating use of  
16 data-driven technologies in all facets of our lives. In  
17 February, we joined a group of worker advocates in  
18 submitting a letter to the CPPA, outlining several  
19 principles for the rulemaking process. That was based on an  
20 extensive body of research and workers experiences on the  
21 ground.

22 The first principle was that the scale and scope  
23 of data-driven technologies in the workplace necessitate  
24 broad protections for workers. In particular, this  
25 principle underlines how crucial the draft ADMT regulations

1 are, and suggests several priorities. One, to expand the  
2 definition of automated decision-making technology. Two, to  
3 strengthen notice and access rights for workers when an  
4 employer has used an ADMT to make a decision about them.  
5 And, three, restore a meaningful right for workers and  
6 consumers to opt-out of consequential ADMT systems.

7 The second principle was that full transparency  
8 and disclosure are critical rights for workers given the  
9 often hidden nature of algorithmic systems in the workplace.  
10 And in the context of current draft regulations, that  
11 principle suggests several priorities. One, to strengthen  
12 the required elements of risk assessments. Two, to clarify  
13 the role of workers in unions and risk assessments. And  
14 three, to strengthen the power of the CCPA to act on risk  
15 assessments.

16 In closing, by covering workers in the CCPA and  
17 adopting strong regulations like you are currently  
18 considering, California has a historic opportunity to lead  
19 the US in ensuring that data-driven technologies benefit and  
20 do not harm workers. I want to thank Executive Director  
21 Soltani, agency staff, and Board members for your committed  
22 work on these draft regulations, and thank you for the  
23 opportunity to comment.

24 MS. MARZION: Thank you.

25 Tim Newman, I'm going to unmute you at this time.

1 You'll have three minutes, so please begin as soon as you're  
2 ready.

3 MR. NEWMAN: Thank you. And can you hear me.

4 MS. MARZION: Yes, we can hear you.

5 MR. NEWMAN: Good afternoon. My name is Tim  
6 Newman, and I'm assuring these comments on behalf of  
7 TechEquity. We have conducted participatory research with  
8 contract workers and surveyed renters in California about  
9 the impact of automated decision-making technologies. The  
10 use of these technologies by employers and landlords  
11 represents one of the most important issues that is already  
12 shaping the lives of California's workers and renters with  
13 profound equity implications.

14 The workers we spoke to reported how ADMTs control  
15 their workload, performance evaluations, and at times their  
16 pay. Workers described how their work product was often  
17 reviewed and assessed by an algorithmic or automated  
18 process, which sometimes denied submissions of work product,  
19 deemed their work product insufficient or low quality, were  
20 set unstable productivity quotas based on information that  
21 was unknown to workers.

22 Workers were subject to physical and mental stress  
23 as they struggled to deal with the lack of transparency in  
24 factors determining their working conditions and livelihoods  
25 throughout the entire employment process. We found a

1 similar lack of transparency in the use of tenant screening  
2 algorithms.

3 While ADMTs are used to make recommendations to  
4 landlords about whether to approve or deny applicants, our  
5 California tenant survey of 1,100 respondents found that  
6 renters are largely unaware of how these decisions are made,  
7 or even whether the technology was used at all.

8 Landlords overseeing small portfolios or renting  
9 at lower income levels are more likely to follow screening  
10 recommendations without additional due diligence,  
11 highlighting the increased vulnerability of under protected  
12 renters. Black and Latinos renters were nearly twice as  
13 likely to have their applications denied as white  
14 respondents in our survey.

15 These findings show that ADMTs trained on massive  
16 troves of personal data sets are likely to compound and  
17 perpetuate biases and often lack context that's required by  
18 law to ensure equitable treatment. Vulnerable tenants and  
19 contract workers we spoke to have little insight into these  
20 decision-making processes and few options to challenge their  
21 outcomes.

22 These examples underscore three key principles for  
23 rulemaking. One, full transparency, explainability, and  
24 disclosure is necessary given the opaque nature of these  
25 systems and their ability to make critical decisions.



1 Two, impact assessments should be conducted prior  
2 to and throughout the use of these technologies to determine  
3 likely harms and identify measures to mitigate them.

4 And, three, workers and renters should receive an  
5 explanation, including what personal data was collected  
6 about them and how is using critical decisions to ensure  
7 that they have information to enforce existing rights and to  
8 identify when a decision made by an ADMT is inaccurate,  
9 discriminatory, or otherwise harmful.

10 We believe that through this rulemaking the CPPA  
11 has historic opportunity to enact a clear common sense  
12 foundation for the use of ADMTs and to ensure that workers  
13 and renters have the opportunity for appropriate information  
14 rights and protections.

15 Thank you to the staff and Board for your work on  
16 these important regulations and the opportunity to comment  
17 today.

18 MS. MARZION: Thank you. Ivan Fernandez, I'm going  
19 to unmute you at this time. You'll have three minutes, so  
20 please begin as soon as you're ready.

21 MR. FERNANDEZ: Hello? Can you hear me.

22 MS. MARZION: If you could speak up louder, please.

23 MR. FERNANDEZ: Yes. Is this a little bit better.

24 MS. MARZION: Yes. Thank you.

25 MR. FERNANDEZ: Perfect. Hello, everyone. Ivan

1 Fernandez, legislative advocate with the California Labor  
2 Federation of Labor Unions and also speaking on the behalf  
3 of UFCW State Council, here to express our support of the  
4 ADMT regulations that will be discussed in our next agenda  
5 item.

6 Automated decision-making technology will continue  
7 to expand in usage across all industries, impacting  
8 countless workers. ADMT can affect workers in a multitude  
9 of ways due to the wide range of uses the technology can  
10 fulfill. As a result, a regulatory framework must contain  
11 broad worker protection that respond to the range of uses  
12 and potential harms.

13 The proposed ADMT regulations are a positive step  
14 towards protecting workers from unknown and unscrupulous  
15 ADMT usage by employers. We appreciate the Board's  
16 proactive approach to regulate expanded ADMT use. While we  
17 are in support of the draft regulations, we additionally and  
18 respectfully urge the Board to strengthen the draft regs  
19 based on the principles we, along with the coalition of  
20 worker advocates, provided in a letter sent earlier this  
21 year based on the experience of workers.

22 Specifically, we urge that the definition of ADMT  
23 be expanded, that ADMT use notification be strengthened, and  
24 that the opportunity for workers to opt-out of consequential  
25 ADMT systems be restored. With these additions, the CCPA

1 can provide first in the nation protection for workers in  
2 the new digital age, and will be able to demonstrate that  
3 data-driven technologies can be utilized to be -- to benefit  
4 rather than harm workers.

5 Thank you for the opportunity to comment and for  
6 the continued work on these draft regulations.

7 MS. MARZION: Thank you.

8 Rin, I'm going to unmute you at this time. You'll  
9 have three minutes, so please begin as soon as you're ready.

10 MS. ALAJAJI: Hello? Can you hear me.

11 MS. MARZION: Yes, we can hear you.

12 MS. ALAJAJI: Good morning, Chair, members of the  
13 Board. My name is Rin Alajaji and I'm the legislative  
14 activist at the Electronic Frontier Foundation. We  
15 appreciate your work on the next agenda item on automatic  
16 decision meeting -- decision-making technologies. And thank  
17 you for the opportunity to speak today.

18 EFF has joined two letters to the agency,  
19 outlining some priorities for what we'd like to see in the  
20 final regulations. And we support the agency's work to  
21 continue to clarify and strengthen them for workers and  
22 consumers. California's personal data is being repurposed  
23 every day to train automated decision-making technologies,  
24 and we applaud the California Privacy Protection Agency for  
25 applying its expertise and leveraging its authority to

1 provide Californians with basic transparency and recourse  
2 via this rulemaking.

3 The US workplace is rapidly becoming a major site  
4 for the deployment of AI and other digital technologies, and  
5 that is a trend that will only escalate going forward. Full  
6 coverage by the CCPA is a critical first step to ensure that  
7 California workers have the tools necessary to advocate for  
8 their rights in the 21st century data-driven workplace.

9 These are very difficult issues and we recognize  
10 that California's leading the way in crafting regulations to  
11 address them. So, again, I think -- I would like to thank  
12 everyone that's involved in drafting these regulations for  
13 your work and for the opportunity to speak today.

14 MS. MARZION: Thank you.

15 Kara Williams, I'm going to unmute you at this  
16 time. You'll have three minutes, so please begin as soon as  
17 you're ready.

18 MS. WILLIAMS: Hello? Can you hear me.

19 MS. MARZION: Yes, we can hear you.

20 MS. WILLIAMS: Okay. Great. Thank you. Hello, my  
21 name is Kara Williams and I'm a lawyer at the Electronic  
22 Privacy Information Center or EPIC. EPIC is an independent  
23 research and advocacy center focused on protecting privacy  
24 in the digital age.

25 I'd like to start by commending the agency's work

1 to protect the privacy of Californians from data harms  
2 connected to automated decision-making technologies. The  
3 draft regulations are a vital part of protecting the rights  
4 of Californians because these ADMTs are increasingly being  
5 used in high stakes decisions about people's lives and  
6 wellbeing, including important decisions about housing,  
7 employment, and healthcare.

8 Today, I'd like to focus on one crucial feature of  
9 risk assessments under the draft regulations, transparency.  
10 First, risk assessment transparency is in the best interest  
11 of both Californians and the agency itself. Making risk  
12 assessment information public can make agency enforcement  
13 more effective by enabling advocates, academics, and other  
14 interested parties to support the agency's review of risk  
15 assessments.

16 Making this information public by default can  
17 reduce the administrative costs of fielding California  
18 Public Records Act requests or related lawsuits. And risk  
19 assessment transparency itself can be an effective incentive  
20 for businesses to proactively improve their own data  
21 practices, and can prevent a race to the bottom that harms  
22 California consumers.

23 Second, risk assessment transparency aligns with  
24 core features of both California law and the California  
25 Constitution. Article 1 of the California Constitution

1 enshrines the people's right of access to information  
2 concerning the conduct of the people's business. And the  
3 agency's proposed risk assessment requirements fall squarely  
4 within the ambit of the people's business.

5           Businesses are obligated to complete risk  
6 assessments to determine whether the risks to consumer's  
7 privacy from the processing of their personal information  
8 outweighs the benefits to the consumer, the business, other  
9 stakeholders, and the public. These risk assessments are  
10 completed for the purpose of regulatory compliance and  
11 disclosure, not for private economic growth.

12           This is particularly important because the risk  
13 assessments are not, nor should they be, trade secrets under  
14 the California Uniform Trade Secrets Act. Finally, much of  
15 the information that must be included in risk assessments  
16 under the agency's draft regulations is already meant to be  
17 public under the CCPA.

18           Under the CCPA's notice that collection  
19 requirement, for example, businesses must directly inform  
20 consumers of the purpose for data collection, the categories  
21 of personal information, the business plans to collect, and  
22 the business' data retention plan. All of which map onto  
23 the first three categories of information required under the  
24 CCPA's risk assessment requirement, as well as the entirety  
25 of what is required for the abridged risk assessments.

1 Centering transparency and regulating automated  
2 decision-making technologies is key to protecting  
3 California's rights in the digital age, and the agency  
4 should vote to advance these important regulations.

5 Thank you for your time today, and EPIC looks  
6 forward to continuing to be a resource for the agency.

7 MS. MARZION: Thank you. And it looks like we have  
8 an audience member who'd like to speak.

9 MS. KIEFFER: Good morning. There we go. Good  
10 morning, Board members. My name is Tasia Kieffer and I'm  
11 here on behalf of the Los Angeles County Business  
12 Federation, also known as BizFed. BizFed is composed of  
13 over 245 diverse business organizations, representing  
14 420,000 employers and 5 million employees across Southern  
15 California. Thank you for allowing public comment today.

16 The business community understands the importance  
17 of having consumer protection guardrails in place as  
18 technology continues to rapidly develop and expand. We also  
19 understand that the CPPA's intent with the proposed  
20 regulations is to ensure that consumer privacy remains a  
21 primary focus as new technologies are developed, but  
22 California cannot afford to get this wrong.

23 We ask the CPPA pause and align its work with  
24 comprehensive AI legislation from the state legislature per  
25 governor Newsom's directives to avoid exceeding its mandate

1 and ensure regulations serve Californian's effectively.  
2 Advancing these regulations as they are now is premature and  
3 detrimental to the public and small businesses.

4 In fact, according to the CPPA's own impact  
5 assessment, highlights projected negative macroeconomic  
6 impacts over the next 12 years in California. It states, "A  
7 staggering \$31 billion in direct cost to businesses, \$50  
8 billion shortfall in investments, a \$27 billion loss in  
9 gross state product, and the loss of over 98,000 jobs just  
10 in California." Yet there is no empirical data provided in  
11 the impact assessment showing tangible benefits from these  
12 regulations, only theoretical ideas.

13 Additionally, what may be more concerning is that  
14 the CPPA's economic impact assessment also found that out of  
15 the businesses identified who must comply with the rules, 66  
16 percent of them are small businesses, many of which will not  
17 be able to afford the cost to comply.

18 California already faces a \$68 billion deficit.  
19 These rules threaten to deepen that deficit by constraining  
20 businesses and weakening state income. These rules will  
21 burden employers that use ADMT in hiring, work allocation,  
22 compensation, and other significant employment decisions.

23 Many small businesses use ADMT for marketing to  
24 new consumers. However, these businesses will face a  
25 revenue loss due the inability to monetize website traffic





1 of comments with lots of coffee. And with that, I would  
2 like to return to Ms. Marzion and the queue.

3 MS. MARZION: Thank you.

4 Dalton Cline, I'm going to unmute you at this  
5 time. You'll have three minutes, so please begin as soon as  
6 you're ready.

7 Dalton Cline, please begin as soon as you're  
8 ready.

9 MR. CLINE: My hand was just up from last time.  
10 Sorry.

11 MS. MARZION: Okay. Thank you very much.

12 Carmen Comsti, I'm going to unmute you at this  
13 time. You'll have three minutes. Please begin as soon as  
14 you're ready.

15 MS. COMSTI: Good morning and thank you, Chair  
16 Urban and the Board. I'm Carmen Comsti, lead regulatory  
17 policy specialist with the California Nurses Association  
18 National Nurses United, the largest labor union of RNs in  
19 California, representing over 100,000 RNs in the state.

20 CNA urges the agency to advance the draft ADMT  
21 rule to formal rulemaking and to ensure that the rule is  
22 strengthened to ensure the strongest protections for workers  
23 and consumers. Healthcare employers are increasingly using  
24 automated patient monitoring technology and clinical  
25 decision-making algorithms that automate deskill and devalue

1 the work of nurses.

2 The use of automated tools in clinical prediction  
3 and assessment leaves patients without the human to human  
4 relationship, that is the basis for nursing, undermining  
5 nurses professional judgment, and threatening both patient  
6 and worker safety.

7 Clinical ADMTs feed into healthcare employers  
8 algorithmic management systems, and can result in increased  
9 workloads, dangerous understaffing, and heightened pressure  
10 by management to work faster than is safe for patients and  
11 workers.

12 As nurses, CNA members adhere to the precautionary  
13 principle, which we urge the agency to use as it develops  
14 its ADMT regulation. The precautionary principle means that  
15 the agency should ensure that ADMTs are proven safe,  
16 equitable, and will not result in harm before they are  
17 deployed.

18 It is the role and responsibility of this agency  
19 as authorized by statute to develop protections against  
20 harms from ADMTs. Your regulations must be drafted broadly  
21 to ensure pre-market testing and regulatory approval of any  
22 new technology before they are deployed, and with ongoing  
23 monitoring to ensure that they are safe, effective, and  
24 equitable.

25 There must be clear red lines established around

1 the use of these tools to ensure that they do not replace  
2 nurses or other workers' judgment, and do not put patients  
3 and consumers at risk. As others have commented, there must  
4 be clear and robust opt-outs for workers and consumers.

5 The burden of demonstrating safety should rest  
6 with employers and developers, not patients and their  
7 caregivers, not working families and essential workers. If  
8 CPPA does not move forward with rulemaking today, it will  
9 have a cost for workers and consumers, their lives and their  
10 livelihoods as harmful ADMTs expand rapidly.

11 Without regulatory protections, developers and  
12 deployers are shifting the burden of identifying unsafe and  
13 harmful ADMTs onto workers and consumers. However, these  
14 corporations are the ones that seek to profit off the use of  
15 ADMTs, and are pushing the proliferation of these  
16 technologies before regulations can be adopted.

17 It is important that rulemaking is started today.  
18 Formal rulemaking can ensure that the agency, like other  
19 California processes can have robust discussion and  
20 analysis. Starting the rulemaking process is the beginning,  
21 not the end of the discussion. Thank you so much and we  
22 look forward to working with you all more.

23 MS. MARZION: Thank you.

24 Clint Olivier, I'm going to unmute you at this  
25 time. You'll have three minutes to make your comments, so

1 please begin as soon as you're ready.

2 Clint Olivier, please begin as soon as you're  
3 ready.

4 MR. OLIVIER: Yeah. Thank you very much to the  
5 Board for this opportunity to speak this morning. My name  
6 is Clint Olivier, and I'm the CEO of the Central Valley  
7 Business Federation or BizFed for short. We're a grassroots  
8 alliance of over 75 businesses and organizations,  
9 representing 30,000 diverse employees and over -- businesses  
10 and over 400,000 employees here in the Central Valley from  
11 Kern up to Madera County.

12 Many of my members have been leaders in the  
13 technology industry and pride themselves on job creation and  
14 entrepreneurship. They're also advocates for the safe and  
15 responsible use of artificial intelligence. Now, we believe  
16 -- our Board believes that the proposed regulations by this  
17 agency to create new overarching regulations are detrimental  
18 to many of the small and medium sized businesses that I  
19 represent.

20 Additionally, they go beyond the scope and mission  
21 of protecting consumer data. We collectively have a couple  
22 of major concerns about the CPPA's economic impact -- excuse  
23 me, economic impact on 66 percent of the 66,000 businesses  
24 they identified as being impacted, those being the small  
25 businesses that are the backbone of our economy.

1           From the CPPA's risk assessment, the estimated  
2 costs in the first year of annual ADMT requirements,  
3 cybersecurity audits and risk assessments will be more than  
4 1.2 billion, and more than 900 million year after year.  
5 We're also concerned about the CPPA anticipated negative  
6 impacts on the overall California economy after implementing  
7 these suggested regulations.

8           All their calculations are from 2022, so we  
9 anticipate there are -- they're a little lower given natural  
10 inflation our state and nation are dealing with. The CPPA  
11 anticipates a negative \$31 billion in direct impact costs  
12 and profit margins to businesses. They also anticipate an  
13 investment shortfall of an additional negative 50 billion.

14           Now, over the next 10 to 12 years, they project a  
15 net loss of nearly 100,000 jobs while our state already has  
16 the second highest unemployment in the country at 5.3  
17 percent according to the US Bureau of Labor Statistics. And  
18 that's from last month.

19           Lastly, the CPPA projects a loss of \$27 billion in  
20 our gross state product, which will ultimately weaken our  
21 total economic output production. We are already \$68  
22 billion, as we all know, in a deficit here in the State of  
23 California. And our membership -- our Board is asking that  
24 we do not make a bad situation worse.

25           Thank you so much for the opportunity to speak.

1 MS. MARZION: Thank you.

2 Keilen Fong, I'm going to unmute you at this time.  
3 Please begin as soon as you're ready. You'll have three  
4 minutes.

5 MR. FONG: Hi, can you hear me.

6 MS. MARZION: Yes.

7 MR. FONG: Good morning, Chair and Board members.  
8 My name is Keilen Fong and I'm representing the CalAsian  
9 Chamber. I'm participating today on behalf of small to  
10 medium sized minority and AAPI owned businesses who would be  
11 negatively impacted by these draft regulations.

12 The businesses we represent are already dealing  
13 with the pressures of rising inflation costs and supply  
14 chain demands. They should not be further burdened by  
15 unnecessary regulatory actions, as they do more harm to the  
16 businesses themselves than help consumers.

17 The financial harm is underscored in the agency's  
18 own economic impact assessment called the standardized  
19 regulatory impact assessment, which estimates these  
20 regulations will cost businesses more than \$3.5 billion.  
21 Independent financial analysis conducted by the California  
22 Chamber says that the number is actually far lower than what  
23 it would be realistically.

24 This is frustrating for businesses, particularly  
25 since the goal of these regulations is to -- is supposed to

1 be -- to help businesses comply with the CPPA, not bankrupt  
2 them. Of particular concern to our retail businesses is the  
3 regulation that would create a consumer right to opt-out of  
4 automated decision-making tools used for consumer profiling.  
5 Allowing consumers this opt-out limits e-commerce  
6 businesses' ability to advertise to their own customers,  
7 which is not the goal of the underlying policy.

8 It also creates confusion for businesses that will  
9 have to create different processes for customer interaction  
10 without a compelling consumer reason for this added expense.  
11 The scope of these regulations is broad and ill-defined, a  
12 point validly raised by CPPA Board Member Mactaaggart during  
13 the last Board meeting.

14 We are frustrated that the agency staff has failed  
15 to make any changes to the draft regulations to address  
16 these very legitimate and widely shared concerns. We  
17 believe the Board should pause, listen to our feedback,  
18 narrow the regulations to the law's core purpose, and  
19 conduct a thorough economic analysis be more -- before  
20 moving forward with regulations. Thank you.

21 MS. MARZION: Thank you.

22 Ryan Allain, I'm going to unmute you at this time.  
23 You'll have three minutes to make your comments, so please  
24 begin as soon as you're ready.

25 MR. ALLAIN: Hi. Thank you. Good morning. My



1 name is Ryan Allain. I'm speaking on behalf of the  
2 California Retailers Association. I'm here today on behalf  
3 of our members, which range in size from national brands to  
4 the small and medium retailers across the country and across  
5 our state, to remind the Board that these draft regulations  
6 are not just going to hit big tech companies, but they'll  
7 have a very real impact on a wide swath of California  
8 businesses, which are already reeling from post pandemic  
9 recovery, disrupting supply chains, inflation, high energy  
10 costs, and a significant organized retail theft.

11 The Board's own -- as mentioned before, the  
12 Board's own standardized regulatory impact assessment  
13 estimates of the costs of the regulations on businesses in  
14 California would be more than 3.5 billion. This is even  
15 more concerning that the regulations are outside the scope  
16 and it's what is necessary for the agency to add clarity for  
17 businesses to comply with CCPA, which is supposed to be the  
18 goal. Instead, these regulations are essentially  
19 legislating the creation of brand new consumer rights that  
20 will have significant impact on California's economy and  
21 state budget, all without oversight of the legislative  
22 process.

23 Although we provided detailed feedback regarding  
24 our concerns with many of the regulations earlier this year,  
25 given the time constraints, we'd like to emphasize one draft

1 regulation in particular that will have an outsized impact  
2 on the retail industry, the regulation that would create a  
3 consumer right to opt-out of automated decision tool making  
4 for consumer profiling.

5           CCPA is about giving consumers control over  
6 business selling or sharing their data with others. It's  
7 not about limiting the ability of businesses to advertise  
8 for their own customers. These regulations take a long --  
9 completely different direction as what is written in  
10 statute, and was approved by the voters.

11           The California businesses -- a California business  
12 losing the ability to customize ads for their own customers,  
13 as previously mentioned, will result in revenue that the  
14 agency has not considered, e-commerce marketplaces that  
15 suggest products to their own customers based on past  
16 purchases, a common practice will have to redesign their  
17 platform and account for two different user experiences.

18           This regulation will also create confusion for  
19 businesses rather than streamline compliance. What happens  
20 if a customer opts out of the decision-making tool,  
21 automated decision-making profiling, and the ability to show  
22 custom first party ads, but does not opt-out of cross  
23 contextual behavioral ads? This confusion will be  
24 frustrating to consumers and costly for businesses to  
25 navigate compliance.

1           As previously mentioned as well, we thank the  
2 Board Member Mactaggart for raising these concerns, this  
3 staggering scope. We have been discouraged to learn that  
4 the agency staff has declined to take any of his concerns or  
5 industry feedback from past hearings into consideration.

6           In conclusion, we ask the Board not approve the  
7 draft regulations at this time, and that instead it conduct  
8 a more thorough economic evaluation and submit a revised  
9 narrow draft of regulations prior to proceeding to form of  
10 -- formal rulemaking. Thank you.

11           MS. MARZION: Thank you. Madam Chair, I'm not  
12 seeing any other hands raised online at this time, but I  
13 believe we have an audience member who'd like to make a  
14 public comment.

15           MR. CANETE: Thank you. Good morning, CPPA Board  
16 members. Julian Canete with the California Hispanic  
17 Chambers of Commerce, which is comprised of over 130 Latino  
18 and diverse chambers throughout California, representing not  
19 only the over 800,000 Hispanic owned business, but diverse  
20 businesses across the state.

21           On behalf of our membership, I have a couple of  
22 key points I would like to highlight for you this morning.  
23 Let me start with an ask. Respectively, we are asking that  
24 CPPA rethink the findings of the standardized regulatory  
25 impact assessment before it votes to move any of the

1 regulations today. 3.5 billion in initial implementation  
2 costs with ongoing costs of 1 billion for the next 10 years  
3 is a real number that many of our small and diverse  
4 businesses represent -- that we represent, too many of our  
5 businesses.

6 California is facing potentially double digit  
7 billion deficit in 2025, and the cost of CPPA regulations  
8 can only make that number worse. Second, nothing in  
9 Proposition 24 authorizes regulation of AI by the CPPA. Let  
10 me read part of Governor Newsom's veto message of SB 1047  
11 this year. "I'm committed to working with the legislature,  
12 federal partners, technology expert, ethicist, and academia  
13 to find the appropriate path forward, including legislation  
14 and regulation, given the stakes protecting against actual  
15 threats without unnecessarily thwarting the promise of this  
16 technology to advance the public good. We must get this  
17 right."

18 We are asking CPPA to remove AI from the ADMT  
19 regulations. It does not belong there. And AI is coming  
20 back to the legislature in 2025. So getting ahead of them  
21 is pointless and adds unnecessary costs for businesses. Let  
22 me paint a picture of what AI could look like from where we  
23 -- where we stand. CPPA adopts an AI regulation in 2024.  
24 Implements in early 2025. The legislature passes the  
25 conflicting AI legislation in late 2025. Our business

1 owners will now have to spend unnecessary money to undo  
2 compliant -- to undo CPPA compliance.

3 Finally, in theory and as CPPA interprets its  
4 regulations, the CPPA regulations do not affect our members  
5 because they only affect big companies. In real life, this  
6 is not true. When business is impacted by this regulation,  
7 leave California, it will land on us and not any of you.

8 Respectively, we think a prudent approach is to  
9 advance the cybersecurity and risk assessment regulations,  
10 and to collaborate with the -- with Governor Newsom and the  
11 legislature on ADMT and AI. Thank you.

12 MS. MARZION: Thank you.

13 Gilbert Lara, you -- I will unmute you at this  
14 time. You'll have three minutes. Go ahead and start when  
15 you're ready.

16 MR. LARA: Good morning, Board members. My name is  
17 Gilbert Lara on behalf of Biocom, California. Biocom  
18 California is a nonprofit organization representing over  
19 1800 life sciences companies and resource institutions  
20 across the state. Our industry's committed to protecting  
21 private privacy and maintaining robust data security.

22 However, we're concerned about the scope and  
23 potential consequences of the proposed draft regulations  
24 regarding ADMT, which risk going well beyond CPPA's  
25 mandates. Firstly, the ADMT requirements go beyond typical

1 privacy protections and into areas of broader AI regulation,  
2 raising concerns about regulatory overreach.

3 By requiring detailed disclosures and opt-out  
4 options for ADMT, the draft proposals could complicate  
5 essential life sciences processes, such as clinical trials  
6 and personalized medicine. ADMT helps us match patients to  
7 clinical trials and tailor treatments effectively. However,  
8 these requirements may introduce delays and diminish the  
9 efficiency of these critical systems.

10 Allowing opt-outs for ADMT is clinic, and clinical  
11 settings could lead to less precise treatments and potential  
12 delays in patient care. Secondly, the requirement for  
13 annual cybersecurity audits could add significant burdens,  
14 particularly for smaller firms. These audits require  
15 extensive documentation and independent assessments,  
16 overlapping with existing federal standards without clear  
17 additional benefits for consumers.

18 For many life science companies, especially  
19 startups, the costs tied to these audits may shift resources  
20 from research and development to compliance, which could  
21 slow down progress and new therapies. Lastly, the proposed  
22 privacy risk assessments and post heavy administrative  
23 requirements, creating layers of paperwork without  
24 measurable privacy gains.

25 Each assessment mandates 9 topics with 32

1 sub-components, which creates compliance challenges that  
2 distract from core operations and the life sciences. Such  
3 complexity not only places an undue burden on companies, but  
4 also risks confusing consumers and overstepping into general  
5 AI regulation, which exceeds the authority granted by  
6 California voters.

7 We urge the Board to reconsider advancing these  
8 regulations in their current form. Life sciences are  
9 crucial to California's economy and to advancing healthcare.  
10 We ask the agency to collaborate with industry stakeholders  
11 and legislators to ensure these regulations protect privacy  
12 without stifling life-saving innovations. Thank you.

13 MS. MARZION: Thank you.

14 You'll have three minutes. Go ahead and begin.

15 MS. PADRON: Thank you. Good morning, Chair and  
16 Board members. My name is Naomi Padron and I'm here on  
17 behalf of the Computer & Communications Industry  
18 Association, CCIA, which is a not-for-profit International  
19 trade association with members from a broad cross section of  
20 technology and communications firms.

21 We appreciate the opportunity to share our  
22 perspective on the current draft, as we believe that the  
23 agency has incorporated minimal industry feedback, which is  
24 critical to crafting effective and balanced regulations.  
25 While we have several outstanding concerns with the current

1 draft, as outlined in our January letter to the agency, the  
2 provisions regarding automated decision-making tools deserve  
3 particular attention.

4 Our primary concern is the proposed regulation  
5 allowing consumers to opt-out of automated decision-making  
6 tools for profiling. This could severely impact business'  
7 ability to conduct first party advertising to their own  
8 customers. For example, platforms would need to redesign  
9 their systems to exclude certain users from personalized  
10 recommendations based on past purchases, which goes well  
11 beyond the scope originally agreed upon in CCPA.

12 At its inception, the primary agreement behind  
13 this omnibus privacy law was that businesses could continue  
14 using data from their own customers to improve the products  
15 they offer consumers with the understanding that no private  
16 right of action would be imposed. Likewise, CCIA is  
17 concerned that the regulation may allow consumers to opt-out  
18 of having their data used in automated decision-making tool  
19 training.

20 This would hinder covered entities from developing  
21 their own ADMT applications internally, restricting their  
22 ability to create products and strengthen internal privacy  
23 mechanisms for consumers. For example, automated fraud  
24 detection tools may rely on valid customer data in the --  
25 their development, data which the proposed regulation would



1 limit access to.

2           Additionally, the agency's economic analysis  
3 estimate that implementing these remaining regulations for  
4 California businesses would cost around 3.4 billion. This  
5 along with the potential for these proposed regulations to  
6 undermine California's leadership in artificial intelligence  
7 is concerning.

8           CCIA believes that the proposed regulation exceeds  
9 the agency's statutory authority. The emphasis should be on  
10 crafting a balance and effective privacy law rather than an  
11 executive agency establishing rules that far exceed the  
12 legislation's original intent.

13           We're happy to provide more specific information  
14 and assist in refining the language on these key issues if  
15 needed. Thank you for your time and your consideration of  
16 these comments. We look forward to working with you. Thank  
17 you.

18           MS. MARZION: Thank you. Go ahead. Next speaker,  
19 you'll have three minutes. Begin when you're ready.

20           MR. FRAZIER: Thank you. Good morning. Thank you  
21 for the opportunity to testify on the agency's draft  
22 proposed regulations to implement the CPRA of 2020, and the  
23 proposed data broker regulations. My name is Travis  
24 Frazier, and I'm the senior manager of government relations  
25 for the Association of National Advertisers.

1           Before I begin, the ANA and its members believe  
2 that protecting consumer privacy is of paramount importance.  
3 However, if the draft regulations become final, consumers  
4 will be severely affected through the loss of access to  
5 products and services they value, rely upon, and enjoy  
6 today.

7           The following list is not exhaustive, but outlines  
8 several important issues for the agency to consider. First,  
9 the proposed regulations would establish broad definitions  
10 of automated decision-making technology and AI. This could  
11 lead to significant confusion and operational challenges.

12           The agency should reevaluate the breadth of these  
13 proposed definitions, or alternatively, if the agency elects  
14 to move forward with a definition that would cover  
15 practically all automated processing, it should scope the  
16 applicability of its rule solely to automated processing  
17 decisions that produce legal or similarly significant  
18 effects concerning a consumer.

19           Second, the agency's proposed opt-outs related to  
20 behavioral advertising, ADMT and AI, can negatively impact  
21 businesses that rely on data to improve products and reach  
22 audiences. The draft regulations would create entirely  
23 novel opt-out rights for uses of ADMT for extensive  
24 profiling and behavioral advertising.

25           The CCPA itself does not envision such an opt-out,

1 nor does it provide the agency with the authority to create  
2 one. Such a regulation would extend well beyond the meaning  
3 and intent of the CCPA. In addition, the proposed  
4 regulations would create opt-outs for uses of data to train  
5 AI and ADMT. This kind of opt-out would significantly  
6 hinder businesses from developing their own ADMT  
7 applications and improving products and services for  
8 consumers benefit.

9 Now, with regard to the proposed data broker  
10 regulations, the agency's proposed updates to the state's  
11 data broker definition could classify -- could classify  
12 nearly every entity doing business in California as a data  
13 broker. This proposed definition of direct relationship  
14 would render the state's data broker registry meaningless by  
15 including virtually every business in its scope.

16 This approach directly conflicts with the stated  
17 legislative intent of the data broker registry statute, as  
18 well as the subsequently enacted Delete Act that builds upon  
19 the registry law. Second, the agency has not established a  
20 clear process for verifying consumer and authorized agent  
21 requests made through the DROP.

22 The agency should require agents provide signed  
23 proof of authority, and should require consumers to directly  
24 confirm with the agency that they have authorized an agent  
25 to act on their behalf. Additionally, agents should be

1 prohibited from self certifying their authority to act and  
2 should be required to obtain informed consent from consumers  
3 before submitting requests through the DROP.

4 Thank you for the opportunity to speak to you  
5 today, and we look forward to continuing to work with you  
6 throughout this process.

7 MS. MARZION: Thank you. You'll have three  
8 minutes. Go ahead and begin when you're ready.

9 MR. SINGLETON: Great. Good morning, CPPA Board  
10 members and staff. My name is Robert Singleton, and I'm the  
11 senior director of Policy and Public Affairs for the  
12 California and US West region at Chamber of Progress. We  
13 are a tech industry association supporting public policies  
14 to build a more inclusive country in which all people  
15 benefit from technological leaps.

16 I'm here today to urge you to revise your approach  
17 and set aside this well-intentioned but ultimately flawed  
18 proposal to regulate automated decision-making tools, which  
19 exceeds the legislature's directive for an agency charge  
20 with creating privacy rules and stands to harm consumers and  
21 innovation alike.

22 The expensive proposal conservatively estimated  
23 cost California businesses over \$3 billion could create  
24 opt-out rights where AI is not actually making decisions.  
25 Allowing customers to opt-out of automated decision tools

1 for consumer profiling creates a complex, potentially  
2 unworkable policy environment. Consumer profiles allow  
3 platforms to display relevant and interesting products to  
4 consumers.

5 More specifically, these profiles undergird online  
6 advertising, enabling platforms deliver informative ads for  
7 consumers. This is the most acute and large online  
8 marketplaces where small businesses are able to sell goods  
9 directly to people. With so many products competing for  
10 consumer intention, relevant advertising allows small  
11 businesses to reach consumers who may otherwise not  
12 encounter the products. This enhances welfare for  
13 consumers, marketers, and platforms alike.

14 The proposed draft rules, consumer has a right to  
15 opt-out of ADMT training data, are similarly overreaching  
16 and problematic to implement. Training is not in of itself  
17 a high risk endeavor, but regulating as such will slow the  
18 improvement in AI in California.

19 California companies utilize AI models to improve  
20 their product offerings. Often, these are internal  
21 non-consumer facing applications where the consumer facing  
22 impact is minimal or even non-existent. But they serve an  
23 important process or a certain purpose, allowing -- such as  
24 allowing product testing, continuous product improvement,  
25 and moreover, training is not in of itself a high risk

1 activity.

2 But granting an opt-out would require additional  
3 processing of consumer data since developers would need to  
4 identify them during training at odds with the agency's  
5 mandate to self-guard privacy. Here again, the CPPA is  
6 effectively legislating how companies operate their internal  
7 tools.

8 We commend the CPPA for automated decision-making  
9 -- or for making this effort. The current proposal adds  
10 substantial regulatory and compliance burdens to California  
11 startups without obviously advancing consumer privacy, and  
12 as discussed, may undermine it.

13 But the matter under consideration is tantamount  
14 to legislating AI in California. Legislation -- legislature  
15 considered but did not adopt comparable policy during the  
16 recent session. These reasons, we urge you to set aside  
17 this well intention but flawed proposal related to automated  
18 decision-making tools. Thank you.

19 MS. MARZION: Thank you.

20 Madam Chair, I'm not seeing any additional  
21 commenters at this time.

22 MS. URBAN: Thank you very much. With that, we  
23 will move to Agenda Item number 3, which is discussion and  
24 possible action to advance draft regulations to formal  
25 rulemaking for updates to existing regulations, insurance,

1 cybersecurity audits, risk assessments in automated  
2 decision-making technology.

3 I would ask you to turn your attention to the  
4 materials for this -- for this agenda item, and which will  
5 be presented by our CPPA general counsel, Phillip Laird, and  
6 senior privacy counsel and advisor, Lisa Kim, and CPPA  
7 attorneys, Kristen Anderson and Neelofer Shaikh. Good  
8 morning, everybody. We would like to hear from you then the  
9 Board will discuss. Mr. Laird, please go ahead.

10 MR. LAIRD: Good morning to the Board members, and  
11 thank you to all the members of the public that have  
12 submitted comment already this morning. As was mentioned  
13 before the Board are three documents today, a cover memo  
14 that includes staff's recommendation about -- for the Board  
15 to advance the proposed regulations to formal rulemaking.

16 Also, the draft text to the proposed regulations,  
17 which update the existing CCPA regulations, clarify when  
18 insurance companies must comply with the CCPA,  
19 operationalize requirements for cybersecurity audits and  
20 risk assessments, and operationalize consumers' rights to  
21 access and opt-out of business' use of automated  
22 decision-making technology or ADMT.

23 Additionally, we've also included the Initial  
24 Statement of Reasons, which explains the purpose and  
25 necessity of each of the proposed regulations in the draft

1 text. And since the Board last saw the draft text in the  
2 ISOR in July 2024, the ISOR has been modified to incorporate  
3 now the standardized regulatory impact assessment or  
4 sometimes called SRIA shorthand.

5 As you're aware, the SRIA is the formal economic  
6 assessment of the proposed regulations. It outlines their  
7 costs and benefits, as well as the costs and benefits of  
8 potential alternatives. As was required, under the  
9 Administrative Procedures Act, staff did submit this SRIA to  
10 the Department of Finance for their review in August of this  
11 year and received DOF's feedback in September.

12 In short, DOF or the Department of Finance,  
13 generally concurred with the methodology used in the SRIA,  
14 and they only requested additional explanations from the  
15 economists about a few of the macroeconomic impacts  
16 identified in the SRIA, which our economists have worked to  
17 resolve.

18 The other modifications to the documents include,  
19 we have removed Section 7005, which addressed the consumer  
20 price index increase. And this is because legislation was  
21 passed earlier this year, that essentially implemented that  
22 same requirement, obviating the need for regulations.

23 We also provided detail on proposed regulations,  
24 benefits, addressed regulatory alternatives, and provided a  
25 list of materials relied upon. The draft text of the



1 proposed regulations and the ISOR are informed by several  
2 years of preliminary rulemaking activities, including  
3 hundreds of comments received, provided to the agency in  
4 writing and orally at various board meetings, public  
5 stakeholder sessions, and in response to two separate  
6 invitations from the agency for comment on the topics of the  
7 proposed regulations.

8           So today, staff recommends that the Board advance  
9 the proposed regulations to formal rulemaking, which will  
10 provide the public with a formal opportunity to provide  
11 written and/or comments to the agency on the proposed  
12 regulations. After receiving public comments, the Board  
13 will have additional opportunities to discuss and even  
14 potentially update the proposed regulations.

15           So to be clear, and I think at least one commenter  
16 made this point, beginning formal rulemaking today would  
17 really just be the beginning of the process and would by no  
18 means be the adoption of the draft regulations presented  
19 today. And in fact would allow for a formal opportunity for  
20 everybody to comment.

21           We understand people are here today commenting on  
22 this topic already, which is great, but the benefit in my --  
23 from my perspective of the Administrative Procedures Act, as  
24 it gives a uniform approach where everybody can have an  
25 opportunity to provide comments on these -- on these draft

1 regulations.

2 So with that all said, my team and I stand ready  
3 to answer any questions from the Board, but otherwise we'll  
4 turn it over to you, Chair, for facilitating discussion.

5 MS. URBAN: Thank you very much. And, yes, thank  
6 you for all the commenters who've spoken so far today. It's  
7 really helpful and I've heard some things that I've heard  
8 before and I heard some new things. All of them are really  
9 useful as are the materials and comments that have been  
10 submitted to us over the last two years during which we have  
11 engaged in a very robust stakeholder process for staff and  
12 the subcommittee that Mr. Le was on to develop these draft  
13 regulations.

14 I want to be really clear about the question that  
15 is before us today, and I want to be really clear what it  
16 means for the process, and what it means for the draft  
17 regulations and the form that they are taking today. It may  
18 be somewhat counterintuitive. It was somewhat  
19 counterintuitive to me until I thought it through, that  
20 indeed, as one commenter said earlier, engaging in formal  
21 rulemaking is the beginning of the process.

22 Now, we have done a lot of preliminary activities  
23 which are unusual in their scope and length in order to best  
24 inform where we start the process, but this is where the  
25 process starts. And what I mean by that is that it may be

1 somewhat counterintuitive, but it's actually easier for us  
2 to make changes to the regulations in the formal rulemaking  
3 process because the system is built for that. It's set up  
4 for that.

5 It allows us to take all of the research we have  
6 now, including the SRIA, and including all the research the  
7 staff has cited in the ISOR. And those have gone into the  
8 draft regulations as they are. But in the formal rulemaking  
9 process, we can accept, for example, some of the critiques  
10 of the economic assessment, some of the survey -- the  
11 consumer surveys that were mentioned, other studies, and we  
12 can consider those and use them if we agreed that it was the  
13 right thing to do to revise the regulations themselves.

14 Those of you who have been sort of consistent  
15 Starworks stakeholders, and I appreciate you very much, will  
16 know that in our last big rulemaking package we revised the  
17 rules substantially during the formal rulemaking process.  
18 It is actually the best time to do that, and indeed process  
19 wise, it is the only realistic time to do that.

20 I appreciate that a couple of commentators would  
21 like us essentially to just start over. I would like to  
22 remind those commentators and everyone else as well that we  
23 are legally mandated to have rules on opt-outs for automated  
24 decision-making, including profiling, on risk assessments,  
25 and on cybersecurity audits.

1           And it is public record that we have in fact been  
2 sued on a theory that we have been too late in promulgating  
3 these regulations. So this is not a question of us just  
4 deciding to do this. This is a question of us being  
5 mandated to do it.

6           The form the regulations take is of course very  
7 much something that needs to have broad input as we have had  
8 in which we continue to have. And the best way for us to  
9 take into account the range of input in the form of the  
10 language and the regulations themselves is to advance these  
11 regulations to the formal rulemaking process.

12           So I want to be really clear, that that is the  
13 only question before us today, and that what answering that  
14 question in the affirmative means is that we have the  
15 opportunity to work on the regulations in much more detail  
16 than we have until we do that. I -- that -- I just want to  
17 be sure that that's clear for everybody. And with that, I  
18 would ask if Board members have comments.

19           MR. LE: Yeah, I want to thank all of the  
20 commenters that spoke today. And that's exactly the type of  
21 feedback that I think this -- these roles need. You know, I  
22 hear the concerns about behavioral advertising, and that's  
23 impact on small businesses. You know, the commenter who  
24 talked about that makes it harder to run her small business  
25 teaching woodworking, I think.

1           You know, I'm very empathetic and hear all of  
2 these, and I believe, you know, this is the input that I  
3 need to make a decision on what the final form -- we all  
4 need to make a decision what the final formulas regulations  
5 are. You know, I see the regulations as they are now as  
6 privacy protective for consumers, protecting consumers the  
7 most.

8           I imagine after seeing that SRIA and hearing all  
9 these comments from businesses, I imagine we'll have to  
10 narrow it some -- at some level. But where and what do we  
11 strengthen will come from the comments in the formal  
12 rulemaking process.

13           So, you know, I -- I'm very open to seeing these  
14 regulations change and become a form that works for  
15 businesses in California, but also for the folks from labor  
16 who called in, the folks who work in healthcare, and the  
17 other in education. So I want to make sure that we get all  
18 of that input, not just from the folks who could be here  
19 today, but the folks who can write in and provide comment  
20 through the formal rulemaking process.

21           MS. URBAN: Thank you, Mr. Le.

22           Mr. Worthe, please.

23           MR. WORTHE: Yeah, I've got a few things that I  
24 would love some help with staff, or even other Board members  
25 could respond to some of this. I think some of you just

1 said share with -- answers some of my questions. But,  
2 first, thanks for the comments and thank you especially to  
3 the folks that took the time and effort to come here in  
4 person. I know that's not easy. So I appreciate that.

5 You know, a lot of the complaints that I'm hearing  
6 are coming from the business groups. And one specific  
7 statement that was repeated is that, a question whether we  
8 even have the authority to proceed in the area of AI  
9 regulation. So I'd love to get some feedback on that.

10 There's discussion about the timing of the  
11 legislative process and whether or not we should be waiting  
12 and whether or not we're coordinated with the governor's  
13 executive order. I'd love to have some feedback on that.  
14 The question of whether or not you -- there's restrictions  
15 on advertising to your own customers came up a few times. I  
16 need to understand that better because that -- as presented,  
17 it seems like a pretty strange restriction, but I'm probably  
18 not getting the whole picture.

19 You know, there is a -- there is a theory that  
20 we're rushing ahead, although we've been at this for several  
21 years, and there's 1,850 pages of comments. So as much as I  
22 appreciate that going forward is only the next step in  
23 really starting the process, you know what comments are  
24 coming. We just heard two hours of them.

25 So how are we going to, you know, put different

1 why have those -- are those comments going to be addressed  
2 differently than they have in the past or are we going to be  
3 in the same place six months from now or a year from now  
4 with those groups having the same concerns of the  
5 regulations? I think that's all I have right now.

6 MR. LE: Just one quick part of that.

7 MR. WORTHE: Please. No, anyone can.

8 MS. URBAN: Mr. Le.

9 MR. LE: Oh, yeah. Just on the the behavioral  
10 advertising, I know we were talking about that, you know,  
11 that was an idea to prevent people who don't want to be  
12 profiled with their use of, like, say you're on Facebook and  
13 you have a lot of information, there is a concern around how  
14 that information could be used against you and targeting of  
15 products, right.

16 And like vulnerable folks are targeted with  
17 predatory products at times, so I see that. But at the --  
18 at the same time, I think we had a lot of comments coming in  
19 saying like, that's not the agreement that was made. And I  
20 think I'm responsive to that. But on the second part is on,  
21 the governor's AI order was on generative AI. I don't know  
22 why folks keep conflating the two. That was very much  
23 focused on generative AI, and this is not. These rules are  
24 not focused on generative AI. But I'll hand it off to  
25 Alastair and that -- to answer.

1 MR. WORTHE: Can I ask you a question back to on  
2 the first point.

3 MR. LE: Yeah.

4 MR. WORTHE: My view of those comments was not  
5 somebody taking information off of a social media  
6 application. It was communicating with a customer that you  
7 already have. That's what I heard. If I heard it wrong or  
8 missed the --

9 MR. LE: Right. So if you're a corporation saying  
10 a bunch of different products, you have a lot of first party  
11 information about someone's behavior, right? The idea would  
12 be someone would be able to opt-out of them using that to  
13 target perhaps loans, educational opportunities, for-profit  
14 colleges if they have that first party information around a  
15 customer. But that's their own information, not one. And  
16 perhaps that could --

17 MR. WORTHE: Well, let me give a different example  
18 because this is the way I interpret it. Let's say I'm  
19 purchasing goods from a company, or the restrictions I'm  
20 focused on are their restrictions with my relationship with  
21 them that I've already established. That's what I'm looking  
22 for. Not them taking my information somewhere else, not  
23 them selling it down. Our relationship that we've created  
24 already, that's what I was hearing. Does that make sense?

25 MR. LAIRD: Yeah, I'm happy to respond to that.



1 Again, I think the premise in the way the regulations are  
2 currently drafted is it sort of Board Member Le described,  
3 it would be that information that that business got from you  
4 because you were their customer. But it's all the ways that  
5 they may be interacting with you and using that personal  
6 information to understand and essentially make -- draw  
7 conclusions about things you may want to do that you've  
8 never actually disclosed to that business, if that makes  
9 sense.

10 And I'd invite my, of course, astute colleagues if  
11 there's anything more you'd want to supplement that with.

12 MS. SHAIKH: Yes. I think one other thing to  
13 address, just with respect to your -- the idea of the  
14 relationship between you and the business that could be  
15 helpful here is, the regulations as they're drafted and  
16 under the agency's authority, it would not be prohibiting  
17 the use of that information.

18 Rather, it's that you as the consumer would be  
19 able to opt-out of that specific use of your information to  
20 advertise to you in that way. And so it's akin to things  
21 that we've seen in other contexts. So if you don't want to  
22 receive, you know, advertisements to your cell phone, if you  
23 want to unsubscribe from email list, you get that control.  
24 But it's not prohibited. It's that you as a consumer get to  
25 say, I don't want to be advertised to in this manner by this

1 business.

2 MR. WORTHE: That's very helpful.

3 MS. URBAN: I would also say that the way that I  
4 have read and I read the regulations as a board member who  
5 of course received them from staff and the subcommittee and  
6 read them is that the statute requires us to have opt-outs,  
7 including -- for -- including for profiling. And the  
8 definition of profiling is quite broad and includes various  
9 sort of first party interactions.

10 And the current draft of the regulations happen  
11 that, by only having opt-outs for extensive profiling, one  
12 of which is for this kind of behavioral advertising as the  
13 consumer's choice, as Ms. Shaikh was saying. I've heard  
14 this feedback as well a lot, and again, I think, you know,  
15 informal rulemaking, we have this sort of procedural  
16 opportunity to consider whether the way that it's cabined  
17 now is appropriate. We've also, of course, heard that it's  
18 not cabined, that it's too cabined from some groups, or  
19 whether there's another model, similarly, with using whether  
20 people can opt-out for the use of their personal information  
21 for training.

22 I think that's the kind of thing where I would be  
23 really eager to hear more detail, both from the business  
24 community -- for example, there was a gentleman earlier who  
25 was talking about internal uses and things like that, so

1 that we could judge -- we could judge that particular way of  
2 deciding, you know, what in the ADMT universe we want to  
3 have consumers have the ability to opt-out of.

4 Mr. Mactaggart.

5 MR. MACTAGGART: Thank you. Well, at board  
6 meetings in last December, March, and most recently in July,  
7 I opposed these regulations. I voiced concern about their  
8 overreach, their lack of privacy protection, and the high  
9 likelihood of legal challenges. And at this point, the  
10 scope remains unchanged. And I believe this undermines  
11 privacy rather than protecting it.

12 So I'm just going to unfortunately have to say my  
13 peace that I wanted to say finally because I really feel  
14 strongly about it. So there's some good news. I do think  
15 the cybersecurity regulations are in good shape and will  
16 benefit California.

17 `With respect to the risk assessments, I think  
18 these proposed regulations will make the inclusion criteria  
19 for risk assessments so broad that we will end up hurting  
20 cause of privacy, not helping it.

21 The scope of these regulations effectively  
22 mandates risk assessments for almost any business using  
23 software. This spread will hurt businesses and overwhelm  
24 our agency with, I think, largely form paperwork,  
25 diminishing our focus -- our ability to focus on

1 enforcement. There's no chance we'll be able to review tens  
2 and tens of thousands of multi-page risk assessments at this  
3 stage with our current resources.

4 So how are these regs too broad? The risk  
5 assessment regs are too broad? Well, just to provide some  
6 examples, the definition of artificial intelligence, AI, is  
7 essentially all software since materially all software,  
8 "generates outputs that could influence physical or virtual  
9 environments."

10 "Automated decision-making then includes  
11 artificial intelligence and everything that substantially  
12 facilitates human decision making." And the limiting factor  
13 is only whether that technology was a key factor in a  
14 human's decision making.

15 So as a result, our definition of ADM includes the  
16 use of almost any computerized technology in a way that  
17 describes how humans have used computers for 30 or 40 years.  
18 This is almost nothing to do with some predictive algorithm  
19 that tells your boss to fire you because you might get  
20 pregnant. That's creepy and that's bad.

21 So here are some examples that would help -- that  
22 do help humans make decisions, whether that's a human  
23 employed by the company, or by the way, the consumer,  
24 because these regulations do not specify. Since these can  
25 affect a human's access to essential goods and services.

1           So, first, email and text. These contain your PI,  
2 and obviously help people make decisions. If you use email  
3 or text, please conduct a risk assessment. Booking software  
4 at a restaurant or a barbershop, that triggers a risk  
5 assessment. Listing notifications. Let's say you sign up  
6 at a real estate agency for a list to alert you to new  
7 listings. The human uses that list to upload a new listing  
8 and send out an update. That triggers a risk assessment.

9           Application tracking. You're applying to some  
10 school somewhere, and it sends you out notifications saying  
11 you're missing some form here. You haven't put in your  
12 transcript. Trigger the risk assessment. Even the example  
13 given in 7001 F4 proves this point, even though it's  
14 actually a little confusing.

15           It says, spreadsheets are not AI, but use a  
16 regression analysis. It is AI. So you're, I don't know, a  
17 chain store and you're looking at what time to open your  
18 stores and you use a spreadsheet to focus -- to figure out,  
19 like you put this input, it's like, okay, what time does  
20 these stores open? And, you know, you use, let's say,  
21 Excel's Solver function, which many of us have used. That's  
22 AI.

23           So that technology was introduced in 1990, but now  
24 it'll require businesses to conduct a risk assessment. And  
25 I think this is statutory overreach. 1798, 185, 815

1 mandates risk assessments only for activities that pose a  
2 significant risk to privacy or security. Privacy or  
3 security.

4           Yet these regulations use ADM as the trigger. But  
5 ADM is just a tool. It does not inherently impact privacy.  
6 And it was specifically omitted from this paragraph when  
7 drafting the statute. So if Mr. Soltani was here, he, when  
8 he was my consultant, when we were drafting it, convinced me  
9 to leave technology out of this statute. So the statute  
10 really doesn't mention any specific kinds of technology,  
11 even like, for example, around security. Because as his  
12 point was, look, this is going to change over time.  
13 Technology will change. So don't get too focused on one  
14 technology.

15           So the statute emphasizes the nature of the  
16 activity, not the technology involved. And one can make a  
17 cogent argument that ADM is more privacy and security  
18 friendly because there's no humans stealing or, you know,  
19 snooping.

20           So my conclusions around risk assessments are,  
21 one, we should focus on activity, not technology. We should  
22 limit risk assessments to high risk activities rather than  
23 like some focus on some ADM Technology. We shouldn't care  
24 how a significant decision was arrived at, just that it was  
25 arrived at. And, by the way, my suggestion here is more

1 privacy protective, not less.

2 We should -- secondly, we should define  
3 significant decisions more clearly. We should -- we should  
4 remove the term access to from significant decisions and  
5 actually focus this -- focus on decisions where you end up  
6 denying someone essential services.

7 We should clarify essential goods and services.  
8 We should specify what qualifies as essential to avoid  
9 unnecessary assessment. Is an airline ticket an essential  
10 service? Is a dating app? These are the regulations which  
11 are supposed to provide clarity, and we should do that.

12 And then we should streamline compliance. We  
13 should provide a comprehensive list of acceptable  
14 assessments from other jurisdictions to reduce duplication  
15 and compliance costs. With respect to ADM, these  
16 regulations gives consumers the right to opt-out of ADM if  
17 there is a significant decision or profiling. But if a  
18 business provides an appeal mechanism, then the business  
19 does not have to offer the opt-out.

20 So that sounds straightforward, but it's not due  
21 to the very broad definition of ADM, which is, again,  
22 technology that processes PI and substantially facilitates  
23 human decision making. And, again, with the key decision --  
24 the key factor in the human's decision.

25 So under these rules, consumers can opt-out of

1 even contextual ads. One of the most privacy friendly  
2 advertising methods. Privacy laws encourage contextual ads,  
3 yet these regulations would undermine that ship, potentially  
4 stalling a sector-wide effort to reduce intrusive data  
5 collection.

6 Absolutely, these regs will allow you to stop  
7 using a consumer to tell the business to stop using first  
8 party ads to their own customers, which was never, and is  
9 not the intention of the bill. We would -- just think about  
10 it, we would be saying to consumers, if you opt-out, you're  
11 never going to have to see an ad relating to a bank, a  
12 hospital, a grocery store, insurance company, a healthcare  
13 employment. It's like seven -- I added up the different  
14 sectors we're regulating, it's like 75 percent of the  
15 economy.

16 And at some meaningful level, this will break the  
17 internet, just the way it works. The advertising model  
18 supports the internet right now. And it'll destroy the  
19 concept of trying to get us to move everybody towards a more  
20 privacy protective ecosystem of contextual ads, where when  
21 you're on a site, you see an ad related to that site that is  
22 not based on your 65 other sites that you visited and your  
23 purchases for the last two years.

24 And relying on appeal mechanisms to get out of the  
25 opt-out isn't feasible either. It's not at scale. It --



1 it's not -- it doesn't reflect how the real world works.  
2 We're setting up a terrible architecture and nothing about  
3 this architecture helps protect privacy. And on the  
4 contrary, we're just going to weak havoc and hurt privacy.

5 Let's examine some cases. Amazon, UPS, DoorDash,  
6 Instacart, these regs give the consumers the right to  
7 opt-out of these businesses automated delivery software. To  
8 deliver the food or your medication, your package, or do you  
9 have to call Amazon and say, hey, I'd like you to deliver my  
10 package, but, by the way, you can't use your ADM Technology  
11 to get it here?

12 And how -- how's that protect privacy? So, of  
13 course, they're going to say no, but they have to set up  
14 this mechanism where they can then come along and have a  
15 mechanism from -- to deny my request to use the opt-out of  
16 the ADM. Access to lodging, these -- I can call a hotel and  
17 say, I'd like to book a room, but please don't use your  
18 automated booking software. It just -- it's impossible for  
19 the clerk at Marriott to do -- to -- for me to get the room.

20 You call the airline and say, I'd like a -- I'd  
21 like a seat on this plane, but you can't use your software  
22 to -- your automated software to tell me what the prices  
23 are, or to organize it. But same thing for academic  
24 admissions. And so I -- this language in 185 A16 was  
25 derived -- was literally lifted from GDPR Article 22.

1           And if you go back to GDPR, that talks about  
2 solely automated decision-making with legal impacts. And  
3 that was the intention here. Colorado's privacy law has a  
4 similar approach, which excludes human involved decisions  
5 from opt-out. By contrast, our approach of -- requires  
6 opt-outs even, if humans assist with the decision.

7           And this just creates a regulatory burden that I  
8 think has a negative impact on privacy. And so these  
9 particular regulations are \$1.4 billion, the cost of them.  
10 That's our assessment. There's lots of questions whether  
11 that's the right one or the wrong one. But I come back to  
12 this and I say, why don't we -- why don't we -- I've been  
13 saying this for a year, why don't we adopt a much more  
14 targeted approach?

15           And so my recommendations are, with respect to  
16 ADM, remove the whole notion of access to or provision of,  
17 from the goods and services, and get it to where you've been  
18 denied an essential service, where you've been turned down  
19 for a loan, you've been turned down for the credit card,  
20 you've been turned down for the -- whatever the thing is  
21 that you're looking for.

22           And then revise the opt-out approach, secondly.  
23 If a human is materially involved in a decision, no opt-out  
24 should be required. And then, you know, again, I think we  
25 should focus on our privacy mandate. What we're basically

1 doing is we're taking 10 lines in a 60 page bill, and we're  
2 trying to backwards regulate AI. And look, I actually think  
3 it's an incredibly important area to have some regulations  
4 on, but that's what the legislature's doing right now. And  
5 that's what the governor's talking about.

6 I think we should approve these regulations, but  
7 we should remove Articles 10 and 11. They're just too --  
8 you know, I've been hearing this, just advance these, just  
9 advance these because then we can -- then we can actually do  
10 the work. But I've been hearing that for a year and nothing  
11 really gets changed.

12 And I think the threat of -- I actually think the  
13 threat of the lawsuits are red herring. You know, we can  
14 pass regulations that are much, much less expansive than  
15 these, that -- it checks the box on ADM and checks the box  
16 on risk assessments. Our approach so far has been, don't  
17 worry about it.

18 Now we have like regulations which tally, you  
19 know, some enormous costs, some of that cybersecurity, which  
20 I support, but I'm very concerned about these and I don't  
21 buy into that we should just advance as is. And I would  
22 have us remove Articles 10 and 11 at this time. Thank you.

23 MS. URBAN: Thank you, Mr. -- very much, Mr.  
24 Mactaggart. And, you know, substantively, as has been the  
25 case when you've made these comments before, I think they're

1    incredibly useful and incredibly thoughtful. We may, in the  
2    end, have some policy disagreements about -- disagreements  
3    about certain things. For example, GDPR Article 22 says,  
4    solely, but it's unclear actually how that is going to be  
5    implemented. And, you know, the intention was not to have a  
6    situation where you could just pretend there's a person  
7    there. And therefore it falls out of Article 22, for  
8    example, but there hasn't been a lot of guidance.

9           My understanding was that solely was explicitly  
10   removed from our statute, but I think -- anyway, as a  
11   discussion for a longer time, similarly with access and some  
12   of these ideas, I think they're great. I just want to be  
13   really clear that the procedural opening for us to really  
14   like work on these kinds of structural things is informal  
15   rulemaking. And I know that that is counterintuitive, but  
16   that is the process -- that is the process reality.

17           And so one of -- the main reason that I am really  
18   hoping that we will move to formal rulemaking today is for  
19   that purpose, to get, as Mr. Laird suggested, a rationalized  
20   clear full record. I would encourage everybody who has  
21   comments prepared that they've sent us, if they don't want  
22   to revise them, just submit them again, and then we have  
23   them in the formal rulemaking record to work with them in  
24   more detail.

25           There are, you know, some ADAPA imposed timelines,

1 but they're very generous, which means that we can take some  
2 time and we can work on the regulations in a way that  
3 procedurally is just very difficult to do earlier this year.  
4 I would also note that we did revise the draft substantially  
5 between December and March. We've gotten some positive  
6 feedback, we've gotten some negative feedback, and from sort  
7 of opposite policy directions.

8           And all of that information is very much -- as I  
9 understand it from staff, is very much sort of in the hopper  
10 and procedurally the best way -- the best option we have to  
11 act on it is in formal rulemaking. But, you know, I think a  
12 lot of these ideas are just really important, Mr.  
13 Mactaggart. And what I would like to be is in a position  
14 where we have more of an opening procedurally to work with  
15 them.

16           Yes, Mr. Le.

17           MR. LE: Yeah. Just a quick one. I -- you know, I  
18 agree with a lot of the points you've made. I do think, you  
19 know, access to, I do, don't want risk assessments for doing  
20 a booking.com reservation, really the question is, you know,  
21 why we haven't changed it is we need more comments. It  
22 can't just be from you or I or the folks who call in, like,  
23 how do we do this.

24           Like, I want to make sure these regulations, when  
25 there's an opt-out, it's an important one, right? Like,

1 when you're -- when that appeal, human appeal exception, for  
2 example, I don't think it needs to happen for everything,  
3 but when you're applying to a job, you're rejected by  
4 applicant tracking system, maybe you could respond. And be  
5 like, this is -- this is why you have your access right, and  
6 then you go like, well, you know, my metrics didn't match,  
7 but maybe this education counts for three years of  
8 educational experience. You send that.

9           So like, I want a cabinet to those specific  
10 situations that are high risk, are significant. I  
11 acknowledge, the language as is, doesn't quite get us there.  
12 And I think it's made very clear by all the comments that  
13 came in. But until we get those comments, you know, like I  
14 -- my mind is just like, well, you know, I'm hearing this,  
15 I'm hearing that, how do we make sure we do it?

16           So I want to reassure you, I agree with a lot of  
17 your points. I do think these regulations should be  
18 narrowed somewhat to make sure we don't capture, you know,  
19 that woman who is trying to run her small business, right?  
20 To do bookings, to do -- you know, there was a comment from  
21 Salona AI, you know, exemptions for low risk activities,  
22 phased approach for small businesses.

23           These are all great ideas. And as we're entering  
24 what potentially is the formal rulemaking process, it's like  
25 a really good time to get that and then, you know, start

1 redlining these regulations and getting into a place that  
2 isn't \$3.5 billion.

3 MS. URBAN: Thank you, Mr. Le.

4 Yes, Mr. Mactaggart.

5 MR. MACTAGGART: Yeah, I was -- I was trying to  
6 smile, Mr. Le, just because personally it was pretty funny.  
7 Recently, I was on an airline and they hand out the little  
8 thing saying, you know, apply, get 50,000 miles for the  
9 credit card. So I was like, all right, I'll do it. And I  
10 get the form letter back, you've been rejected. I'm like,  
11 oh, man, now I have to -- I -- how am I going to -- how am I  
12 going to contact him? Like, why did I get rejected.

13 So I'm also mad at the system when it happens to  
14 me, you know, which it happens to people, and you get this  
15 -- you know, the faceless kind of machine has an impact on  
16 you, and it's annoying. I guess, for me, when I come, I  
17 hear this, and I've been hearing, oh, yeah, don't worry.  
18 And I just -- I'm like, someone has the pen to write these  
19 regulations in a boil. The ocean kind of format, and why we  
20 keep on doing that and then say, just trust us when we get  
21 to the other side, then we'll start to red line it, I'm  
22 like, but nothing.

23 I mean, maybe some changes that happened between  
24 December and March, but these are still massively broad  
25 regulations. And I keep on saying, why wouldn't we have

1 just limited them a little bit -- limit if -- and you could  
2 say, well, it's not up to you or me, but actually we are the  
3 Board. So I actually kind of think it is up to us. And, of  
4 course, we want to get public comment, but there's been a  
5 ton of public comment over the last year, both for and  
6 against.

7 But, again, I'm personally uncomfortable with the  
8 process because we keep on just saying, just wait till we're  
9 on the other side and then we'll start to address these  
10 things. And the -- and -- but we submitted for the SRIA,  
11 this massive thing. I don't know why we did that. So I --  
12 I'm not -- I'm not supportive of this right.

13 MS. URBAN: Thank you, Mr. Mactaggart.

14 Mr. Liebert's very quiet. I don't want to put him  
15 on the spot. I just want to make sure he has the chance to  
16 weigh in if you'd like.

17 MR. LIEBERT: Staff have an opportunity because  
18 we've made all sorts of comments about whether things have  
19 or have not been done. Not to put you on the spot, but if  
20 there have been comments made here that you feel you might  
21 be able to illuminate, that would be helpful.

22 MR. LAIRD: Thank you, Board Member Liebert.

23 A lot has been covered, admittedly. But I suppose  
24 an important point to remind this Board is we general -- or  
25 you generally as a Board made a decision to advance more or



1 less this version of the text back in March. And has been  
2 since March that staff has been underway, following the  
3 Administrative Procedures Act to get things teed up just to  
4 start formal rulemaking.

5 And so starting over again is practically the same  
6 as going back another six to nine months to just get back to  
7 the same spot where there'll still be comments, still be  
8 complex on either side, and we'll be doing all that still  
9 with just the limited information we've gotten to date.

10 I think to Mr. Le's point, those who are paying  
11 close attention to our agency, sure, have been very involved  
12 and been writing comments all along the way this whole year.  
13 But at the same time, the whole Administrative Procedures  
14 Act is there will be a notice published in the state's  
15 register that everybody has access to. Everybody will be  
16 made aware of with the full documentation that usually most  
17 state departments and all don't put out in advance.

18 It's by the virtue of the fact that we are a Board  
19 that the public is getting access to these documents in  
20 advance to see the drafts as they've been prepared because  
21 the Board has been considering the details. But this is the  
22 record on which it is typical. And I would recommend that  
23 we start to then build a formal comment process and then  
24 make some very important decisions.

25 I absolutely agree with a lot of what's been said

1 today in terms of continuing to evaluate and be thoughtful  
2 about these things. I also just want to know, I know we've  
3 gone through a lot of examples, kind of rapid fire. Some of  
4 the examples I heard today would actually not be subject to  
5 these rules.

6 And we could take the time to go through those,  
7 but I also think that may not be the best use of our time  
8 today, but just would make the point that through various  
9 exceptions, as well as details in some of these definitions,  
10 I think there is nuance that maybe is sometimes glossed  
11 over.

12 And I've heard it across the Board. And I  
13 recommend -- I recognize that means we've got some education  
14 to do as well on these regulations, but there's an --  
15 there's an effort to really make this impactful in the ways  
16 that I think all the Board want it to be. So we are  
17 committed to that same thing.

18 MS. URBAN: Thank you, Mr. Laird.

19 Mr. Liebert?

20 MR. LIEBERT: So I have a follow-up question for  
21 you. Let us assume for a moment that the Board concludes  
22 with our esteemed colleague, who is very much involved in  
23 the creation of our efforts, that the hypotheticals that  
24 he's given are persuasive and that we want to try to narrow  
25 this draft of regulations accordingly. What process would

1 we have -- if we trigger the formal process now, what will  
2 that look like in order for us to get there as opposed to if  
3 we don't trigger this process now and we do put this off  
4 essentially for 9 or 12 more months? I didn't go through  
5 this, you already have. I'd appreciate that illumination.

6 MR. LAIRD: That's a great question. And there is  
7 a certain element of Board discretion here on how you would  
8 like to approach this. Staff, of course, has been listening  
9 to all these comments and maybe at times even has our own  
10 opinions on which should be modified in where there's room  
11 for improvement. But at the same time, we would really do  
12 it at this Board's direction.

13 And so, again, the benefit of having the formal  
14 public comment period. So at the conclusion of that period,  
15 we'll have a record for you. We'll have -- I guarantee  
16 it'll be a lot of comments, a lot of documents, a lot of  
17 pages, as well as testimony given at a public hearing as  
18 well, for the Board to consider as an entire record. We  
19 will be happy to help then facilitate at Board meetings, if  
20 that's the way the Board would like to go, discussion on  
21 sort of the scope and nature of those comments raised, the  
22 suggestions made.

23 We would be happy as the staff level to make  
24 recommendations ourselves, including recommendations that  
25 will make an effort to find common ground between Board

1 members on where the interest and motivations lie to try to  
2 get these regulations right. So staff is here to support in  
3 any way the Board would like to take this, including  
4 proposing updates after we've heard the comments as well as  
5 being responsive to general discussions.

6 And maybe after hearing that complete record, if  
7 there is some consensus that's built at, for instance, a  
8 meeting following that public comment period, staff would go  
9 back to revising regulations to meet all of those interests.

10 MR. LIEBERT: So what I'm trying to compare here,  
11 Mr. Laird -- and thank you for that, and thank you staff for  
12 what has been an amazing amount of work and truly  
13 extraordinary work. What I'm trying to drill down here is  
14 that, if we trigger this formal process today, and we want  
15 to make changes, as Board Member Mactaggart has pointed out  
16 to some degree, as a consensus hopefully as a group, what  
17 process would we be engaged in during this period of this  
18 public formal process.

19 MR. LE: Can I -- can I add to that question?

20 MR. LIEBERT: Sure.

21 MR. LE: So say we decide for example, say, we take  
22 out behavioral advertisement, right? As one of the opt-out  
23 opportunities, right? What would happen if we did it now  
24 versus when we did it in formal rulemaking?

25 MR. LIEBERT: Thank you for that. That's very

1 helpful.

2 MR. LAIRD: That's a great question. If we do that  
3 now, we would need to update a number of these requirements.  
4 We would also need to update our standardized regulatory  
5 impact analysis in consultation with the economists that  
6 we've been working with to produce these documents. We'd  
7 have to resubmit to the Department of Finance for another 60  
8 to 90 day review period, receive their comments, and then  
9 we'd at that point, likely, be in a position to move forward  
10 with that formal rulemaking. On the flip side, if we start  
11 --

12 MS. URBAN: Sorry. Mr. Laird, could you estimate  
13 the time period there for redoing this for you, and I know  
14 Department of Finance is 60 to 90 days. I'm just trying to  
15 get a picture in my mind.

16 MR. LAIRD: Well, and it depends on how much -- you  
17 know, removing a single requirement that's been estimated  
18 might be a little bit easier for our economists to do. If  
19 we were to try to accommodate a lot of changes, we'd be  
20 probably starting a lot further back in that process and in  
21 that assessment.

22 Our economists, on estimate, what would you say?  
23 Probably spent about eight months, probably plus, in  
24 developing these. They were doing some of the preliminary  
25 assessment before even full text was assessed just to

1 determine baseline numbers and assumptions, for instance.  
2 And then worked after this Board moved to at least --  
3 proposed that we move forward with this text in March to  
4 then do the full -- the full assessment, which again, we  
5 weren't able to submit to Department of Finance until August  
6 of this year.

7 So on the flip side though, if we were to start  
8 formal rulemaking today, we could conclude that formal  
9 rulemaking by -- that formal comment period by January of  
10 2025, and by February, this Board could be back having a  
11 real substantive discussion about what should be changing in  
12 these regulations as a result of those -- of those comments.

13 MR. LIEBERT: Would that trigger the need for a new  
14 SRIA?

15 MR. LAIRD: No.

16 MR. LIEBERT: It would not.

17 MR. LAIRD: It would require -- before the Board --  
18 when the Board finally concludes the regulations they  
19 actually want to adopt, we would be required to update our  
20 economic impact assessment, which is a shorter document.  
21 It's about a five-page form produced by the Department of  
22 Finance. It would still require a good amount of research  
23 and assessment by our economists. Absolutely. But as long  
24 as that -- the requirement is that that be updated to  
25 reflect the final -- the final regulations and the estimates

1 that would accompany those.

2 MS. URBAN: Thank you, Mr. Laird.

3 I -- just to add a little color, given that I know  
4 not everybody was on the Board when we did the first big  
5 package of regulations, Mr. Le and I were, and I'm going to  
6 just reveal my own naivete as a chair of a -- of a  
7 commission like this, and certainly with this law, which we  
8 were all naive to, which was that we, as the Board, approved  
9 that package for formal rulemaking received a very robust  
10 round of formal comments.

11 And then I know another board member who's no  
12 longer on the Board, and I will not name that person because  
13 I don't have permission, but I -- and myself were quite  
14 surprised when we saw the revision -- the revised version in  
15 response to that first round of comments because it was --  
16 they were substantial revisions. And that's when I really  
17 had to -- you know, I had understood. I thought the  
18 process, and then I had understood what the process meant.  
19 They were substantial.

20 And then, of course, you do another round of  
21 public comment when you substantially revise the  
22 regulations. So the -- it -- I think it -- for those of us  
23 who have done legal practice and advocacy in a lot of  
24 venues, we tend to think that once you get to the hearing or  
25 once you get to this, right? It's pretty much baked.

1 California, actually, it doesn't work like that.  
2 It -- the formal rulemaking process really is as it is  
3 advertised generally, which is -- which it is an absolutely  
4 genuinely substantive robust opportunity to make serious  
5 revisions and response to public comments. And so I think  
6 that experience has very much sort of lodged itself with me.  
7 And I apologize if that -- if that hasn't been clear to  
8 everybody else. But I think that was a really nice example  
9 to hopefully illuminate that for you, Mr. Liebert.

10 MR. MACTAGGART: Yeah, I think I hear all that.  
11 And just for Mr. Liebert who was not on the Board and may  
12 not have been watching every video of past Board things,  
13 there was a vigorous debate, I would say in March as well.  
14 It was a split vote, three, two to move ahead with these  
15 regulations.

16 And I think, you know, I would be surprised having  
17 worked with economic analysis in the past, lot of the work  
18 is spent, you know, constructing the model. If you then  
19 say, we're going to want to take out these 16 requirements,  
20 it's usually not as long. I would hope it wouldn't be as  
21 long and say, okay, well, that's -- we don't have to do  
22 that. Don't have to do that, we can -- we can reduce the  
23 cost. So I would hope it wouldn't be eight or nine months.

24 My worry, I'm -- I've got many, but one of them  
25 is, you know, I don't want to vote for something between



1 risk assessment and ADMT, our own costs assessment or  
2 something. Yeah, close to \$2 billion, or maybe it's more  
3 than 2 billion, depending on whether you use the high or the  
4 maybe the low. That's going to be the headline.

5           You know -- you know, California Privacy  
6 Protecting Agency, you know, imposes 2 billion costs --  
7 dollars or cost in these two, and there's going to be  
8 cybersecurity, you know, cost as well. It's -- these are  
9 going to -- these are -- I don't -- I don't think that's --  
10 we're downs to our public credit here as we're trying to  
11 convey that, you know, we're doing good things for consumers  
12 that are, you know, in the public interest.

13           And I -- and, again, I say I don't think this help  
14 privacy. I think they heard it because they -- it's  
15 regulation that ends up not advancing. Right.

16           MS. URBAN: Thank you, Mr. Mactaggart.

17           My own thoughts about the risk assessment, again,  
18 we have already received a number of public comments, some  
19 critical of the scope of the regulations in the direction of  
20 thinking they're too broad. Some criticizing the scope of  
21 the proposed regulations in the direction that they're too  
22 narrow. And when I say broad and narrow, I mean in terms of  
23 the -- let's just say, one measure would be the cost on  
24 businesses.

25           The SRIA as it is now, given what I'm hearing on

1 the Board, and I'm not holding anybody to this, I think is a  
2 cost that is based on a broader conception than people are  
3 willing to entertain it seeing what we hear from public  
4 comments.

5 And to me, I think one of the sort of best things  
6 that we could do as a public agency is to move into formal  
7 public comments with that, this is how much it could cost in  
8 front of us, and if we chose to narrow it, then I don't  
9 really -- like, that is a positive impact for businesses in  
10 their view. And so I feel -- you know, I sort of -- I feel  
11 comforted by that.

12 I don't think that we can just keep shooting at  
13 another target and get anything that is going to be more  
14 certain than we could get. Again, from hearing formal  
15 public comment, we would -- I would welcome more detailed  
16 information from businesses and from consumer groups and  
17 from the labor groups on the relative costs as they see  
18 them, which would allow us, again, to make a more informed  
19 assessment than we even can now with the robust process that  
20 we have because we have -- we have the formalized  
21 interventions from the people whose boots are on the ground.

22 I know you've all heard me sort of beat this drum  
23 many times, but for, just as an example, the thresholds, we  
24 have some thresholds. They're reasonable. I don't know if  
25 they're right, but I think they're as -- I think that

1 they're probably as broad as they are likely to be agreed to  
2 by the Board. And so we have the full cost of those  
3 thresholds, and if we pull them back, it would be less cost.

4 I don't think that we should worry about what the  
5 cost is beyond our understanding of the actual impacts to  
6 the economy, to businesses, and to consumers. It costs what  
7 it costs to have regulations. And our decision needs to be  
8 based on how we balance the equities. And we're going to  
9 get the best information from that now that we have a SRIA  
10 we can work with, again, from formalized public comment.

11 Now, it is entirely possible I would -- I can't  
12 and I would never want to hold my fellow Board members to,  
13 you know, my sense of things right now. And, of course,  
14 something could change in the world and maybe -- you know,  
15 maybe we would decide that we need to broaden them  
16 substantially in a way that would -- that would impose more  
17 costs for businesses.

18 In that case, I think we should address that if  
19 and when we come to it. But I don't think that we're going  
20 to get a more sort of certain picture in advance before we  
21 have the formal discussion. And what we do have is kind of  
22 the highest cost that we're likely to have that we can work  
23 with.

24 MR. WORTHE: I still had -- excuse me -- a couple  
25 questions, maybe one that wasn't addressed specifically and

1 it was repeated. If I'm -- if I'm one of these business  
2 groups that have for over a year raised the same concerns  
3 and changes haven't been made, why should I feel they're  
4 going to be made six months from now when we're in the  
5 formal rulemaking plan.

6 What -- what's different about what we've been  
7 going through and what we're going to go through? Why  
8 should I be comforted that there's -- I'm going to be heard  
9 and addressed differently than I have in the past?

10 MR. LAIRD: Great question. And I think my  
11 response is, again, staff started working on the documents  
12 to support the direction of the Board back in March. And  
13 since March, we've held multiple stakeholder sessions, we've  
14 had multiple Board meetings, and these have presented plenty  
15 of opportunities, including folks reaching out to us  
16 separate of any of those instances to submit public comment.

17 And we've been listening, but at the same time, we  
18 were under the mandate of the Board to produce an Initial  
19 Statement of Reasons, a standardized regulatory impact  
20 analysis on the text that was currently agreed to by the  
21 Board back in March.

22 And so we're listening, and at the same time, it's  
23 been a lengthy process just to get us to the starting point.  
24 And so, to us, the starting point, it's very helpful to have  
25 all this well in our minds already. But at the same time

1 once we -- once we start this process, again, it sort of  
2 ensures there's a uniform opportunity for the public and not  
3 just for those that have been attending the Board meetings  
4 with the stakeholder sessions, it'll gives the benefit --  
5 the -- you know, until just recently, the public actually  
6 hadn't seen the standardized regulatory impact analysis  
7 assessment because it didn't exist yet, right?

8 So these are new documents, new substantiation,  
9 and estimates all related to the text that was agreed to in  
10 March, that the public can consider now as a complete record  
11 from the agency, give them the opportunity to give their  
12 feedback across kind of all issues, and then give us the  
13 opportunity to take that and make changes. And so I hope  
14 that answers your question. I guess my thought is we've  
15 been hearing it, but at the same time, it's been a lengthy  
16 process to get to this stage, and --

17 MR. WORTHE: It hasn't been ignored. It hasn't  
18 been the right time in our process to address it. One final  
19 question. If we decided through the rulemaking process that  
20 we want to eliminate 10 and 11, we have that ability?

21 MR. LAIRD: If you were to eliminate certain  
22 components of the draft regulations without advancing them,  
23 we would have to redo a number of the --

24 MR. WORTHE: After advancing them.

25 MR. LAIRD: Oh, after advancing them, absolutely.

1 You can make any amendments to these regulations you want.  
2 Once formal rulemaking has begun, and as the Chair  
3 mentioned, the process is great in the sense that every time  
4 you make amendments, then there's another public comment  
5 period, 15 days for those. But it'll be more opportunity  
6 for the public to engage each time the Board makes a change  
7 to these regulations.

8 MS. URBAN: Mr. Le.

9 MR. LE: I just want to give some context to that  
10 first question. Yeah, essentially, it got frozen in March.  
11 But, you know, I think as someone on the subcommittee, you  
12 know, who got a lot good recommendations, but then also got  
13 recommendations that were opposing those, how do you decide  
14 who to listen to? Right? Do you listen to Consumer Reports  
15 or do you listen to the business chamber.

16 So I -- there was a decision, I think, to kind of  
17 just freeze it where it was and then get everybody's input  
18 in so that we can do it. And that's been a consistent thing  
19 that I -- I've sat throughout is, I think we started out  
20 with a very consumer friendly set of regulations and  
21 figuring out what actually needs to stay.

22 And I'm hearing a lot about healthcare, housing,  
23 employment, right? Not hearing as much around, you know,  
24 behavioral advertising or training data for ADMT, right? So  
25 that's the kind of input that I would like to hear from the

1 comments.

2 MS. URBAN: Thank you, Mr. Le.

3 Yes, Mr. Liebert.

4 MR. LIEBERT: No one said it was going to be this  
5 much fun. I want to say a couple things and do something  
6 which I normally don't do, and it's try to slow myself down.  
7 Again, I want to thank the staff for all the great work that  
8 you've done. And I know you'll continue to do. I consider  
9 this a real conundrum.

10 I come from a legislative background, and so when  
11 all of my friends and colleagues keep saying and testifying  
12 that we just need to throw this to the legislature, I need  
13 to tell you something. I spent 20 years at the legislature.  
14 We are doing far more intense, careful, deliberative work  
15 here than I could ever expect my colleagues at the  
16 legislature to do.

17 They hear hundreds -- wait, thousands of bills  
18 every year. And my colleague knows very well that they  
19 can't spend the kind of time that we are right now talking  
20 about whether behavioral advertising or any other issues  
21 should be in this legislation.

22 And so I am not particularly persuaded by just,  
23 let's wait for the legislature, they're going to figure this  
24 out. Well, I don't expect that of them. I don't think it's  
25 reasonable to expect it of them. I've got great friends

1 there, but they have lots of things they have to do besides  
2 focusing on these issues.

3 The second point I'd like to make is that, this is  
4 a really important consumer protection law that I am very  
5 grateful that was pushed and that we're trying and  
6 struggling with to get right. And the governor, of course,  
7 is absolutely right. We want to get this right. But we  
8 also want to get this.

9 And many times in the legislature you will hear  
10 people say, oh, this is not quite baked. We need to hold  
11 back. And what that does is it keeps progress from ever  
12 happening. And so we're in this conundrum right now of  
13 whether we trigger this process now to get this going and  
14 moving forward. And there seems to be a growing consensus  
15 because of the persuasiveness of the concerns that Board  
16 members have, that we can get there.

17 But I am definitely concerned that if we put this  
18 off to keep trying to do that, with all of the constraints  
19 that we face through the process that we're putting this off  
20 too long, that we need to make progress, and we need to  
21 support our staff, and we need to have the confidence that  
22 we will be able to get this as right as we can.

23 I was reading a little bit as we were hearing  
24 testimony that -- about some of the risks of ADMT. And they  
25 are profound. They are profound. Many of us are



1 experiencing it now just as you did, when you can't actually  
2 reach human beings anymore because you are literally talking  
3 on the phone to machines. And when you want to get to that  
4 human, you cannot do it.

5 And we have just hit the tip of the iceberg in  
6 this process. We really have. So I'm very concerned that  
7 we try to address some of these issues to make sure that we  
8 still have humans working and that we still have humans we  
9 can interact with when there are mistakes. And there's  
10 plenty of reporting by Stanford and Harvard and all of these  
11 academic institutions about the degree of mistakes that are  
12 happening through ADMT large language models. We got to  
13 care about this stuff really profoundly.

14 So I am prepared to support moving this process  
15 forward today, but I am also absolutely committed to  
16 addressing the powerful concerns that the business community  
17 has mentioned, with us paying adequate attention to all of  
18 those consumers out there. This law that was pushed was  
19 passed by almost 60 percent of California voters. And they  
20 really want real, real protections in regards to their  
21 privacy. And we sure haven't gotten there yet, have we?

22 So we have to make some progress. And the only  
23 way we're going to do that is if we keep pushing forward. I  
24 think from the discussion we've had today, that we  
25 absolutely will have the opportunity to do that. And as

1 people in the legislature always say, I reserve my right not  
2 to vote for this when we get to that point.

3 If we haven't hit those marks of those dangers  
4 that some of you have highlighted, that we've gone too far  
5 perhaps in some areas, we all have the ability through this  
6 process, whether it's nine months from now or a year from  
7 now, to say, you know what, we're not there. We're not  
8 going to do this.

9 And so that gives me the comfort that I need with  
10 the respect that I have for all of you, that we can get  
11 there, but that we will absolutely need to get this trigger  
12 going, to get this process going in this formal process.

13 And I think the staff, I'm quite confident, has heard loud  
14 and clear that there are some major changes that need to be  
15 made in the coming months, and that we will have that  
16 opportunity to do so.

17 So I would urge my colleagues to consider those  
18 issues as well, but I'll be prepared to support moving  
19 forward today.

20 MS. URBAN: Thank you very much, Mr. Liebert.

21 Final comments. Mr. Le says, same.

22 Yes, Mr. Mactaggart.

23 MR. MACTAGGART: And, Madam Chair, at some point I  
24 have a slightly orthogonal comment to make about the  
25 regulations that are not specifically about ADM or risk

1 assessment. So I don't know when you would like to do that.

2 MS. URBAN: Well, our -- yes, our only action  
3 before us would be the package into formal rulemaking. So I  
4 think now would be the time.

5 MR. MACTAGGART: Okay. And this is a slight  
6 tangent here, but just so everybody doesn't think I'm  
7 entirely pro business here, I'd like to address this just  
8 has to do with the regulations that are --

9 MS. URBAN: That's clearly what we think. And then  
10 for the transcript, that was sarcastic.

11 MR. MACTAGGART: I'd like to address the opt-out  
12 provision that the regulations cover and the recent demise  
13 of Assembly Bill 30, 48, which was the Assembly Bill  
14 sponsored by Assembly Member Josh Lowenthal, which would've  
15 given consumers an easy way to access opt-out rights in  
16 their browsers, their phones. And it was a good piece of  
17 legislation. It would've strengthened consumer privacy  
18 rights, rights that were hard won in legislature in 2018, at  
19 the ballot box in '20, and subsequently in legislative  
20 efforts.

21 So what went wrong? Well, fear, uncertainty, and  
22 doubt. As the thing goes, FUD, right? A deliberate  
23 campaign aimed at confusing and obfuscating the true stakes  
24 of this legislation. So now I understand as a Board member,  
25 I'm not supposed to single out any specific company, so

1 don't worry, Mr. Laird, I won't.

2 But let's imagine hypothetically that you're a  
3 massive international corporation deriving a large share of  
4 your revenue from mining people's personal information,  
5 information gathered in ways that if consumers were fully  
6 aware of and could easily stop, they would. But rather than  
7 disclose how much data you're collecting or how you're using  
8 it, you spend thousands of engineering hours designing  
9 products that make it almost impossible for your customers  
10 to fully understand your practices, let alone exercise their  
11 rights.

12 So maybe you're a company that helps consumers  
13 find answers to their questions, or navigate their daily  
14 lives, find out how to get to point A to point B, or to  
15 store important documents, or share photos and thoughts with  
16 friends, and perhaps you can even influence public opinion  
17 by curating news, and suddenly, a bill like AB 3048 emerges  
18 from the California legislature, which poses a real threat  
19 to your business model.

20 Oh, no, you say. If our consumers can restrict  
21 the use of their personal information, what will happen to  
22 our revenues? So what's the company to do? I know. We  
23 will spread fear, not truth. We'll go to our advertisers  
24 and warn them that advertising effectiveness is on the line.  
25 AB 3048 will kill advertising. And there's no mention of

1 contextual ads or their effectiveness. There's only fear.  
2 The magic of internet advertising is about to disappear.  
3 Just another anti-business California law threatening  
4 livelihood.

5           And so to heighten the pressure, maybe we'll even  
6 preprint letters and forms and flood the governor's office  
7 with pleas for a reprieve. Maybe we'll even mislead  
8 officials with claims that consumers can already download a  
9 plugin to Safari to protect their privacy, knowing full well  
10 they can't.

11           So in conclusion, I found this campaign to defeat  
12 AB 3048 by way of fearmongering and misinformation, nothing  
13 short of appalling. I didn't get involved in the bill much  
14 because I believe that these giant corporations that have  
15 been seeing in four-part harmony for the last couple of  
16 years and saying they finally get privacy, and they really  
17 always did get it. And now they really are huge supporters  
18 of new privacy laws, I took them at their word.

19           But just like tobacco companies fought tooth and  
20 nail to keep cigarette vending machines in high schools and  
21 smoking in the workplace. And yes, I am comparing. The  
22 brazing mining of our personal information, the purveyors of  
23 tobacco, given that it's one of the keys to the sort of auto  
24 playing and addictive feeds to keep our youth glued to their  
25 social media apps, helping to assault their mental health

1 around the world.

2 When this -- business is usual threatened, the  
3 giant data miners leapt into action and crushed the bill.  
4 So we failed this year, but next year, I hope Assembly  
5 Member Lowenthal and his colleagues in the legislature will  
6 reintroduce the bill, passed it again. And I hope that this  
7 time we in the privacy community are more prepared to  
8 counter the FUD with the truth.

9 MS. URBAN: Thank you, Mr. Mactaggart. And I  
10 appreciate, again, the integration -- the fact that we need  
11 to think in an integrated fashion about opt-outs, and that  
12 has come up in the comments as well. And I would encourage  
13 us to do that and commenters to provide information about  
14 that should we move to formal rulemaking.

15 With that, I'd like to propose a motion to direct  
16 staff to advance the proposed draft regulations for this  
17 agenda item, which cover updates to our existing regulations  
18 and new regulations on insurance businesses, cybersecurity  
19 audits, risk assessments, and automated decision-making  
20 technology to formal rulemaking, including commencement of  
21 the 45-day public comment period, and to authorize staff to  
22 make additional changes where necessary to reflect the  
23 Board's discussion today improve the tax clarity or  
24 otherwise ensure compliance with the Administrative  
25 Procedures Act.

1 Do I have a motion?

2 MR. LE: I say move.

3 MS. URBAN: Thank you, Mr. Le. Do I have a second.

4 MR. WORTHE: Second.

5 MS. URBAN: Thank you, Mr. Worthe. I have a motion  
6 to second. That is the motion that we will have on the  
7 table, and I'd like to ask if there is any public comment.

8 MS. MARZION: This is for Agenda Item number 3. If  
9 you'd like to make a public comment at this time, please  
10 raise your hand using the "raised hand" feature, or by  
11 pressing star nine if you're joining us by phone. This is  
12 for Agenda Item number 3.

13 Okay. It looks like we have a few hands raised.  
14 I'm going to unmute you at this time, Dylan Hoffman. You'll  
15 have three minutes. Go ahead and speak.

16 MR. HOFFMAN: Thank you.

17 MS. MARZION: Can you please speak up?

18 MR. HOFFMAN: Hello? Can you -- can you hear me  
19 now.

20 MS. MARZION: Yes, we can. Thank you.

21 MR. HOFFMAN: Sorry. Malfunction I think on my  
22 end. Dylan Hoffman on behalf of TechNet. Greatly  
23 appreciate the opportunity to provide comment on this agenda  
24 item. TechNet, we represent about 90 companies in the  
25 technology and in innovation industry. And we represent

1 companies across the spectrum of this economy from companies  
2 who develop this cutting edge, automated decision-making  
3 technology, to the vast numbers of companies who deploy it  
4 for both consumer facing uses, but also who use this  
5 technology in some capacity on the backend to help improve  
6 their efficiency and their business operations, and just  
7 simply operate day to day.

8 I want to touch on a couple of substantive issues  
9 with the current draft regulations. As a threshold issue,  
10 we believe the definition of automated decision-making  
11 technology is a concern because of its continued overbroad  
12 inclusion of essentially really any software. As has been  
13 noted by Board members during previous meetings, definition  
14 as it is currently proposed would include far more  
15 technologies and uses and intended.

16 It encompasses nearly every use of automated  
17 software and technology, even when there is significant  
18 human involvement in decisions. As a result, the rules  
19 cover far more than just automated decisions and would thus  
20 implicate many low risk consumer service decisions made by  
21 businesses of all sizes every single day.

22 Broad definitions of legal or similar significant  
23 effects or profiling also pull in far more technologies than  
24 necessary and shift the focus away from the high risk uses  
25 of this technology. And I don't think there's been a single



1 public comment that has taken issue with the regulation of  
2 these high risk use cases of ADT. And many of the examples  
3 raised by consumer advocates have highlighted the need to  
4 regulate these use cases.

5 TechNet editor members agree and believe the focus  
6 should be on high risk use cases and high leverage  
7 situations, but these definitions go far beyond those use  
8 cases and have significant consequences for the risk  
9 assessment and opt-out requirements.

10 As an example, the regulations propose heightened  
11 opt-out requirements with several presumptions that we  
12 believe are far too strict. This will make it harder for  
13 companies to provide reasonable avenues to use ADT to  
14 improve efficiency, and also the ability for workers and  
15 consumers to get the goods and services they want and  
16 expect.

17 Furthermore, by having an over-inclusive  
18 definition of ADT, the draft regulations will require  
19 significantly more risk assessments be completed and filed  
20 than necessary. This in turn significantly increased the  
21 costs which is demonstrated in the SRIA, and will have  
22 downstream impacts on the services that consumers receive,  
23 not to mention the administrative burden on the agency.

24 Again, we've raised these issues in written and  
25 verbal comments in previous means, and they still have not

1 been addressed. Remain extremely concerned that the agency  
2 is exceeding the authority grants to it by the voters and  
3 beyond the realm of privacy regulations. We believe that  
4 the agency should focus on the primary obligations as a  
5 privacy agency, which also means providing more meaningful  
6 and constructive opportunities for engagement with all  
7 stakeholders, including the regulated community.

8 We also remain concerned about the interplay of  
9 these regulations with legislative efforts in the coming  
10 year. As has been mentioned, California considered and  
11 nearly passed legislation on this topic, and we expect  
12 follow-up bills to be introduced in the next session. The  
13 legislature is, we believe, the best forum to consider such  
14 impactful and complicated --

15 MS. MARZION: Thank you. That is your time.

16 Ronak, I'm going to unmute you at this time.  
17 You'll have three minutes to make your comment, so please  
18 begin as soon as you're ready.

19 MS. DAYLAMI: Thank you. Can you hear me.

20 MS. MARZION: Yes, we can.

21 MS. DAYLAMI: Thank you. Ronak Daylami with  
22 CalChamber. Our members understand and agree that  
23 reasonable regulations are important to protect Californians  
24 as technology rapidly evolves. We firmly believe that  
25 overregulation hurts everyone, and unfortunately, these

1 regulations continue to miss the mark in achieving any  
2 semblance of balance.

3 As I have testified several times now, the  
4 regulations clearly continue to exceed the express authority  
5 that voters granted to the agency, stretching far beyond the  
6 realm of what's commonly understood to be privacy  
7 regulations and veering into general AI regulations, at  
8 times even rewriting the law.

9 In doing so, the agency continues to risk getting  
10 ahead of the legislature and governor on incredibly critical  
11 issues like AI, which carry massive implications for the  
12 prosperity, safety, and security of California consumers and  
13 businesses, and therefore should be decided by our elected  
14 state officials, who we all know will continue to grapple  
15 with these same issues and policy questions when it returns  
16 to session in a matter of weeks, including with the bill on  
17 ADTs.

18 Such issues should go through the legislative  
19 process first, where different policy implications, legal  
20 rights, and competing interests are considered prior to  
21 setting the overall direction for the state. With respect  
22 to the agency, SRIA, we are concerned that the agency  
23 continues to underestimate the cost and complexity of  
24 implementation and the full impact of these regs on  
25 businesses, consumers, and public entities.

1           We hope you will consider the report that  
2 CalChamber submitted from well respected economists,  
3 including a former director of finance, which outlines  
4 exactly how the SRIA both substantially underestimates the  
5 actual costs to the tune of billions of dollars and  
6 dramatically overestimates the benefits and savings having  
7 caught a mathematical error.

8           We implore you to not force this draft forward  
9 over the continued concerns over the agency exceeding its  
10 mandate and acting prematurely relative to the legislature  
11 and governor. There are many examples of this, including  
12 overbroad provisions enabling consumers to opt-out of low  
13 risk activities, such as their data being used to -- for AI  
14 training and regulations that create opt-out rights for  
15 behavioral advertising when voters created a narrow right  
16 for cross context behavioral advertising only. There's just  
17 too much at stake here, and those provisions at minimum  
18 should be scaled back if not deleted before formal  
19 rulemaking starts.

20           I just quickly want to respond to a few of the  
21 comments made by the Board going off script. The reason  
22 many of us are feeling jammed and that these regulations are  
23 not ready for rulemaking is that to us this hasn't been an  
24 entirely iterative and interactive process, especially when  
25 you compare it to the legislative process, where we do

1 believe that many of these issues you're starting to veer  
2 into belong.

3           So as much as the agency might be able to get more  
4 done than the legislature, not all of these issues are  
5 issues that you have authority to act on or that you should  
6 act on as a privacy agency. Of course, we know that once  
7 formal rulemaking opens changes will happen since our  
8 feedback -- but we also know that it really will only happen  
9 once since our feedback on the modified draft regulations  
10 the last time around really led to no substantive changes.

11           So, you know, our point here is that the first  
12 draft put out to public comments shouldn't be the one that  
13 you know has significant deficiencies, and that could have  
14 been fixed over the last several months.

15           MS. MARZION: Our next commenter is Van Seventer.  
16 I'm going to unmute you at this time. You'll have three  
17 minutes to make your comments, so please begin as soon as  
18 you're ready.

19           MR. SEVENTER: Hi, can you hear me.

20           MS. MARZION: If you could speak up a little bit  
21 louder?

22           MR. SEVENTER: Sorry. How about this.

23           MS. MARZION: Yes, thank you.

24           MR. SEVENTER: Thank you, Chair Urban. And I  
25 appreciate the time. My name is Anton Van Seventer, and I

1 am counsel for privacy and data policy with the Software and  
2 Information Industry Association. And our more than 380  
3 members are committed to fostering the free flow of  
4 information to enhance both business opportunities, but also  
5 consumer experiences.

6 Our greatest concern with these draft regulations  
7 does lie in the automated decision-making tools section. As  
8 we know, the draft regulations would create a consumer right  
9 to opt-out of ADMT use for consumer profiling. As written,  
10 this means the regulations would place a large burden on  
11 businesses to actually entirely redesign their services in  
12 many cases that have already been long used by their  
13 customers.

14 So for example, a California resident may purchase  
15 a dishwasher detergent at regular intervals in an online  
16 marketplace. And today the marketplace could suggest that  
17 the consumer may need to order again, but the proposed rule  
18 would disrupt this ability for businesses to do this very  
19 basic first party advertising to their own consumers.

20 And this is also and notably well beyond the scope  
21 of the CCPA, where both background negotiations in advance  
22 of the passage of that law as well as its plain text  
23 specifically concede that businesses could continue to use  
24 data for their own customers to improve their products and  
25 to advertise to these consumers.

1           So our second major concern with the draft ADMT  
2 regulations is that they do create a consumer right to  
3 opt-out of ADMT training data that has been discussed. So  
4 we think this really would first unnecessarily hamstring  
5 California startups developing their own applications. But  
6 furthermore, even larger technology companies, many of which  
7 already have their home in the state, would also find it  
8 more difficult, if not impossible, to maintain  
9 representative training data, especially training data that  
10 does not unintentionally discriminate against groups whose  
11 representation in the dataset as a whole is skewed by the  
12 opt-outs.

13           So lastly, as was discussed, we believe the  
14 agency's process for conducting its economic analysis of  
15 these regulations does vastly underestimate the cost to  
16 California businesses, unfortunately. And we would submit  
17 that if the agency wants to effectively regulate privacy and  
18 ensure business compliance, we believe it first needs to  
19 fully understand the realistic financial burdens of these  
20 draft regulations.

21           We do appreciate the legal and delay issues at  
22 play here, but due to the overly broadened imprecise  
23 elements of the draft that I just mentioned, we nevertheless  
24 strongly encourage the agency to, at this time, refrain from  
25 advancing these regulations to formal rulemaking, and hope

1 it will help in order to fully incorporate these crucial  
2 elements of stakeholder feedback. Today as well as in the  
3 coming months, we do very much appreciate your  
4 consideration. Thank you.

5 MS. MARZION: Thank you.

6 Lettie, I'm going to unmute you at this time.  
7 You'll have three minutes to make your comments, so please  
8 begin as soon as you're ready.

9 Lettie, we can't hear you. Please begin.

10 MS. GARCIA: Oh, can you hear me now.

11 MS. MARZION: Yes, we can. Thank you.

12 MS. GARCIA: Okay. Wonderful. Hi. Good  
13 afternoon. I'm Leticia with the California Grocers  
14 Association, and we represent national, regional, and  
15 independent grocery store operators all throughout  
16 California. We are incredibly concerned about how the  
17 opt-out of automated decision-making tools will impact the  
18 grocery industry and their ability to interact with  
19 customers moving forward, and very concerned about the high  
20 price tag of the implementation, particularly, in the face  
21 of rising costs and consumer dissatisfaction with how much  
22 everyday needs impact their bottom line, including  
23 groceries.

24 I like to reiterate again, our biggest concern is  
25 with the regulation that would create a consumer right to



1 opt-out of automated decision-making tools used for consumer  
2 profiling. In a time of high grocery prices, customers rely  
3 more and more on rewards and savings programs that grocery  
4 stores offer. This regulation will limit the grocery  
5 operator to customize advertisements to -- advertisements to  
6 its own customers.

7 Customers have their own profiles and receive  
8 coupons that match their shopping patterns, saving customers  
9 money on their own staple items. The choice to opt-out of a  
10 automated decision-making tool not only hurts the retailer,  
11 but also hurts the consumer's wallet.

12 I'd like to add a quick anecdote. We represent a  
13 family owned grocery operator with four stores in a rural  
14 and disadvantaged area that have recently implemented a  
15 rewards and discount program. Even though this technology  
16 has been available for many years, this member saved up to  
17 provide this service to their customers. It was extremely  
18 costly for this -- for this small grocery operator.

19 Their hefty investment into this technology will  
20 be in vain if they are not allowed to provide their  
21 customers with their own personalized coupons and ads  
22 because customers opted out of an automated decision-making  
23 tool and may not have known how this would affect them.

24 In an industry that depends on a very small profit  
25 margin, our members are very calculated on what investments

1 they make to satisfy their customers. So we ask that the  
2 Board not approve the draft regulation at this time and take  
3 into consideration how this would affect the grocery  
4 industry and its customers. Thank you.

5 MS. MARZION: Thank you.

6 Jack, I'm going to unmute you at this time.  
7 You'll have three minutes to make your comment, so please  
8 begin as soon as you're ready.

9 Jack, if -- go ahead and speak when you're ready.

10 Okay. I guess at this point I don't have any  
11 further commenters at this time.

12 MS. URBAN: Thank you very much, Ms. Marzion, and  
13 thank you to all the commenters, and again, all the  
14 commenters earlier in the day who spoke to the issues we've  
15 been discussing. Now, I -- we -- I know, because everyone  
16 has said it, I speak for the entire Board when we express  
17 our gratitude for the continued engagement.

18 At that case, I would like to call the vote on  
19 directing the staff to put the proposed -- advance the  
20 proposed draft regulations into formal rulemaking. The  
21 motion in full was stated and was made by Mr. Le and  
22 seconded by Mr. Worthe before public comments.

23 Ms. -- yes, Mr. -- I'm just thinking. I think so.  
24 Yes. Yes? Yes, go ahead, Mr. Mactaggart. We'll just redo  
25 it if we have to.

1 MR. MACTAGGART: That's right. So I am -- I am  
2 just going to explain my no vote here. I voted against this  
3 in March. I -- again, I do feel like the process of doing  
4 the most expansive and same trust us, I would've liked it,  
5 and I still would like it to be -- to go to public -- go  
6 through the rulemaking process as a more, I think,  
7 appropriate size of regulation.

8 But I really do want to say, I know you guys have  
9 all been working incredibly hard at this, and I know it's  
10 got to be super frustrating to keep on hearing me say the  
11 same thing which sounds kind of critical. So I do want to  
12 thank you all because it's been a lot of work, I know.

13 And the entire staff, I apologize to you for  
14 coming across as critical or negative, and I do want to let  
15 you know that I am -- I'm deeply appreciative of the fact  
16 that you're doing this work. I know you could be all doing  
17 something else, and you're choosing to work here and -- in  
18 the cause of privacy. So, thank you.

19 MS. URBAN: Thank you, Mr. Mactaggart.

20 Mr. Laird, should I restate the motion?

21 MR. LAIRD: I think you're fine to just --

22 MS. URBAN: Okay.

23 MR. LAIRD: -- acknowledge --

24 MS. URBAN: Wonderful.

25 MR. LAIRD: -- the motion as it was made before.

1 MS. URBAN: Wonderful. Thank you, Mr. Mactaggart.  
2 And proceeding with the motion -- the motion as stated  
3 earlier and seconded. Ms. Marzion, could you please conduct  
4 the roll call vote.

5 MS. MARZION: Yes. Board Member Le?

6 MR. LE: Yes.

7 MS. MARZION: Board Member Liebert?

8 MR. LIEBERT: Yes.

9 MS. MARZION: Board Member Mactaggart?

10 MR. MACTAGGART: No.

11 MS. MARZION: Board Member Worthe?

12 MR. WORTHE: Yes.

13 MS. MARZION: Chair Urban?

14 MS. URBAN: Yes.

15 MS. MARZION: Madam Chair, you have four yeses and  
16 one no.

17 MS. URBAN: Thank you, Ms. Marzion. And thank you  
18 very much to the Board. The motion has been approved by a  
19 vote of 4 to 1. I want to thank the staff and the  
20 subcommittee for all the work that is -- I can't even begin  
21 to express at a pretty incalculable amount of work over the  
22 last few years to get us to the point where we are today,  
23 which is a beginning point. Sorry.

24 No, and I know -- and I know that you're fine with  
25 that. I mean, I know that is the purpose of the formal

1 rulemaking. And to everyone who has engaged from the public  
2 up to this point and I very much hope that you will continue  
3 to engage. And I really appreciate the staff's continued  
4 attention to both the public's comments and the Board's  
5 perspectives and thoughts on how we might address some of  
6 the varied concerns and support that we have heard as we  
7 continue with the formal rulemaking process.

8 I could go on, but I think it -- there's -- it --  
9 my thanks are simply too deep to express them in more words.  
10 I do have, just to make things a little more difficult, a  
11 process request, that if it is possible, given that the  
12 winter holidays are coming up and the rulemaking process,  
13 the first part of it, has the 45 day public comment period  
14 followed by a hearing, should we choose to do that, and I  
15 think that we will choose to do that, I would like to  
16 request that we, if possible, extend the initial comment  
17 period and provide commenters with extra time that they  
18 could choose to use in the way that works best for them  
19 during the holiday season.

20 They could submit comments earlier if they would  
21 like to, for example, before Christmas or Hanukkah, or they  
22 could submit comments after the new year. If we extended  
23 the comment period, I would like that to be in the hands of  
24 the commentators. Last year, for example, I had a briefing  
25 schedule that was changed because the parties decided to

1 move it up actually instead of move it back, so we could get  
2 done before Christmas.

3 But sometimes, of course, people would prefer  
4 additional time. And I -- if it is possible to be flexible  
5 in that way, I'd like to expand the time so that  
6 commentators can make those choices.

7 MR. LAIRD: Thank you, Chair. We're happy to  
8 accommodate that request and extend beyond 45 days.

9 MS. URBAN: Okay. Wonderful. In that case, again,  
10 I thank everyone. I thank the Board for continuing robust  
11 discussion including today, and I look forward to digging  
12 in, again, substantively with more procedural sort of room,  
13 to dig in on the regulations as they're currently formulated  
14 in the formal rulemaking process. And I look forward to  
15 further discussion.

16 With that, I would like to actually take Agenda  
17 Item number 10 out of order. Agenda Item number 10 is a  
18 closed session -- closed session with three items, I think  
19 it is, that we will do during lunch so that the public can  
20 go and take lunch while we discuss those.

21 And let me just introduce the items so everybody  
22 knows what we'll be talking about in closed session.  
23 Pursuant to Government Code Section 11126(e)(1) and (2)(A),  
24 the Board will meet in closed session to confer and receive  
25 advice from our legal counsel regarding the following

1 matters; California Chamber of Commerce versus California  
2 Protection Agency, et al., California Privacy Protection  
3 Agency et al. Versus the Superior Court of the State of  
4 California for the County of Sacramento, California Chamber  
5 of Commerce.

6 In addition, we will meet closed session to  
7 discuss personnel matters pursuant to Government Code  
8 Section 11126(a)(1), and to discuss litigation for which  
9 disclosing the names would jeopardize the agency's ability  
10 to conclude existing settlement negotiations to its  
11 advantage.

12 So we'll be talking about those several closed  
13 session items during lunch. We will keep this public  
14 meeting open, and we will return from closed session to  
15 resume the public items on the agenda after lunch. I  
16 anticipate that we will not be back before 1:15 p.m. So  
17 people know that they can go get their lunch. And we will  
18 -- we will take a break until then. Thank you. Well, you  
19 will take a break. We will go into closed session. Thank  
20 you very much.

21 (RECESS)

22 MS. URBAN: Welcome back, everyone, to this meeting  
23 of the California Privacy Protection Agency Board. We have  
24 now returned from closed session, and we will move to Agenda  
25 Item number 4. Agenda Item number 4 is discussion and

1 possible action on proposed regulations, Sections 7600 to  
2 7605, implementing data broker registration requirements,  
3 including possible adoption or modification of the text.  
4 And this will be presented by our general counsel, Philip  
5 Laird, and our CPPA attorney, Liz Allen.

6 Mr. Laird, please go ahead.

7 MR. LAIRD: Thank you, Chair Urban. And I, in  
8 fact, I'm going to start by just handing it over to Ms. Liz  
9 Allen, who's been, I just want to say an incredible asset on  
10 this whole program. Has really been a lead and a -- kind of  
11 the the self-starter behind all the success of the registry  
12 so far.

13 MS. ALLEN: Thanks, Phil. Hi, my name is Liz  
14 Allen. I'm an attorney. I'm here with the legal division  
15 and the primary support for the data broker unit. Included  
16 in your materials today is a cover memo that provides  
17 background for the data broker registration regulations, as  
18 well as a number of relevant rulemaking documents.

19 As you may recall, during the May 10th Board  
20 meeting, the Board moved to -- voted to move the staff's  
21 proposed data broker registration regulations, which  
22 memorialize the agency's existing practices related to the  
23 registry, but also clarifies key terms, concepts, and  
24 procedures to formal rulemaking.

25 We ran public comment from July 5th to August



1 20th, including a public hearing on the final day. The  
2 agency received 3 oral and 18 written comments from a total  
3 of 24 distinct entities, all of which are available on the  
4 agency's website under the laws and regulations tab.  
5 Commenters range from data brokers themselves, to consumers  
6 to think tanks, and to policy shops. The agency appreciates  
7 and thanks the commenters for their effort and thoughtful  
8 feedback.

9           The staff has prepared all comments in the draft  
10 Final Statement of Reasons, also known as the FSOR, which is  
11 included in today's materials along with the Initial  
12 Statement of Reasons, which was published earlier this year.  
13 And it describes the reasoning behind each proposed  
14 requirement.

15           After careful consideration of the comments, staff  
16 does not believe it is necessary to make any modifications  
17 to the proposed text, and recommends that the board adopt  
18 the proposed regulations as originally proposed. Not only  
19 will this provide the needed clarity with respect to certain  
20 terms and concepts within the law, but it will also  
21 memorialize certain procedural elements that will streamline  
22 the registration process.

23           In addition, if the Board decides to -- chooses to  
24 adopt the proposed regulations now, staff will be in a  
25 position to file the proposal with the Office of

1 Administrative Law in time so that they may become effective  
2 before the upcoming registration cycle, which, as you know,  
3 begins January 1st, 2025, if they're approved by Office of  
4 Administrative Law.

5 So thank you, and we're here to take comments or  
6 questions.

7 MS. URBAN: Thank you very much, Ms. Allen. And  
8 I'd like to echo Mr. Laird's profound thanks and for all of  
9 your work on the data broker division. And we'll ask if the  
10 Board has comments or questions.

11 Mr. Le.

12 MR. LE: We got a comment about data broker  
13 regulations and the definition of direct relationship.  
14 Could you address that commenter's point? Essentially, that  
15 it's very broad.

16 MR. LAIRD: Yes, happy to address that point.  
17 First, I would be remiss to not point the public and the  
18 Board to the Final Statement of Reasons, which does provide  
19 actually kind of a lengthy explanation of why we don't think  
20 that's correct. I'm not going to just re-read that word for  
21 word here. So I can summarize, though, to say.

22 We -- we've heard that comment, we understand it,  
23 but we respectfully disagree with the proposition that it  
24 goes beyond the intent or scope of the law itself, or even  
25 this agency's delegated authority. Direct relationship is a

1 term that appears in the definition of a data broker, but  
2 that term itself is undefined.

3 The agency was given the authority to define  
4 undefined terms through the rulemaking process, which we're  
5 proposing to do. And, understandably, this has actually  
6 been a point of confusion as we understood it as we went  
7 through the 2024 registration cycle because businesses  
8 didn't always know what it meant to have a direct  
9 relationship.

10 We are clarifying that with our definition. We  
11 think it's clear. It's a business that is selling and  
12 sharing personal information of consumers that they didn't  
13 collect from that consumer, that is -- that is activity that  
14 is happening outside of a direct relationship and therefore  
15 would qualify a business as a data broker.

16 MR. LE: Thank you.

17 MS. URBAN: Thank you, Mr. Le.

18 Can I follow-up with a related question about the  
19 three-year time limit that connects to the direct  
20 relationship definition and how staff see that as -- how  
21 staff see that as providing notice to businesses and  
22 consumers? I think I understood all of the FSOR responses,  
23 but I was hoping to hear a little bit more.

24 MR. LAIRD: Sure. So in terms of the -- just  
25 trying to find our notes here. In terms of that provision

1 of that direct relationship definition -- here, let me see.  
2 I'm going to find where we are real quick. Just a moment.

3 MS. URBAN: If it helps, I'm looking at page 4 or 5  
4 and so --

5 MR. LAIRD: Okay.

6 MS. URBAN: Yeah. So, yeah.

7 MR. LAIRD: And is the question just understanding.

8 MS. URBAN: Just the mechanism. I think I  
9 understand it. I think I understood it when we looked at  
10 these regulations before, but I just wanted to be sure that  
11 I understood how it interacted with the direct relationship.

12 MR. LAIRD: Sure. So, essentially, what -- it's  
13 funny, actually. I'm going to get the text in front of me  
14 too because that's -- let me do this.

15 Very well. Yes. So, essentially, what we were --  
16 you know, the sentences it reads is that direct relationship  
17 means that a consumer intentionally interacts with the  
18 business for the purpose of obtaining information about  
19 accessing, purchasing, using, or requesting the business's  
20 products or services within the preceding three years.

21 And as described a bit more detail in the official  
22 statement of reasons and then provided in the FSOR in  
23 response to some comments on this point, this was of a  
24 staff's estimate a reasonable timeline that a consumer who's  
25 interacted with the business might expect that their

1 interaction has been, in fact, a direct interaction that  
2 they intentionally engaged in and understands then that that  
3 business may continue to have some information about them  
4 and be sort of in that consumer business -- direct consumer  
5 business relationship.

6 At the same time, what we wanted to make clear is  
7 that a single interaction with somebody -- and part of this  
8 is driven in by examples of some businesses we're aware of  
9 that set up models where they have a very light touch point  
10 or maybe have created some sort of popular app, for  
11 instance, that gives an interaction, but in fact, that  
12 interaction is just one piece of their business model of  
13 collecting and selling personal information about that  
14 person.

15 And so what we wanted to do was avoid the  
16 situation where somebody, because they had that one  
17 interaction with the business as part of either some  
18 promotional campaign or just visiting, browsing the web,  
19 hasn't necessarily signed away the keys to their personal  
20 information indefinitely.

21 MS. URBAN: Thank you. Other questions or  
22 comments.

23 All right. So we've been through the public  
24 comment period. We have before us the final proposed  
25 regulations for us to consider for approval and the FSOR,

1 the working with responses to all of the comments.

2           And in that case, the motion that I would like to  
3 propose would have three components. The first part, a  
4 motion to adopt -- approve and adopt the regulations is  
5 originally proposed, direct staff to take all steps  
6 necessary to complete the rulemaking process, including  
7 filing the final rulemaking package with the Office of  
8 Administrative Law, the amendment of any documents within  
9 the rulemaking package other than the text of the rules as  
10 necessary to ensure clarity, accuracy, and compliance with  
11 the Administrative Procedures Act, and authorizing the  
12 executive director to make non-substantive changes to the  
13 proposed regulations, and to further authorize staff to  
14 withdraw the rulemaking file in whole or in part from  
15 consideration by the Office of Administrative Law at any  
16 time, if in their opinion, the legal risks associated with  
17 disapproval of these regulations warrant further  
18 consideration by the Board.

19           So there are three sort of administrative pieces  
20 to that. May I have such a motion?

21           Thank you. I have a motion from Mr. Le. May I  
22 have a second?

23           Thank you. I have a second from Mr. Liebert. And  
24 with that, I'd like to take public comments on this item.

25           MS. MARZION: This is for Agenda Item number 4. If

1 you'd like to make a public comment at this time, please  
2 raise your hand using the "raised hand" feature, or by  
3 pressing star nine if you're joining us by phone. This is  
4 for Agenda Item number 4.

5 And I believe we have a hand raised. Tony, I am  
6 going to unmute you at this time. You'll have three minutes  
7 to make your comment, so please begin as soon as you are  
8 ready.

9 MR. FICARROTTA: Thank you. Hello. I am Tony  
10 Ficarrotta, general counsel for the NAI. Thank you for the  
11 opportunity to provide comments. The NAI's comments today  
12 are on the agency's proposed definition of reproductive  
13 healthcare data under the Delete Act.

14 We are proposing a slight update to the definition  
15 to clarify that only information that qualifies as personal  
16 information under the CCPA is reproductive healthcare data  
17 under the Delete Act. By way of background, when businesses  
18 register as data brokers, they must indicate whether they  
19 collect reproductive healthcare data. In turn, that  
20 information appears on the public data broker registry,  
21 enabling consumers to identify which brokers collect  
22 reproductive healthcare data.

23 And as it stands today, the proposed definition of  
24 reproductive healthcare data refers generally to information  
25 about a consumer searching for accessing, procuring, using

1 or otherwise interacting with goods or services associated  
2 with the human reproductive system, information about a  
3 consumer's sexual history and family planning, and  
4 inferences from either of the prior categories.

5           However, the definition does not make clear that  
6 reproductive healthcare data is also personal information  
7 under the CCPA, and could therefore include information that  
8 is not personal information and not subject to the CCPA's  
9 opt-out and deletion rights. Examples would be  
10 de-identified data, aggregate data, or publicly available  
11 data.

12           This result is confusing from a consumer  
13 perspective. A consumer visiting the data broker registry  
14 may see that a broker collects reproductive healthcare data  
15 and seek to exercise their CCPA rights by requesting its  
16 deletion or opting out of its sale.

17           However, if certain reproductive healthcare data  
18 is not covered as personal information under the CCPA, these  
19 expectations of the consumer will be unmet. This result  
20 would also run counter to one of the agency stated  
21 objectives for the rulemaking, which is to support the  
22 Delete Acts goals of consumer protection through  
23 transparency and informed decision-making when exercising  
24 CCPA privacy rights.

25           The NAI raised this issue in its written comments.



1 However, the agency did not act on it, raising concerns that  
2 doing so would exceed its rulemaking authority under the  
3 Delete Act by changing the underlying CCPA definitions. We  
4 do appreciate the agency's careful consideration of its  
5 rulemaking authority and understand the importance of  
6 staying within those boundaries.

7           However, because the agency's response focused  
8 only on a technical issue and is consistent with the  
9 ultimate goal of avoiding confusion, we are now requesting a  
10 different modification that would achieve this objective  
11 while addressing the agency's technical concern.

12           Our new proposal is to add one simple statement to  
13 the definition of reproductive healthcare data, that it  
14 excludes information that is not personal information under  
15 the CCPA. This approach would not alter the existing CCPA  
16 definitions, but would provide needed clarity that all  
17 reproductive healthcare data is subject to CCPA rights over  
18 personal information.

19           We respectfully request that the Board instruct  
20 the agency today to adopt this amendment. We believe doing  
21 so will avoid confusion and protect consumer confidence when  
22 they exercise their CCPA rights with data brokers. We hope  
23 that this comment is helpful to the agency in meeting its  
24 goals for the rulemaking without exceeding its authority to  
25 define reproductive healthcare data under the Delete Act.

1 Thank you.

2 MS. MARZION: Thank you for your comment. Once  
3 again, if there are any other members of the public who'd  
4 like to speak at this time, please go ahead and raise your  
5 hand using the Zoom's "raised hand" feature, or by pressing  
6 star six if you're joining us by phone. Again, this is for  
7 Agenda Item number 4.

8 MS. URBAN: Thank you. And in the meantime, Mr.  
9 Mactaggart, you had a question.

10 MR. MACTAGGART: Yeah, I had a question for Mr.  
11 Laird or Ms. Allen, I'm not sure if you were following that  
12 comment from the -- from the NAI. But it struck me, could  
13 be wrong, that he was asking for the universe -- that right  
14 now the universe of what's covered is bigger than the -- if  
15 it was restricted to personal information under the  
16 definition of CCPA because if it was de-identified or  
17 publicly available, the Delete Act covers it, don't sell it.

18 But CCPA would say, oh, it's publicly available.  
19 You -- don't worry. It's not personal information. But I  
20 kind of feel like what, I believe that probably was getting  
21 at was, hey, if it's my personal information, don't sell it.  
22 So I might be on the other side of his comment there just  
23 because I wouldn't want to restrict it if that's what -- if  
24 that's what it was. Does that make sense?

25 MR. LAIRD: That makes sense to me. And, you know,

1 respectfully, I'd say we think the text is clear as written.

2 MS. URBAN: Thank you, Mr. Laird. Thank you, Mr.  
3 Mactaggart.

4 Other response, comments, questions?

5 All right. Ms. Marzion, how are we doing on  
6 public comment?

7 MS. MARZION: I'm not seeing any additional hands  
8 at this time.

9 MS. URBAN: Thank you very much. Thank you so much  
10 to the commenter for the comment. And with that, I will ask  
11 Ms. Marzion, if you would please perform the roll call vote  
12 so we can consider whether to approve the motion as stated.

13 MS. MARZION: Board Member Le?

14 MR. LE: (No audible response.)

15 MS. MARZION: Board Member Liebert?

16 MR. LIEBERT: Aye.

17 MS. MARZION: Board Member Mactaggart?

18 MR. MACTAGGART: Aye.

19 MS. MARZION: Board Member Worthe?

20 MR. WORTHE: Aye.

21 MS. MARZION: Chair Urban?

22 MS. URBAN: Aye.

23 MS. MARZION: Madam Chair, you have five yeses and  
24 no nos.

25 MS. URBAN: Thank you very much. The motion has

1 been approved by a vote of five to nothing. Thus, the Board  
2 has approved these final regulations to go into the process  
3 with OAL for final approval. I want to state at this time  
4 how grateful I am and the Board is for the careful attention  
5 to the Delete Act and the careful attention to how these  
6 regulations will provide certainty to the data broker  
7 community who are regulated by this and to consumers, and  
8 give them the ability to understand how their own personal  
9 information may be used in these large marketplaces of data.

10 I know this was a very complex and technical task,  
11 and we're going to talk about an even more so one in a  
12 moment. But I just really want to commend staff for, for  
13 example, commissioning a survey of data brokers in order to  
14 understand their practices and sort of how they -- how they  
15 are thinking of complying, and really sort of digging into  
16 the issue in a way that makes things quite concrete for  
17 everyone. It's much appreciated.

18 And I also want to thank all the commenters who  
19 commented on the regulations. I looked at the comments and  
20 I went to the FSOR in detail and appreciate all of the  
21 thoughtful feedback and thoughts that the Board -- that the  
22 -- that the agency received and staff's thoughtful responses  
23 to those comments. So thank you all for that.

24 With that, we will move on to Agenda Item number  
25 5, which is an update regarding development and

1 implementation of the Delete Request and Opt-Out Platform,  
2 aka DROP, and associated fees pursuant to SB -- excuse me --  
3 362. This will also be presented by Mr. Laird, our general  
4 counsel, and Ms. Allen, our attorney, who is our guru of all  
5 things related to the Delete Act. And I will turn it over  
6 to you.

7 MR. LAIRD: I second that description. I'll go  
8 over to Ms. Allen.

9 MS. ALLEN: Okay. Yeah, you're going to get me  
10 three in a row here. So, Liz Allen. So we do have a little  
11 presentation for you. Let me just make sure -- kidding,  
12 it's not going to work. Okay. Sorry. Okay. So first for  
13 the agenda, I'm just going to do a quick level setting in  
14 our review of SB 362 for everybody who is listening in.

15 I'll give a summary of the public engagement that  
16 we've done since March. I'll run through the DROP overview,  
17 as in like how the system's actually going to work. So this  
18 will be a little technical. We'll talk about the project  
19 approval lifecycle, which is essentially how you have to --  
20 the nuts and bolts of building a system like this within the  
21 government. And then we'll wrap up with a little bit of  
22 next steps and any questions that you have on the slides  
23 we've got.

24 So we'll start with a quick refresher on the law  
25 itself. The Delete Act, commonly known as SB 362, was

1 passed into in 2023. It actually contains two programs.  
2 The first is the registry, which we just talked about. The  
3 agency took that over from the Office of Attorney General as  
4 of January 1st, 2024. But the program, of course, has been  
5 in existence since 2021.

6 The second requirement, which is this  
7 presentation, is a mandate for the agency to build a  
8 "accessible deletion mechanism" to allow a one-stop shop for  
9 consumers to request the deletion of their non-exempt  
10 personal information from the data brokers who register with  
11 the state. Accessible deletion mechanism, of course, sounds  
12 very similar, ADM to ADMT. And so we are helping the public  
13 and ourselves out, and we're going to -- we call it the  
14 DROP, which is the Delete Request and Opt-Out Platform. So  
15 you'll hear that throughout the presentation today.

16 So the -- nope, sorry. Let's go back. Let me  
17 give you a quick overview and then we'll go forward. The  
18 DROP will allow a consumer through a single verifiable  
19 request to instruct every data broker to delete personal  
20 information related to the consumer. It's the first of its  
21 kind nationally or, from what we know internationally, and  
22 it's similar to its much more basic cousin, the Do Not Call  
23 Registry.

24 The platform will help consumers to quickly and  
25 easily exercise their deletion and opt-out rights. The

1 platform will not only allow consumers to request the  
2 deletion of their information, but if the -- if a -- if a  
3 data broker cannot delete a consumer's personal information  
4 because the consumer cannot be verified, the data broker  
5 must still opt the -- that consumer's personal information  
6 out of sale and sharing.

7           Importantly, it also requires data brokers to  
8 direct all of its service providers or contractors to do the  
9 same. So given the statutory requirements, if you're going  
10 to translate that into some sort of platform, this is what  
11 you get. You get the consumers on one side, they come into  
12 the platform to make a delete request individually or  
13 through an authorized agent.

14           On the other side of the platform, you'll get data  
15 brokers who register with the state and then access the  
16 system every 45 days to ensure they have the updated list of  
17 deletion requests from California consumers. Data brokers  
18 will then write back the status of those requests to our  
19 system. The CCPA and the DROP -- the CPPA and the DROP sit  
20 in the middle, accepting deletion requests, processing them,  
21 making sure that the information is protected, and making  
22 them available to data brokers on the other side.

23           So within the law, there are statutory  
24 requirements for the consumer experience. Perhaps most  
25 importantly, it is free to consume -- to California

1 consumers. Consumer information will be submitted in a  
2 secure and privacy protecting manner, and consumers can make  
3 a delete request of all data brokers or choose a narrow  
4 subset of specific data brokers that they would like to send  
5 a request to.

6 The platform will allow consumers to verify the  
7 status of their requests. It will be accessible to those  
8 with disabilities. It will also allow consumers to alter  
9 those requests 45 days after making them. On the data  
10 broker side, the data brokers also, their experience also  
11 has certain requirements under the law. They must register,  
12 which of course includes paying the registration fee  
13 annually, and beginning in August 2026, so not this year but  
14 next, data brokers must access the DROP and process the  
15 deletion requests every 45 days.

16 The agency may charge data brokers a fee for the  
17 DROP and data brokers must update their public disclosures  
18 July 1st of every year to report about the previous calendar  
19 years activities with regards to consumer CCPA requests.  
20 That same information will be reported to the agency during  
21 their annual registration. Starting in 2028, they must  
22 undergo an independent audit every three years.

23 So that's a lot of requirements. A bunch of  
24 different orders. So just to give you a quick timeline,  
25 here we are, signed into law in '23, launched in '24, July



1 1st, the additional reporting requirements came into effect.  
2 Next year in January consumers can start making delete  
3 requests. Starting in August, six months later, data  
4 brokers must access the DROP. They then have 45 days to  
5 process those first deletion requests.

6 The way the law is written, consumers essentially  
7 have about 7.5 months before the initial deletion requests  
8 are on. So -- and then starting August 1st, data brokers  
9 must access the platform every 45 days. And then, of  
10 course, as we discuss 2028, we've got the audit requirement  
11 that kicks in.

12 So as we digested this as an agency, we knew we  
13 needed to get a lot of stakeholder input early on the  
14 development of the actual system. What are the nuts and  
15 bolts? What's it going to look like? This will help us  
16 inform what industry's current practices are and what the  
17 public thought about how we should build the system.

18 To engage in a five prong public engagement  
19 strategy -- strategy spanning from March to June of this  
20 year. So in March, we designed a voluntary anonymous survey  
21 to help better understand how data brokers manage delete  
22 requests currently. So because data brokers will have to  
23 ingest a list of millions -- possibly millions of California  
24 consumers, we wanted to ensure we built a system that worked  
25 at scale and volume, and fit within existing practices.

1           So we sent the debt survey to data brokers who  
2 registered in 2024, asking a range of questions, including  
3 how businesses -- for example, how businesses uniquely index  
4 information within their own databases, how they maintain  
5 and process deletion requests from consumers.

6           And approximately 10 percent of registered data  
7 brokers at the time chose to answer the survey. And they  
8 gave us much needed insight. And we greatly appreciate the  
9 businesses that took time to talk to us and answer those  
10 questions. And the data brokers who answered, spanned the  
11 industry both in size and type.

12           Some data brokers had fewer than 10 folks. And  
13 there were data brokers who had well over 5,000 employees,  
14 some who made under 10,000 and several that made well over  
15 20, 25 million. So large range. And they were in  
16 marketing, people search, identity verification, fraud,  
17 financial industry, et cetera.

18           In April, we also did a series of one-on-one  
19 calls. We did 25 of them with a variety of stakeholders,  
20 including 12 different data brokers and 13 think tanks  
21 advocacy groups or authorized agents. Also, and then in  
22 May, we released a preliminary -- released preliminary  
23 questions to the general public. Not just about the data  
24 broker -- not just the data broker industry, but the public  
25 as a whole.

1           And we were soliciting additional information on  
2 the -- on system preferences and consumer expectations. In  
3 response, we received 15 written comments. And commenters  
4 range from consumer advocacy groups, university academics,  
5 policy think tanks, data brokers, and the ad industry.

6           Finally, on June 26th, we finished up with a  
7 preliminary stakeholder engagement with an open session to  
8 hear from anyone in the general public. And we received 17  
9 oral comments during the session.

10           Again, the range was similar to above, everything  
11 from consumer advocacy to data brokers to individuals. And  
12 these conversations gave us key insights and how the system  
13 should be built. For instance, key identifiers most  
14 commonly used for data brokers were full name, email, phone,  
15 date of birth, mobile ad ID, for example. Those were the  
16 most persistent ones.

17           Data brokers generally preferred an API, which  
18 stands for Application Programming Interface. It's a way  
19 for two systems to talk over getting information from an --  
20 from a different source such as an SFTP box or an email.  
21 These are all technical things and we are very thankful for  
22 the product managers who talk to us.

23           And while business tended to accept delete request  
24 in a number of ways, email, online form, or API were all  
25 used, most -- the vast majority preferred this API method,

1 which we can talk about later. We also talked about  
2 verification, identity verification, and how folks did that.  
3 And one of the most important pieces that came to light was  
4 that most businesses, especially the most sophisticated  
5 players, were moving a lot of data around, maintained a  
6 suppression list, which is essentially a list with a very,  
7 very small amount of personal information.

8 That allowed the business to ensure that the  
9 delete request was ongoing. So they essentially were  
10 allowed to -- you know, they used it to check any incoming  
11 data to make sure that delete requests continued to be  
12 honored.

13 So all of this research led us to preliminary  
14 design choices, which we'll share with you today. Okay.  
15 The consumer user journey. So if you've got a Jane Doe, she  
16 comes to our DROP portal and essentially kind of signs in  
17 where her -- the California residency would be established.  
18 She can optionally provide additional personal information  
19 to facilitate the delete request. For example, additional  
20 old emails, old phone numbers, old addresses, date of birth,  
21 and other pseudonymous IDs like a cookie ID or a MAID,  
22 should she know them.

23 The DROP system would record all the information  
24 in a privacy protective manner, and then Jane Doe can choose  
25 which data brokers to send her delete and opt-out request

1 to. The data broker user journey starts similarly, data  
2 broker lands on the website and they complete -- they create  
3 an account. They complete registration, of course, during  
4 this registration period between January 1st and January  
5 31st. They pay their fee.

6 Before August 1st, 2026, the data broker must  
7 access the DROP system and select the relevant deletion  
8 list. So do they want -- which is their primary identifier?  
9 Is it an email list or a phone list to query as related data  
10 fields? We can just -- we'll discuss this a little more in  
11 detail next slide. And then starting, of course, August  
12 21st -- August 1st, 2026, the data brokers must access the  
13 DROP at least once every 45 days. And within 45 days,  
14 provide an update to the CPPA with respect to the status of  
15 each deletion request.

16 Okay. So as we're collecting this information,  
17 these select identifiers from consumers, we have a mandate  
18 within the law to permit the consumer to securely submit  
19 information in one or more privacy protective ways. And so  
20 first and foremost, and our privacy by design is separating  
21 the personal information of consumers into separate lists.

22 So we're not just providing all information on a  
23 -- about a consumer to the data broker. We don't want to  
24 provide a data broker with additional information that they  
25 do not already request. So, for this, we're going to

1 maintain four separate lists of consumer personal  
2 information, the phone list and list of emails, pseudonymous  
3 IDs, which again would be mobile ad ID, code the ID. And  
4 then a list that contains name, date of birth, and address.

5           And we know the data brokers have a wide range of  
6 practices and people tend to think of the data brokers who  
7 have the very largest businesses like Credit Reporting, for  
8 example. While there are some big brokers who have many  
9 pieces of information about each person, there are also many  
10 other data brokers that only contain certain pieces. So not  
11 every data broker has your email address or has your phone  
12 number, for example.

13           So the four lists will also be -- so the data  
14 broker essentially can choose which list that they want --  
15 list they want. All the data within our system will be --  
16 and provided to data brokers will be hashed. Hashed as in  
17 industry standard security practice at this point, and the  
18 agency will maintain the practice of -- the practice  
19 internally to protect the public's personal information and  
20 to make it harder for a breach to occur because it  
21 essentially means that that is not stored in plain text. So  
22 rather than seeing Elizabeth Allen, you would see some  
23 numerical number version of that.

24           We're also going to use data minimization  
25 practices, which just means that we only collect the

1 personal information that's directly relevant. So rather --  
2 we heard from many, many data brokers that they don't --  
3 they try not to collect sensitive personal information such  
4 as Social Security number. And so likewise -- and they  
5 don't index off of that sort of information. And likewise,  
6 we are stuck relatively basic personal information because  
7 it reduces our exposure and risk as an agency, but also  
8 because that's actually what industry practice is.

9 MR. LAIRD: I'm going to give Liz a break now and  
10 take over the next slide. So to talk about now procuring  
11 such a system --

12 MS. ALLEN: Excuse me. So I just wanted to check  
13 if the Board had questions on the system.

14 MS. URBAN: Yeah, yeah.

15 MR. LAIRD: Yeah.

16 MS. URBAN: Mr. Liebert, please.

17 MR. LIEBERT: It -- it's going to show my naivete,  
18 but I'm very good at that. So as -- when we talk about the  
19 consumer's journey --

20 MS. ALLEN: Yeah.

21 MR. LIEBERT: -- what should I imagine here with  
22 this DROP process? That they're going to go where to access  
23 the DROP process to trigger their desire in a very simple  
24 and easy and user friendly way. Take me out of those  
25 things.

1 MS. ALLEN: Yeah.

2 MR. LIEBERT: How's that going to work?

3 MS. ALLEN: It'll be a website. So imagine just,  
4 you know --

5 MR. LIEBERT: Okay.

6 MS. ALLEN: -- you click and you land on a website  
7 and it'll be very similar to your experience in all over the  
8 internet. You know, you enter a piece of information to  
9 create -- to essentially authenticate yourself through.

10 And to -- there'll be a verification step to  
11 verify that you're a California resident and you essentially  
12 get taken to an interface that will allow you to enter, you  
13 know, I imagine -- I mean, I don't know exactly whether it'd  
14 be boxes or how it's going to look. But it'll be -- you  
15 know, you're -- it'll be like how many addresses. You can  
16 enter many, you can enter one, you can enter none. And  
17 then, you know --

18 MR. LIEBERT: So it's -- so it's basically a state  
19 government --

20 MS. ALLEN: Form.

21 MR. LIEBERT: -- operated website --

22 MS. ALLEN: Yeah.

23 MR. LIEBERT: -- that we're going to have some  
24 education process, so consumers are going to find out about  
25 this, that they can access this, and we're going to make it



1 really simple and easy with as little information as is  
2 needed?

3 MS. ALLEN: Uh-huh.

4 MR. LIEBERT: And then you'll be able to say,  
5 either get me out of all of these data broker databases or  
6 can't imagine people wanting to just pick and choose some,  
7 but that would assume that they actually understand what  
8 those different data brokers have on them, right.

9 Okay. That was my first naive question that I  
10 have. I have others, but I don't want to monopolize this.  
11 The enforcement process then that will be in place, how will  
12 the state know whether the various data brokers are in fact  
13 complying with these requirements? Is that similar to the  
14 other ways that we do it in terms of kind of surveying? I  
15 don't want to give any state -- give up any state secrets  
16 for enforcement, but what the thoughts are about that?

17 MR. LAIRD: Yeah. Well, again, legal is not over  
18 enforcement.

19 MR. LIEBERT: Yeah.

20 MR. LAIRD: But at the same time, I think we're  
21 understanding monitoring of the system, use of the system is  
22 appropriate. So --

23 MR. LIEBERT: Yeah.

24 MR. LAIRD: -- certainly the system as it's  
25 constructed will be able to tell -- you know, tell the

1 agency who has accessed the system and who hasn't, for  
2 instance.

3 MR. LIEBERT: Okay.

4 MR. LAIRD: And then also an important component in  
5 the law is consumers being able to verify the status request  
6 of their -- the status of their request.

7 MR. LIEBERT: Right.

8 MR. LAIRD: And so there will be a feedback loop we  
9 anticipate, where the data broker will actually have to say  
10 whether or not they did something. And, certainly, that  
11 information could inspire our enforcement division to look  
12 into anomalies or things of that nature. And then the third  
13 prong, you know, which is unique to the Delete Act is this  
14 audit requirement.

15 There are -- all the data brokers registered are  
16 going to have to start running an independent audit of their  
17 operations to ensure compliance with this by a third party  
18 independent auditor. And that's something that the  
19 enforcement division, again, could go ask for, review the  
20 findings of the audit, and again, use that mechanism to  
21 determine if there's been compliance or non-compliance.

22 MR. LIEBERT: Got it. Okay.

23 MS. ALLEN: I just want to add really quick that  
24 the way the system's designed in the backend between data  
25 brokers and us is, anytime you kind of ping the system, it

1 all gets written into a database. So you can tell  
2 automatically the time and date that a company, for example,  
3 accesses the system. So all that gets automatically  
4 recorded.

5 MR. LIEBERT: And there presumably would be a way  
6 for you to test these out, to have individuals make requests  
7 for deletion, and then to be able to determine whether that  
8 had actually been accomplished or not? And you used the API  
9 terminology that you said you'd explain to us, maybe that's  
10 coming later or is --

11 MS. ALLEN: Oh, I -- yeah.

12 MR. LIEBERT: Okay.

13 MS. ALLEN: Yeah, I can. So Application  
14 Programming Interface --

15 MR. LIEBERT: Yeah.

16 MS. ALLEN: -- it's essentially allows two systems  
17 to talk with each other. You program one and you program  
18 the other, and they kind of link. And so rather than having  
19 to ask every time, like email, you know, let's say an email  
20 came into me and I had to email you the list, you can  
21 automatically essentially send a request and the system  
22 automatically answers with the request.

23 And so because it's auto, auto, it's machine to  
24 machine, you get it's much easier on the business, right?  
25 They just keep running it every 45 -- they put it, you know,

1 and they run it. And then on our side we see when they hit  
2 --

3 MR. LIEBERT: So that's really just between the  
4 website folks and the brokers. Consumers aren't part of  
5 that process --

6 MS. ALLEN: No. Mm-mmm.

7 MR. LIEBERT: Okay. Now I totally understand  
8 everything. Okay.

9 MS. ALLEN: Great. Thank you, Mr. Liebert. Mr.  
10 Mactaggart.

11 MR. MACTAGGART: Thanks. And can you remind me the  
12 -- I put my name in and everything, the 45 days from the  
13 business point of view, it's not just retroactive. It's --  
14 my name's in there, so it's everything going forward. And  
15 is the 45 days in statute? I forget. That is. Okay. That  
16 might be something just to note to self that eventually we  
17 might want to tighten up. It's a long time to be selling  
18 information, you know.

19 MR. LAIRD: And I'll note too, the statute does  
20 actually prevent consumers from amending their request for  
21 45 days. So once you've entered your request, you actually  
22 have to wait 45 days to amend a request under the law.

23 MR. MACTAGGART: And then another question. So  
24 when I show up, I always have to put in like my real world  
25 data. Is there ever or is there a thought, and it would be,

1 but I show up with my phone and I say, okay, here's my, you  
2 know -- you know, all the -- all the -- all the -- all the  
3 identifying information --

4 MS. ALLEN: The device ID.

5 MR. MACTAGGART: The device ID and all the rest of  
6 it. And I just kind of wanted to give you that. I want  
7 this phone to be not sold. But you still -- we're still  
8 stuck on the, you have to have a name.

9 MS. ALLEN: No, no.

10 MR. MACTAGGART: I could just -- I could just say  
11 --

12 MS. ALLEN: Yeah.

13 MR. MACTAGGART: -- here's my phone Okay.

14 MS. ALLEN: Yeah. You could say, here's -- or  
15 here's just my synonymous ID, my MAID, or my cookie ID.

16 MR. MACTAGGART: Okay.

17 MS. ALLEN: And just send that. Yeah.

18 MR. MACTAGGART: And then it's on you if you wipe  
19 your cookies -- you clear your cookies and you have no way  
20 -- or you were saying that there's a way then of knowing,  
21 like, I show back up on this -- that I -- a way of knowing  
22 whether or not I've kind of cleared my cookies, and so  
23 therefore it doesn't identify me anymore?

24 MS. ALLEN: Well, I don't know if it'll go into  
25 that much detail. But it, you know, it would be like, did

1 you send your -- you know, was your request picked up, for  
2 example, on the API side? And so, yeah, I mean --

3 MR. LAIRD: I can give the example. You know, one  
4 of the first things a data broker will do is, do I have that  
5 cookie ID or do I not? And if I don't, that's one bit of  
6 feedback, for instance, we'd be able to relay it back to the  
7 consumer.

8 MS. ALLEN: They're not fine.

9 MR. LAIRD: They said they did not have your cookie  
10 ID at all in their system. But at the same time then, if  
11 they did, then we expect to get a confirmation that they  
12 deleted that information.

13 MS. MARZION: I have Ashkan available to comment.

14 MS. URBAN: Okay. Wonderful. Ash -- Executive  
15 Director Sultani, please. That's okay, sir, yeah.

16 MR. SOLTANI: Great.

17 MS. URBAN: Please go ahead.

18 MR. SOLTANI: Thank you all. And just to provide a  
19 little bit of a technical clarity on that last one, if the  
20 company knows that say the cookie ID -- so Mr. Mactaggart is  
21 -- Board Member Mactaggart is correct, where if you delete  
22 your cookies, then you won't know what those are. You might  
23 just have a new set of cookies that the business is using to  
24 identify you.

25 But if the business knows that the previous data

1 was related to the cookie or the same consumer, the law  
2 applies to the consumer. And I'll let Mr. Laird respond to  
3 that. And so if they know it's the same person, or if they  
4 know the data pertains to the same person, they would need  
5 to delete that information as well. With respect to showing  
6 up with a device, one of the challenges, and I think you,  
7 Mr. Mactaggart, brought it up during the presentation on --  
8 the comment on opt-out systems is device IDs unfortunately  
9 are often governed closely by the the bigger platforms such  
10 as, you know, the mobile smart phone makers.

11 And so it's difficult for us as an agency to get  
12 access to those, to make it easy for consumers to show up  
13 with their device IDs. Conversely, I -- companies can, but  
14 we would have a hard time building an app to do that. So at  
15 this stage, it would likely involve consumers having to find  
16 their device IDs and communicate that to us by looking it  
17 up. And we'll provide -- we'll do -- we'll likely do heavy  
18 public education and awareness showing folks how to do that.  
19 But it's not something we can, at this juncture automate,  
20 unfortunately.

21 MS. URBAN: Thank you, Mr. Soltani.

22 Yes, please go ahead, Mr. Mactaggart.

23 MR. MACTAGGART: Mr. Soltani, so on that, what's  
24 the -- what's the hold up? So I assume I can look on my  
25 phone somewhere and find out what the device ID is by going

1 to settings. What's the holdup in the API kind of sucking  
2 that out? I mean, if an ad tech company can do it.

3 MR. SOLTANI: Yeah, so we would, we would then need  
4 to develop an application to do that. For example, we -- so  
5 we -- we'd -- the agency would, in addition to the website  
6 that we discussed, we'd have to do an application. And then  
7 there's also certain limitations on how that information is  
8 used.

9 The common example, and we're going to get really  
10 into the weeds, but I'll just share. Most -- so you have  
11 your device ID, which is essentially the serial number for  
12 your device. You have your advertising ID, which  
13 effectively is how advertisers and, you know, ad companies  
14 refer to you. And then you have your IMEI, which is your  
15 equipment ID effectively, and that's how location tracking  
16 occurs.

17 Those first two, your serial number and your IMEI,  
18 is rarely available even to advertisers after a lot of the  
19 reporting we did on how that information is used and, you  
20 know, companies have changed their practice over the last  
21 decade. However, companies do sell and share information  
22 around that.

23 So in a lot of circumstances, consumers will be  
24 the only ones that -- or the platforms themselves say, if  
25 Apple or Google would want to make that available to us,



1 that's one consideration, I don't think they will. But at  
2 this juncture, consumers would have to look that up to your  
3 point, go down to settings, and then make that available to  
4 us, which is a challenge.

5           Thankfully, though, based on the kind of -- as Ms.  
6 Allen highlighted, based on our research, oftentimes  
7 companies have multiple pieces of data. So they know you by  
8 your device ID, they might know you by your email address,  
9 and they might know you by your address and birthday pair.  
10 And so, hopefully, you know, by you providing those other  
11 attributes, you will find a match in their database.

12           But, certainly, there are companies like mobile  
13 location tracking companies that only know you by your ad ID  
14 or your device ID. And that's why we want to provide  
15 consumers the ability to provide us pseudonymous information  
16 that they can then request deletion of.

17           MS. URBAN: Thank you, Mr. Soltani. Other  
18 questions from the Board.

19           All right. Shall we move on to the PAL process.

20           MR. LAIRD: Thank you. And I think if we can  
21 return to the slides. So I'm going to go a little bit over  
22 what it takes to procure something like this in the state.  
23 The authority for approval of information technology  
24 projects. In California -- in the State of California lies  
25 with the Department of Technology. And they -- it occurs

1 under a process called the Project Approval Lifecycle or  
2 PAL, which we'll call for short. And it's the mechanism for  
3 approving IT projects in the state.

4 The PAL ensures projects are undertaken with a  
5 strong business case, clear business objectives, accurate  
6 costs, and realistic schedules. The process takes IT  
7 projects from the idea stage through the formal procurement  
8 with the goal that execution is as smooth as possible and  
9 able to handle technical complexities and unanticipated  
10 issues should they arrive. As the DROP system is a new  
11 stake technology project, we are subject currently to the  
12 PAL process.

13 So the PAL process is administered by the  
14 California Department of Technology or CDT, and is divided  
15 into four gated stages. Stage 1 is business analysis, Stage  
16 2 is alternatives analysis, Stage 3, solution development,  
17 and Stage 4, project readiness and approval. Each of these  
18 stages requires CDT approval to advance to the next stage.

19 Each stage of the PAL process requires a myriad of  
20 documentation, decisions, and refinement. Stage 1 is  
21 articulating the business use cases need, and Stage 2 is  
22 getting into the nitty gritty details of how the system will  
23 work, what alternatives are available, and putting together  
24 plans to govern the remainder of the procurement and build.

25 Stage 3 is developing and releasing a request for

1 proposals or RFP, which is part of our public contracting  
2 process. And then Stage 4 is the procurement process  
3 including a valuation of the bids and entering into the  
4 final agreement to procure and develop the system. A  
5 typical PAL process can take anywhere from two to five  
6 years, and as this Board well knows, the timeline for DROP  
7 launch is a bit shorter than that.

8 All right. So in terms of -- another complicating  
9 factor we just wanted to mention to the Board is that state  
10 budget timeline, as well as revenues from data broker  
11 registrations, do not exactly line up with the launch of the  
12 timeline of the system.

13 The state's fiscal year runs from July to June,  
14 but the process for requesting budget augmentations for a  
15 given budget begins far in advance of the fiscal year with  
16 documentation and estimation, often needing a nine or  
17 more months in advance.

18 So for our system to go live by January 1, 2026,  
19 we need to proceed with PAL, procure and build across  
20 multiple fiscal years, and the PAL approvals -- no, and the  
21 PAL approvals do not necessarily align with that budget  
22 process.

23 Now, the ace in cross at E between the budget --  
24 who chose that word? All right. Between the budget  
25 timeline and the proposed PAL requirements create some

1 challenges because alternatives are still being assessed and  
2 a solution has not yet been chosen, yet CPPA must submit a  
3 BCP for additional expenditure authority for the 2025 to '26  
4 fiscal year.

5           So, again, just to make clear, this complicates  
6 the build because the DROP system comes from data broker  
7 registrations, which we only receive revenues from every  
8 January. This means that we're in a position to having to  
9 estimate how much funding we'll fund construction and launch  
10 through 2026, as well as the registrations needed to pay for  
11 the contract through 2025. And these determinations are  
12 being made without a vendor actually procured or in contract  
13 with us.

14           So in addition -- next slide, please. In addition  
15 to the budget issues and the sheer volume of work, the PAL  
16 process also requires significant coordination between  
17 multiple government agencies. By law and regulation, we  
18 have to work with multiple state departments, project --  
19 there's a project approval and oversight team and statewide  
20 technology procurement from CDT, and of course, there's also  
21 Department of Finance to help us get approval and the  
22 appropriation authority.

23           And because of our size and we have also -- we  
24 have also contracted with a third CDT team, the project  
25 management office, to augment essentially our expertise, to

1 manage a project of this nature, and to guide us through  
2 given our agency is rather lean at the moment. Coordinating  
3 between these departments does require significant time and  
4 effort, and our data broker unit is extremely small. And  
5 this project does require a significant amount of time  
6 involvement.

7 MS. URBAN: But very mighty.

8 MR. LAIRD: But very mighty, exactly. By our  
9 executive director and our chief deputy. So let's take a  
10 look at next steps. Did you want to --

11 MS. ALLEN: Yeah. Sure. I may have to think about  
12 it.

13 MR. LAIRD: Okay. Yeah. Sure. So over the next  
14 year, the data broker unit and all the -- all of those  
15 supporting it will be busy. We are going to finalize our --  
16 we are in the process now of finalizing our Stage 2  
17 documents, artifacts, description of the system, and moving  
18 into the PAL process, and then we'll begin procurement.

19 Selective -- we will be selecting a vendor through  
20 this process and then we will construct the system. And in  
21 the midst of this, an ongoing over the year, we'll be  
22 working on drafting Board regulations that supplement and  
23 compliment the use of the DROP system. As you can imagine,  
24 there'll be a lot of requirements of data brokers in how  
25 they integrate with this system, and those are things that

1 will actually need to be explained through regulations.

2 Yes.

3 MS. URBAN: Just as a quick clarifying question,  
4 I'm -- I -- this is -- well, I'm not saying the PAL process  
5 makes sense or it's interaction with the budget process, but  
6 the function of the system makes sense to me. Would -- are  
7 the regulations likely to cover things like the API  
8 standard? Okay. Great. I got it.

9 MS. ALLEN: Yeah. Generally, it's going to talk  
10 about how the business needs to interact. It won't probably  
11 -- you know, it's not going to go into the technical details  
12 of what an API is, for example. Yeah.

13 MR. LAIRD: Let's see. Okay. Oh, yes. And so in  
14 a -- so in there will be those regulations. And after the  
15 system is constructed, we'll, of course, have to do lots of  
16 testing to ensure everything is running smoothly in time for  
17 launch. And then we are very aware to Mr. Liebert's earlier  
18 point, public awareness and campaigning for this will be  
19 very important. You know, consumers will really need to  
20 know this is out there and a tool available to them to make  
21 this real for Californians in the coming years.

22 So while DROP work continues, we're also working  
23 on maintaining and improving the data broker registration  
24 process, which we did just discuss, and thank you Board for  
25 your vote to move forward on those regulations. And, of

1 course, we will be maintaining and having a new registration  
2 cycle just around the quarter in January.

3 So with that all said, you know, we do have a last  
4 item today before we finish on this overview to talk about  
5 actually a necessary fee increase born out of the need to  
6 procure and launch this system by 2026. But for now we'd  
7 love to -- if you do have further questions as the Board  
8 about the system, we're happy to take them.

9 MS. URBAN: Thank you. I -- Mr. Liebert and then  
10 Mr. Mactaggart.

11 MR. LIEBERT: Mine's just quick. I'm incredibly  
12 excited about this. I think this is truly pathbreaking, not  
13 just in California, but the country and the world. We're  
14 leading the way on this. The agency can be so proud of the  
15 work Mr. Soltani has led and all of you have done fabulous  
16 work on this. And I think it's just really magnificent.  
17 Keep it up.

18 MR. MACTAGGART: I just want to echo what Mr.  
19 Liebert just said, especially, I know -- I don't want to  
20 diminish anybody in the room here, but I do know that  
21 Executive Director Soltani's incredible technical skills  
22 among other things were super useful. And he was handed a  
23 -- all of you were handed a large problem and you guys are  
24 solving this well, so I just want to say congratulations.

25 MS. URBAN: Thank you, Mr. Mactaggart.

1 Mr. Le?

2 MR. LE: Yeah. Thank you all for putting this  
3 together. Liz, you know, great job. You sound like a  
4 technologist. I wouldn't know you're an attorney with your  
5 knowledge of APIs and you're really considered interviews of  
6 all the data brokers and the surveys and building out, which  
7 is a pretty technically complex system.

8 So I remember reading comments when the Delete Act  
9 passed, saying, there's no way government can build a system  
10 like this in three years. And, you know, here we -- here we  
11 are, you know, well on our way. So I really want to applaud  
12 the work that you've done on this.

13 MS. URBAN: Thank you. Thank you very much. Any  
14 other.

15 So I echo my fellow Board members sense of  
16 impressed with everything that you've done. And I want to  
17 thank you, Ms. Allen and Mr. Soltani. I know you've been  
18 working closely. And it is both appropriate and very  
19 pleasing to see that you're building this in a privacy  
20 protective manner, and that you're building it to the best  
21 standards of a privacy protective manner for a system like  
22 this.

23 We heard some comments earlier in the day that I  
24 think are well taken about being careful of -- for having  
25 opt-outs and other systems, not accidentally being -- being



1 accidentally perhaps more privacy damaging and not as  
2 privacy preserving as they could be.

3 And this is a real technical undertaking to  
4 understand how to do that. And I, you know, I really  
5 appreciate that you're building it so that the data brokers  
6 can just run their APIs and make calls to the system that's  
7 -- you know, that's going to be a lot easier for them. That  
8 makes a lot of sense.

9 And I share -- I share the sentiment that this is  
10 a very sophisticated tool that you're building and that  
11 California will be leading the country but also the world,  
12 as Mr. Liebert said. I also want to just pause for a moment  
13 and thank the sponsors and the legislators who moved this  
14 legislation. You know, we're happy to implement this  
15 legislation.

16 Maybe Ms. Allen isn't as happy as some late nights  
17 as we are privileged to be sitting up here listening to the  
18 great work. But it's made possible by the legislature, the  
19 legislative process, and their attention to Californian's  
20 privacy rights, and to do it in a way that's -- that is  
21 possible for the data broker industry. And so I wanted to  
22 pause a moment and thank them for that while we are looking  
23 at the beginnings of the fruits of this part of the law. So  
24 thank you to all of you.

25 Yes, Mr. Le.

1 MR. LE: I had a question come up. You know, I --  
2 I've heard other states are interested in a system like  
3 this. I'm curious, is there like any plans for  
4 interoperability? Is that possible to build on? So, like,  
5 we don't have to reinvent. This is just curious thoughts.

6 MS. URBAN: I'm sorry. I'm just thinking of the  
7 PAL and I'm like imagining another state in there and --

8 MR. LE: Sure. This is probably not realistic.

9 MS. URBAN: I think it's a wonderful dream and  
10 maybe it's not even a dream.

11 MR. LAIRD: Yeah, I would say we've heard similar  
12 things of other states interested in executing something  
13 similar by being the first ones out there. Certainly, I  
14 think we can set an industry standard or a government  
15 standard for a system like this and how it should be  
16 operated, and we'll be happy to share sort of our lessons  
17 learned and the practices we're doing with any other state  
18 who's interested to hear.

19 And there is always the chance. Some sort of  
20 agreement could be reached between states to reach that  
21 functionality. So we're open to exploring possibilities  
22 like that in the future.

23 MS. URBAN: And, again, you know, to the extent  
24 that we can have convergence in the same way that we think  
25 about our regulations and how they compare to the law, the

1 better that is for everyone so long as it's at the standard  
2 that we need under our law and for Californian.

3 Other comments? All right. Ms. Marzion, is there  
4 public comment?

5 MS. MARZION: We have Executive Director Soltani.  
6 Would he like to speak?

7 MS. URBAN: Okay.

8 MS. MARZION: Go ahead.

9 MR. SOLTANI: Thank you all. Just to on that  
10 important point of interoperability, you are correct that  
11 other states have approached us asking and inquiring about  
12 the system. And Ms. Mahoney's great work in her -- in our  
13 interagency and intergovernmental work is supporting that.  
14 We are indeed looking to build, you know, the architecture  
15 similar to as we developed -- as California first developed  
16 the opt-out preference signal, we have now 12 or 13 other  
17 states following essentially the standards that we've set.

18 We hope -- similar to how Do Not Call started, if  
19 folks know the history, and Florida was one of the first  
20 state to build Do Not Call. It expanded to multiple states  
21 and it became a federal program. We hope that we build this  
22 system in an interoperable fashion, including the  
23 specification and the APIs and the protocols in an open  
24 standard. And we're kind of committed to trying to do the  
25 best of our ability to do that, such that other states could

1 potentially at least plug and play or at least data brokers  
2 can, you know, consume the information in a -- in a  
3 universal fashion.

4 So that is on our radar. We're -- you know, we  
5 have a lot of competing priorities, as you can tell, and a  
6 lot of other legal and process-based restrictions, but that  
7 is something we have an eye towards and we hope to be able  
8 to achieve, again, setting the standard of the California  
9 standard in this regard as well.

10 MS. URBAN: Thank you, Mr. Soltani.

11 Is there anything else from Ms. Allen or Mr.  
12 Laird? I assume you'll keep us updated on the budgetary and  
13 PAL process and how that will all interact with building the  
14 system?

15 MR. LAIRD: Absolutely. And we do anticipate  
16 starting to talk to you all about regulations in 2025.

17 MS. URBAN: Okay. Thank you very much. And with  
18 that, I will ask if there's public comment. Sorry, Mr.  
19 Soltani.

20 MS. MARZION: For Agenda Item number 5, if you'd  
21 like to make a comment at this time, please raise your hand  
22 using the "raised hand" feature, or by pressing star nine if  
23 you're joining us by phone. This is for Agenda Item number  
24 5. And it looks like we do have a commenter.

25 Houman, you have three minutes. I'm going to

1 unmute you at this time, so please begin as soon as you're  
2 ready.

3 MR. SABERI: Thank you. Hello. My name is Houman  
4 Saberi from the Permission Slip team at Consumer Reports.  
5 Permission Slip is an app that serves as an authorized agent  
6 submitting requests on behalf of consumers to both data  
7 brokers and consumer facing businesses. And to date, we've  
8 submitted just over 4 million requests.

9 Our team is also implementing the data rights  
10 protocol, which is a standardized means to receive process  
11 and complete data rights requests in an interoperable  
12 fashion. We're doing this in a consortium with other  
13 agents, brokers, and privacy infrastructure providers, such  
14 as OneTrust and Transcend. So I'd like to thank you for the  
15 opportunity to share our comments on DROP.

16 So our first comment is that we see that many  
17 companies circumvent authorized agent requests and reach out  
18 to the user directly to verify identity. We found that this  
19 causes confusion and we see users reaching back out to us  
20 requesting that we confirm whether the request is legitimate  
21 or not. And so we'd like to ensure with DROP, the companies  
22 do not reach out to users directly again for verification.

23 We would also recommend a consideration for a  
24 process to authenticate valid authorized agents accessing  
25 DROP. For our data rights protocol, we maintain an

1 authorized agent directory and authenticate agents with  
2 public keys.

3 We also we're excited to see one way hashing as a  
4 consideration, and as you work through implementation  
5 details, we'd like to note that we have found that small  
6 variations and how names are presented, such as with or  
7 without a middle initial, can change whether a data broker  
8 finds a match. An implementation which encourages data  
9 brokers to fuzzy match instead of strictly looking for  
10 string literals may increase fulfillment rates.

11 And finally, we would like to emphasize to the  
12 CPPA the importance of ensuring an intuitive and accessible  
13 user interface for consumers. We're glad to hear that there  
14 will be a help center because we found that users frequently  
15 need to change their email addresses, have multiple emails  
16 under which their information might be keyed, and they also  
17 experience very technical difficulties. Those were my  
18 comments. Thank you very much for your time.

19 MS. MARZION: Thank you. If there are any other  
20 members of the public who'd like to speak at this time,  
21 please go ahead and raise your hand using the Zoom's "raised  
22 hand" feature, or by pressing star six if you're joining us  
23 by phone. Again, this is for Agenda Item number 5.

24 Madam Chair, I'm not seeing any additional hands  
25 at this time.

1 MS. URBAN: Thank you very much, Ms. Marzion.  
2 Thank you to the commentator, and thank you again, Ms.  
3 Allen, Mr. Laird, Mr. Soltani, and everyone who has been  
4 working on this. I regret this, but I do need to ask for a  
5 short break. If we can return at 3:15, we'll pick up Agenda  
6 Item number 6. Thank you very much.

7 (RECESS)

8 MS. URBAN: Welcome back, everyone, to today's  
9 meeting of the California Privacy Protection Agency Board.  
10 We will now proceed with the agenda to Agenda Item number 6,  
11 which is an item on discussion and possible action to amend  
12 regulation Section 7600, to adjust the CPPA's data broker  
13 registration fee pursuant to Civil Code Section 1798.99. 80  
14 et seq. It will be presented by CPPA general counsel,  
15 Phillip Laird, and Attorney Liz Allen. Please go ahead.

16 MS. ALLEN: Hello, again. Liz Allen with the Legal  
17 Division. As described earlier today, the Delete Act direct  
18 the CPPA to not only maintain the data broker registry, but  
19 also create a mechanism by January 2026, that allows a  
20 consumer to, in a single request, direct all data brokers to  
21 delete their personal information.

22 As you previously heard in Agenda Item 5, the  
23 statute has significant legal and security requirements for  
24 the system, including that it has to be privacy protective.  
25 Since receiving direction from the legislature to develop

1 and implement the DROP system, the agency staff have worked  
2 diligently towards planning for procurement of the system.  
3 In compliance with the project approval lifecycle of PAL,  
4 we've done robust market research, stakeholder outreach, and  
5 even published a request for ideas or an RFI, which received  
6 multiple submissions.

7 As a -- as a result of these efforts, the agency  
8 has been able to reasonably refine estimates for the  
9 purposes of system procurement and build. When it comes to  
10 paying for the system, as well as ongoing costs affiliated  
11 with the registry, including personnel, the CPPA was  
12 directed by the legislature to set and adjust the data  
13 broker registration fee to cover the cost to develop and  
14 maintain the registry and the deletion mechanism.

15 As you know, the registration fee is collected  
16 annually during the January 1st, January 31st registration  
17 period, and staff evaluates projected costs every year to  
18 determine the necessary fee during the next cycle. Given  
19 the projected costs for procuring and deploying the DROP  
20 system by 2026, the agency staff recommends a fee adjustment  
21 to \$6,600 to ensure the agency can cover all necessary costs  
22 through the next fiscal year and comply with the statute's  
23 requirements.

24 As the cover memo described, which can be found on  
25 our website, this adjustment is based on an estimated need



1 of 3.5 million divided among the 527 currently registered  
2 data brokers. Staff is happy to take any questions, and  
3 otherwise we'll just turn the discussion to the Board.

4 MS. URBAN: Thank you, Ms. Allen, and thank you for  
5 this helpful memo as well.

6 Questions, comments from the Board? Mr. Worthe?

7 MR. WORTHE: Just to quickly summarize, we're  
8 required to do this and we're required to fund 100 percent  
9 of it from these fees, correct?

10 MR. LAIRD: That's correct.

11 MR. WORTHE: And so far if the number of data  
12 brokers increases to 650, that surplus will be transferred  
13 into the following year, and then these will be adjusted,  
14 correct?

15 MR. LAIRD: That's exactly right. We anticipate  
16 being back before the Board this time next year to make an  
17 appropriate adjustment based on the revenues we still have.

18 MR. WORTHE: Great. Thanks.

19 MS. URBAN: Thank you.

20 Mr. Liebert.

21 MR. LIEBERT: Great question, Board Member. My  
22 question is, how many data brokers under the definition that  
23 we have do we think actually are out there as opposed to the  
24 number that we are using right now?

25 MS. ALLEN: Well, we don't -- we don't know. There

1 are several other states that have data broker registries  
2 with slightly different definitions, Texas, Vermont. We see  
3 estimates from various thinkers in the space from a thousand  
4 to 5,000. None of the registries have over, I think the --  
5 I think 800 -- don't quote me, but around 800 is the most on  
6 any official registry, Texas or Vermont.

7 MR. LIEBERT: So it kind of sounds like those data  
8 brokers who have complied with the law and have registered,  
9 have an incentive potentially to get those other folks on  
10 board in terms of registering, if they want those fees to  
11 appropriately be reduced. Got it. Okay.

12 MS. ALLEN: Yeah.

13 MS. URBAN: Thank you. Other questions? Comments.

14 Yes, Mr. Le.

15 MR. LE: And can you tell me -- I know there was a  
16 range of estimates for developing this system, and like  
17 where does this cost for the system fall into that range of  
18 -- well, it's, you know, third party contractors, right?  
19 Building a lot of this? Yeah. So where does this fall on  
20 that range?

21 MR. LAIRD: Great question. In terms of our market  
22 research, you know, we've kind of turned over a lot of  
23 potential options. And as I mentioned, we also did an RFI,  
24 request for ideas. That actually had a range of between  
25 800,000 and \$12 million for a system of this nature. But

1 even there, I have to acknowledge that certain of the lower  
2 level estimates did not actually include all of the system  
3 requirements in their description of what would be required.

4 So we've also done -- we've partnered with CDT and  
5 looked at other state procurement models as well to kind of  
6 really hone in as best as we could a reasonable estimate.

7 So when we came to this conclusion of \$3.5 million, it's  
8 technically more than that, but there is a balance in the  
9 data broker registry fund, sort of as Mr. Worthe has  
10 mentioned, that we are going to deplete first before we ask  
11 for more funds.

12 So that's where the price comes down to \$3.5  
13 million. But, yes, I would say from what we've seen, it's  
14 on the lower end and certainly very, very keyed in and kind  
15 of reasonable from a state IT procurement perspective.

16 MR. LE: Thank you. I was going to say, I -- I've  
17 been studying procurements, I'd say government. This is  
18 actually is much on the lower end compared to \$80 million  
19 and like -- and procuring a lot of these data systems and  
20 other context. So thank you.

21 MS. ALLEN: And I'll just jump in and add that we  
22 looked a lot at the FTC Do Not Call Registry, which was  
23 started in 2003. It's a much simpler system. It's just  
24 phone numbers, for example. And in 2003, that was an \$18.1  
25 million project that went up for the next few years. And in

1 2023, it was \$14.1 million to run that.

2 Now that's, of course, the entire nation, but if  
3 you were to rightsize that to just California and adjust for  
4 inflation, it would've been a \$3.4 million system just for  
5 phone numbers, not for the rest of the complicated stuff we  
6 are trying -- we're putting in place.

7 MS. URBAN: Thank you, Ms. Allen. Other comments  
8 or questions.

9 All right. With that I will go to public comment  
10 after making sure that I understand what the -- what the  
11 motion would be here. Mr. Laird, please, correct me if I  
12 have this wrong and let me know if I have this right. I  
13 think I'd like to propose a motion to direct staff to amend  
14 Section 7600 to adjust the California Privacy Protection  
15 Agency's data broker registration fee to \$6,600.

16 MR. LAIRD: Perfect. That's correct. Yes.

17 MS. URBAN: Okay. Wonderful. You know, my own  
18 comment is that when I first saw the difference between the  
19 400 something and the 6,600, it did raise my eyebrows a  
20 little bit. And so I anticipate that that may be the case  
21 for those listening. And there are a few factors that I  
22 think are important here. One is that this is not just for  
23 the registry, this is for the DROP system that has to be  
24 built.

25 And secondly, as you both pointed out in response

1 to Mr. Mactaggart's good question, this is the model the  
2 legislature chose to fund this for industry to fund this.  
3 The other option would be for California taxpayers to fund  
4 it. And the legislature made the decision that this is  
5 something that should be industry funded like the Do Not  
6 Call registry is, for example.

7 And it must be funded. And in my view, it makes  
8 sense for the industry to fund it. And though there's an  
9 increase in the fees, I think a data broker needs to be  
10 sufficiently capitalized in order to handle the data that  
11 they're handling of Californians.

12 We -- it feels like every other day we hear about  
13 a data breach that exposes people to identity theft. It  
14 exposes people to ongoing harm and with, you know, with all  
15 support for businesses getting off the ground, to me this is  
16 very similar to, for example, I am the daughter of a small  
17 business. I grew up to a father who's an electrical  
18 contractor, and there's a lot of cost of doing business in  
19 order to make the work safe. And that's simply part of the  
20 capitalization that you need to do the business well and to  
21 do it safely.

22 So I'm glad that staff have thought really  
23 carefully about how to do this and sought comments and  
24 sought information about how to do this in an efficient way.  
25 And I'm really glad that we'll be able to revisit this as

1 the data broker registration grows and make sure that we're  
2 funding it appropriately and funding it efficiently. But I  
3 really appreciate the work that you've put into it to  
4 balance these considerations.

5 Yes, Mr. Mactaggart.

6 MR. MACTAGGART: Yeah. And just to kind of clarify  
7 for everybody listening, I think I'm correct in saying we're  
8 just following the law here. And there's just no choice  
9 that we -- there's no other place for the money to come  
10 from. So we're just -- we -- all that we could say is thank  
11 you for making it this cost effective because if you're a  
12 data broker and you're complaining about the money, well, it  
13 wasn't going to come from any other place. We literally  
14 can't just, you know, decide to pay for it some other way.  
15 Okay. Thank you.

16 MS. URBAN: Correct. Ms. Marzion, is there public  
17 comment.

18 MS. MARZION: If you'd like to make a comment on  
19 Agenda Item number 6, please raise your hand using the  
20 "raised hand" feature, or by pressing star nine if you're  
21 joining us by phone. This is for Agenda Item number 6.

22 Madam Chair, I'm not seeing any hands raised at  
23 this time.

24 MS. URBAN: Thank you very much, Ms. Marzion. In  
25 that case I would like to request if anyone would propose

1 the motion that I offered and I -- it was short, so I'll  
2 recreate it. I'd like to propose the following motion,  
3 direct staff to amend Section 7600 to adjust the California  
4 Privacy Protection Agency's data broker registration fee to  
5 \$6,600. Do I have such a motion.

6 MR. LE: I move.

7 MS. URBAN: Thank you. I have a motion. Do I have  
8 a second.

9 MR. WORTHE: Second.

10 MS. URBAN: Thank you. I have a motion from Mr. Le  
11 and a second from Mr. Worthe.

12 Ms. Marzion, will you please conduct the the roll  
13 call vote?

14 MS. MARZION: Yes. Board Member Le.

15 MR. LE: Aye.

16 MS. MARZION: Board Member Liebert?

17 MR. LIEBERT: Aye.

18 MS. MARZION: Board Member Mactaggart.

19 MR. MACTAGGART: Aye.

20 MS. MARZION: Board Member Worthe?

21 MR. WORTHE: Aye.

22 MS. MARZION: Chair Urban?

23 MS. URBAN: Aye.

24 MS. MARZION: Madam Chair, you have five yeses.

25 MS. URBAN: Thank you very much. The motion has

1 been approved by a vote of 5 to 0. Thank you again very  
2 much to staff. And we will move forward with that as our  
3 model.

4 Thanks again, everyone. And we will now move to  
5 Agenda Item number 7. Agenda Item number 7 is an update  
6 regarding agency administration. That will be presented by  
7 Executive director Ashkan Soltani and Chief Deputy Executive  
8 Director Tiffany Garcia. We will first hear from Executive  
9 Director Soltani and then have some Board discussion. Then  
10 we will hear from Chief Deputy Executor -- Chief Deputy  
11 Executive Director, Tiffany Garcia, on some process points.

12 Mr. Soltani, are you ready?

13 MR. SOLTANI: I'm ready. Thank you.

14 MS. URBAN: Please go ahead.

15 MR. SOLTANI: Thank you, Board and Madam Chair for  
16 the opportunity to address you all today. I regret I  
17 couldn't be there in person for such a momentous meeting,  
18 but unfortunately some health issues prevent me from being  
19 able to be physically present. I said hope to provide this  
20 update last month, but due to our scheduling conflicts, I  
21 appreciate the opportunity to do it today.

22 Last month marked my three year anniversary as  
23 executive director at the agency and a great opportunity to  
24 reflect on the progress we've made in an organization, as  
25 well as my personal journey. Since starting as the agency's



1 first employee in October of 2021, we've quite -- come quite  
2 a long way. We've managed to grow the agency to nearly 45  
3 staff. We've overcome numerous administrative and political  
4 hurdles along the way. All along the way, we've also been  
5 an exemplar of government insufficiency in our process.

6 In addition to tackling all of the challenges and  
7 complexities of standing up an independent government agency  
8 (inaudible) within the bureaucracy of the state, we're also  
9 able to successfully promulgate our first substantive  
10 rulemaking package with just a mere skeleton crew of fewer  
11 of a dozen employees. And together with the Board's  
12 support, we also fought off numerous attempts at federal  
13 preemption and we were welcomed into the community of  
14 international data protection regulators of the Global  
15 Privacy Assembly and the age of Pacific Privacy authorities.

16 We also launched a statewide public education  
17 campaign geared towards informing Californians about their  
18 privacy rights. And we successfully satisfied our  
19 obligations to stand up the first data broker registry in  
20 less than two months as we just discussed. The enforcement  
21 division also began its enforcement and oversight role as  
22 soon as we were empowered to do so in 2023, and is humming  
23 along quite nicely.

24 You're likely aware of the multiple sweeps  
25 surrounding connective vehicles and recently data broker

1 registrations. And we have dozens of open investigations  
2 underway, which I'm excited about. In short, the agency was  
3 a very different place than it was at the time of my  
4 appointment three years ago. We're no longer a startup in  
5 state government, but we have skilled legal policy and admin  
6 divisions that can support the Board of many aspects of the  
7 Board's operations.

8 And it is at this juncture that I believe it's the  
9 right time for me to step down as executive director. It's  
10 truly been an honor and a privilege to serve as the founding  
11 executive director. Californian's currently enjoy the  
12 strongest privacy protections in the entire nation. Thanks  
13 in part to the remarkable dedication and hard work of our  
14 talented team who are before you today and behind the scenes  
15 of this meeting. I'm fully confident that the agency is  
16 well positioned to continue to lead California and the  
17 nation in privacy and consumer protection.

18 I'm grateful for the opportunity of being able to  
19 get us to this point, and I look forward to supporting the  
20 Board as we transition. If appropriate, our chief deputy is  
21 now prepared to provide a little bit of background on the  
22 transition process.

23 MS. URBAN: Mr. Soltani, thank you. That doesn't  
24 even -- see, here we go, if Mr. Soltani is going to step  
25 down, suddenly nothing's going to work. Mr. Soltani, I

1 mean, I think it's very difficult to express my own  
2 gratitude as well as the Board's gratitude. You and I have  
3 been in this together for apparently quite a short time, but  
4 it feels like it was certainly an -- it's certainly been an  
5 action packed time. So I will collect my thoughts for a  
6 moment and ask if other Board members have comments.

7 Mr. Le?

8 MR. LE: I want to say thank you, Director Soltani,  
9 for your service to this agency as its first employee and  
10 executive director. I'll keep it short since it's been a  
11 long day. But over the past three years, you've taken the  
12 agency from a startup with no printers where, as you said,  
13 you and agency staff were building the airplane while trying  
14 to fly it.

15 Now we're at an agency with nearly 50 employees, a  
16 growing admin, legal and enforcement presence, and plenty of  
17 printers and copiers, I hope. All that is to say that  
18 you've done a great job building out the plane while  
19 navigating the rules and complexity of the state government.

20 I've appreciated your tireless work ethic,  
21 commitment to the agency's mission, and your thoughtfulness  
22 in developing a transition plan as the agency grows from a  
23 startup to a mature organization. Thank you again for your  
24 service to this agency, and I'm looking forward to continue  
25 to work with you through the end of this year and in the

1 future.

2 MS. URBAN: Thank you, Mr. Le.

3 Mr. Mactaggart?

4 MR. MACTAGGART: Well, you know, it's been three  
5 years of this, but you and I were shoulder to shoulder  
6 getting this thing done, and as my -- the person who agreed  
7 to kind of join me as my expert, your philosophy and your  
8 expertise, you know, pervades every single word of this  
9 document.

10 And I can think a few people who have had such an  
11 impact on privacy as you have. You bled to this thing, you  
12 know. And I'm just in awe at your commitment. And I am  
13 grateful that we crossed paths because this law would not  
14 have been nearly as effective without your expertise. And  
15 this agency wouldn't have been nearly as effective without  
16 your commitment.

17 I remember one time talking to you about the  
18 printers, speaking of printers, and you're like, dude, you  
19 can't believe how impossible it's just to get a printer and  
20 how many steps I have to go through to requisition whatever  
21 the paper. So I know you've been a trailblazer, a path -- a  
22 pathfinder here, and I -- I'm honored to have been on this  
23 journey with you. And I thank you for all your hard work.  
24 I really do.

25 MS. URBAN: Thank you, Mr. Mactaggart.

1 Mr. Liebert?

2 MR. LIEBERT: My tenure here on the Board is the  
3 shortest, but I know that my awe is some of the largest.  
4 You've just been absolutely amazing. Your work commitment,  
5 as everyone's noted, is just unimaginable. You've really  
6 dedicated everything to this, Ashkan.

7 And I've heard my colleagues refer to you as a  
8 privacy rock star, and that's really no understatement.  
9 Your knowledge and technical knowhow is really just amazing.  
10 So your legacy here is secure and you'll be able to be proud  
11 of this startup that you helped create for the rest of your  
12 life. And we'll be proud of the work that you've done. So  
13 thank you so much.

14 MS. URBAN: Thank you, Mr. Liebert.

15 Mr. Worthe?

16 MR. WORTHE: Yeah, a lot of this will be  
17 repetitive, but first, personally, thank you for bringing me  
18 along in an area that I didn't have as much experience as my  
19 fellow Board members. I appreciate the time you've taken  
20 with me. But really, as it was just said, you should be so  
21 proud of what you've done here.

22 You know, not for weeks and months and years, but  
23 for decades, this legacy is going to be -- is going to grow  
24 and mature with this team that you created and brought along  
25 and supported and worked with. But this is really something

1 special. And I think a lot of people are going to be  
2 looking at us as an example of probably, how do they do  
3 that? And can they just do it for us? And maybe there's a  
4 licensing model there, but but thank you for --

5 MS. URBAN: We can lower the data broker fees if we  
6 can --

7 MR. WORTHE: Right. They could back down, \$400. I  
8 appreciate all the hard work that you've put in to get us to  
9 where we -- where we are. And I thank you for it because I  
10 know it's not easy. But be proud for where -- what you've  
11 done here.

12 MS. URBAN: Thank you, Mr. Worthe. We couldn't do  
13 that because the law requires us to get the money from the  
14 day, anyway. I just -- you know, on the record, I didn't  
15 want to -- I didn't want to misstate the law. And, Mr.  
16 Soltani, like Mr. Mactaggart, for a somewhat shorter time,  
17 but I think a very intense time, I have worked with you  
18 closely to build this agency.

19 You are our first full-time hire. Hiring the  
20 executive director -- hiring the inaugural executive  
21 director is one of the Board's most -- very most important  
22 tasks and I'm very grateful that you answered the call and  
23 you took it on. And I'm delighted with how you have taken  
24 what was a name in a statute that you also helped develop  
25 with Mr. Mactaggart and others, and turned it into an entity

1 that has action, that has power, and most importantly, has  
2 people.

3 We now have multiple divisions. We are operating  
4 on all cylinders as required by our statute. And the people  
5 you've recruited are the -- are stellar. They're the best  
6 people in the business. And this is not an easy area in  
7 which to find the right expertise. It requires a special  
8 kind of person to engage in government service. It requires  
9 a special kind of person to engage in government service  
10 during a time of such intensity of attention to an issue,  
11 and during a time in which the agency is still under  
12 construction itself.

13 So the first very special person would, of course,  
14 be you. But then you've managed to recruit teams of people,  
15 each of whom is incredibly impressive and skilled, and makes  
16 us punch above our weight in any number of ways. And you've  
17 done that in a bare three years.

18 I want to say one small word about our  
19 relationships outside the agency. Our implementing statute  
20 asks us to coordinate with other authorities, national --  
21 California authorities, national and international  
22 authorities. And I am especially grateful for the position  
23 that you leave us in with regards to our relationships in  
24 California, nationally and internationally.

25 It is, I think, an incredible testament to your

1 reputation as a technologist, as a privacy expert, and as  
2 someone who will work carefully in this area to protect  
3 consumer's privacy and do it in a way that is manageable and  
4 implementable that we were immediately welcomed into the  
5 global privacy assembly for privacy regulators all around  
6 the world into assemblies for Asian Privacy Regulators, for  
7 Latin American Privacy Regulators in the Americas and many  
8 more, as well as working with federal agencies, including  
9 just last week, finding a memorandum of understanding with  
10 the Federal Communications Commission, following a  
11 memorandum of understanding signed with the French  
12 Authority, the CNIL, over the summer.

13 For a brand new agency, this is an extraordinary  
14 accomplishment, and it's an extraordinary boon for the  
15 people of California because we can draw on each other's  
16 expertise, they can draw on our expertise, and we can learn  
17 from them. And I call it out because it would -- you know,  
18 it's not necessarily predictable when you're starting from  
19 no agency at all, that at this point in time we would be in  
20 that position. That's just one thing.

21 Others have talked about your technical expertise  
22 and your privacy expertise, and I hope that we will have the  
23 opportunity to set you properly in the future. But I wanted  
24 to mention that aspect in particular because it is something  
25 that I'm especially proud of and I find to be especially



1 important.

2 As everyone has already mentioned, Mr. Soltani  
3 Ashkan, you know, you leave it all on the field, and we are  
4 incredibly grateful for that. And we knew going in that you  
5 were building this thing from the startup, and that it would  
6 too soon be time for the agency to move to hands -- other  
7 hands when it was ready when it's not in a startup mode.

8 And you've gotten us here, and we're incredibly  
9 grateful. I'm personally incredibly grateful. I want to  
10 know if we're ever going to find Shackleton. He's got our  
11 printer. And -- but maybe in the time before you go, he'll  
12 turn up. Thank you.

13 MR. SOLTANI: Board and Chair, thank you so much  
14 for those really kind words. You know, I could not have  
15 done this without your support. You all were here well  
16 before me, and I really appreciate, and I'm honored to have  
17 had your support. And, importantly, I do feel like we have  
18 an incredible staff. And so what gives me confidence and  
19 assurance in terms of our future is that we have -- you  
20 know, that's -- and honestly one of the hardest parts of  
21 stepping down is parting with that staff. But I do expect  
22 to be in the space and active. So you may, you know,  
23 depending on the rules, hear from me whether you like it or  
24 not.

25 But I do expect to be active, and I do expect and

1 I fully trust our staff in helping guide the agency, the  
2 Board, and the -- whoever you all choose as a successor into  
3 kind of the model for our future. So thank you all and  
4 thank you for those kind words.

5 MS. URBAN: Thank you, Mr. Soltani.

6 Ms. Garcia, shall we talk about practicality?

7 MS. GARCIA: Yes. Thank you. And how do I even  
8 follow that? I will just also express my thanks and  
9 gratitude to Executive Director Soltani. I wouldn't be here  
10 if it wasn't for him. And, yeah, his dedication and  
11 commitment to this agency is amazing. And I appreciate and  
12 have respect for you. And you're not leaving soon, so I  
13 have more time with you to get as much knowledge transfer as  
14 possible.

15 Now, with that, I will dive right into process.  
16 So, again, my name is Tiffany Garcia. I'm the chief deputy  
17 executive director here at the agency to unfortunately  
18 present our next steps for the recruitment of an executive  
19 director. The recruitment process begins with the duty  
20 statement, typically, and there's a memo before you --  
21 excuse me -- with materials for that. If you can --  
22 perfect. Thank you. Given. With the duty statement, which  
23 clearly and -- or accurately describes the functions and  
24 responsibilities for position as determined by the Board,  
25 but as always, staff are here to support you.

1           The duty statement will be used to develop  
2 recruitment flyers and advertisements for the position. In  
3 addition, it can be used -- it will be used to define the  
4 criteria for screening of applicants. Recruitment for the  
5 executive director position shall be consistent with the  
6 provisions of civil service laws to ensure consistency and  
7 transparency in hiring throughout the agency.

8           As there is no specific classification  
9 specification for the executive director position, desirable  
10 qualifications will be used for the basis of collect -- or  
11 competitively evaluating each candidate. Therefore, it is  
12 necessary to develop a set of desirable qualifications to be  
13 used for the recruitment of the executive director.

14           And again, in that handout, staff has prepared  
15 potential desirable qualifications based on the current duty  
16 statement of the executive director. And I won't read them  
17 all to you, but I will highlight some of them. In terms of  
18 desirable qualifications, a candidate with strong commitment  
19 to the alignment with -- of our mission, vision, and values.

20           Someone who has progressive experience with  
21 executive level leadership, management, and problem solving,  
22 administrative experience with government operations and  
23 processes, experience establishing, promoting and  
24 maintaining cooperative relationships across government,  
25 ability to think strategically and creatively, ability to

1 promote internal and external teamwork, experience with  
2 public speaking and ability to deliver speeches and  
3 presentations, and a consultative approach to problem  
4 solving and the ability to facilitate coalition building.

5 So once a duty statement and desirable  
6 qualifications are finalized, the position will be  
7 advertised on the California Department of Human Resources  
8 website. And then other activities related to the  
9 recruitment could also include advertising the position on  
10 professional publication. And in the past, we've also used  
11 recruitment services for various positions across the  
12 agency.

13 Following that, there will -- the job posting will  
14 close at a -- after a minimum of 10 days. HR staff will be  
15 prepared to review and screen the applications based on the  
16 desirable qualifications criteria. There's the potential  
17 for staff to recommend -- again, human resources staff, let  
18 me clarify apologies, to recommend the top candidates for  
19 interview with the Board in closed session. HR staff can  
20 also help scheduling those interviews.

21 Related to the recruitment, we could also include  
22 references to be provided at the time of application. So  
23 those can also be prepared for the Board when they review  
24 the materials in closed session. Conducting the interviews  
25 would be of the highest scoring candidates -- they -- with a

1 quorum of the full Board in closed session. After that, the  
2 Board would choose a successful candidate. And that's the  
3 process. Happy to answer any questions.

4 MS. URBAN: Thank you so much, Ms. Garcia. I  
5 suggest we start with reviewing the preferred qualifications  
6 list that staff have drawn up and ask if we have comments,  
7 questions on that. Oh, here, I'll give you -- I'll give you  
8 -- they go onto the next page. Yeah.

9 MR. LE: You have another copy?

10 MS. URBAN: Yeah.

11 MR. LE: You have another copy?

12 MS. URBAN: We seem to be short one copy. I -- oh,  
13 here it is.

14 MR. MACTAGGART: Oh, I'm sorry.

15 MS. URBAN: It's okay. I'm looking on the screen,  
16 so you can just take that.

17 MR. LAIRD: And, Chair Urban, I just wanted to make  
18 the point to the audience that for anybody here in person,  
19 copies of the memo are available to the public and it will  
20 be posted on the agency's website.

21 MS. URBAN: Wonderful. Thank you. And for those  
22 who are not here, it's a short memo that expresses what Ms.  
23 Garcia just said. I could read out the desirable  
24 qualifications, or no. I'll just read (inaudible) the duty  
25 statement for --

1 MS. GARCIA: The duty statement for reference is  
2 the last two pages. There's an attachment.

3 MS. URBAN: This is the duty statement. I see.  
4 It's a little confusing because the headline is explaining  
5 what it is.

6 MS. GARCIA: Yeah.

7 MS. URBAN: All right. We've got ourselves  
8 together.

9 MS. GARCIA: Would you like me to read line by  
10 line.

11 MS. URBAN: Maybe actually just for anyone  
12 listening in.

13 MS. GARCIA: And take feedback for each bullet.  
14 And then if there's anything you'd like to add.

15 MS. URBAN: Maybe just read through and then --

16 MS. GARCIA: Oh, the entire --

17 MS. URBAN: Yeah.

18 MS. GARCIA: -- list? Okay. Perfect. Okay. So  
19 desirable qualifications, again, as prepared by staff,  
20 strong commitment to and alignment with the mission, vision,  
21 and values underlying the California Privacy Rights Act.  
22 Progressive experience with executive level leadership,  
23 management, and problem solving, especially past success in  
24 working on complex issues.

25 Administrative experience with government

1 operations and processes, including legislation,  
2 regulations, budgeting, personnel, and equal employment  
3 opportunity. Experience establishing, promoting, and  
4 maintaining cooperative working relationships with  
5 representatives of all levels of government, the public, and  
6 special interest groups.

7 Ability to think strategically and creatively,  
8 work well under pressure, and meet deadlines. Ability to  
9 promote internal and external teamwork, and cross-functional  
10 collaboration and communication in support of an  
11 organization's mission and goals. Experience with public  
12 speaking and ability to deliver speeches and presentations  
13 on sensitive, technically complex, and controversial subject  
14 matters in front of diverse audiences, including the public,  
15 and a consultative approach to problem solving and the  
16 ability to facilitate coalition building.

17 MS. URBAN: Thank you, Ms. Garcia.

18 Comments, questions on the desirable  
19 qualification?

20 Yes, Mr. Mactaggart.

21 MR. MACTAGGART: Totally minor, but just because  
22 progressive has come to mean something now political,  
23 perhaps we could come a different word than that. Just  
24 without any value judgment about it. Just it might be  
25 simpler.

1 MS. URBAN: Thank you, Mr. Mactaggart. Other.

2 MR. MACTAGGART: One more question.

3 MS. URBAN: Uh-huh.

4 MR. MACTAGGART: So, you know, to the extent that  
5 we were going to get more granular and, you know, you wanted  
6 to say this person needs to, you know, speak Spanish or  
7 something like that, where would that come -- where -- would  
8 we ever put the -- that kind of a granular level, you know,  
9 this person needs to be a CPA or they need to, You know --  
10 we're -- where and how would we deal with that?

11 MS. COLSON: Sure. So it depends on what you're  
12 talking about, but say for example, if they need to be a  
13 CPA, that would be a professional qualification. And so  
14 that's something that would need to go into the  
15 qualification.

16 MR. MACTAGGART: And I think my -- where I'm coming  
17 from is, one of the things I think that we all ended up  
18 appreciating a tremendous amount with Mr. Soltani was he had  
19 a real background in technology. And so not only was he a  
20 practitioner in the area of policy, but he actually is a  
21 person who can kind of, you know, go toe to toe with the  
22 technologist still months is actually not happening.

23 And so I just would love to make sure that while  
24 it may not be a -- we may not be able to get that same -- we  
25 probably won't be able to get the same kind of level of



1 expertise in these different areas, that we could just kind  
2 of a nod -- have a nod towards, hey, great, if the person  
3 also has a technology background. Again, not -- and I don't  
4 know, maybe it's already in there, but it -- you know, that  
5 to me is just something that would be, I think, super  
6 useful.

7 MS. URBAN: Thank you, Mr. Mactaggart.

8 May I ask -- may I ask another clarifying question  
9 related to that, Ms. Colson? So these are desirable  
10 qualifications. So as Mr. Mactaggart alluded to, we  
11 wouldn't necessarily find a candidate with all of them. And  
12 in deliberation, we might choose a candidate who meets some  
13 of them, meets some very strongly, but we wouldn't -- my  
14 point is that they are desirable, not required?

15 MS. COLSON: So the way it would typically work is  
16 your desirable qualifications since this is an appointment,  
17 hence there's no civil service list of qualifications,  
18 that's exactly what you're doing. So typically what you  
19 would do is those would be your scoring criteria and your  
20 evaluation criteria. So when it comes in, you would  
21 evaluate whether or not they meet that criteria. And then  
22 your highest scoring candidates would typically move on to  
23 interview.

24 It does not mean you can't -- you don't consider  
25 everything about the candidate, and you certainly can

1 consider everything when you're choosing between the  
2 candidates. I don't know if you have anything else, Ms.  
3 Garcia.

4 MS. URBAN: Okay. Thank you.

5 Mr. Mactaggart, what about something like  
6 familiarity with the privacy law and policy landscape and  
7 ideally technical implementation the privacy policy or  
8 something like that? That's two things, but --

9 MR. MACTAGGART: Yeah, And I think, for me -- and  
10 again, this might be -- you know, Ashkan might be an A  
11 equals 1, so there might not be. But not even just like the  
12 familiarity with the technical implementation, it's like  
13 familiarity with the -- with actually, you know, computers.

14 MS. URBAN: How the data flows and --

15 MR. MACTAGGART: Yeah.

16 MS. URBAN: Yeah.

17 MR. MACTAGGART: Just all that. He's a expert  
18 witness. He, you know, goes to testify in the stuff he  
19 really knows what he's talking about. And so -- and this,  
20 again, it's not just like, oh, how the law should be applied  
21 here. It's actually, well, no behind the webpage here,  
22 here's how your -- the two pages are interacting, you know,  
23 all the programming stuff of that.

24 So that to me, I just -- again, would like to call  
25 that out some way. I don't want to upset the whole apple

1 cart here, but if we could kind of make a reference to that  
2 being a desirable qualification, I think it would be useful.

3 MS. URBAN: Yeah. I certainly don't disagree. I  
4 think there are other aspects of, for example, the relevant  
5 industries that somebody could bring a lot of expertise on.  
6 It could be beneficial, even if they don't -- you know, they  
7 don't have the same expertise on exactly the technical  
8 aspects of the data flows.

9 And maybe we would end up with someone who's  
10 incredibly strong on some things and we could hire -- they  
11 could hire somebody to advise them on some of the other  
12 things. So I'm thinking revising a preferred qualification  
13 -- sorry, it's not a preferred -- I apologize. I'm on the  
14 faculty appointments committee at my -- at my law school as  
15 well and we have the same terms with different words.

16 To say understanding and knowledge of privacy law  
17 and policy relevant industries, and the use and protection  
18 of consumer personal information or something, without the  
19 or something. And also, it doesn't need to be word for  
20 word. I didn't -- just trying to capture Mr. Mactaggart's  
21 thought here.

22 MR. MACTAGGART: Sure. And I think the second last  
23 bullet point does talk about technically complex maybe  
24 systems, and what this is talking about, giving a  
25 presentation, delivering speeches. And I might just -- you

1 could reword that sentence and say, familiarity with  
2 technically complex systems and, you know, familiarity and  
3 knowledge, whatever, and the ability to speak about it as  
4 well.

5           Something you -- that I just think of that bullet  
6 point. You could maybe just redraft that just to -- not  
7 just my ability to explain it, my ability to actually  
8 understand it.

9           MS. URBAN: And we're not limited to this number of  
10 bullet points because that -- so that could be just a  
11 separate item to add what --

12           MR. MACTAGGART: Sure. I don't -- personally, I  
13 don't --

14           MS. URBAN: Okay.

15           MR. MACTAGGART: -- I don't feel the need to  
16 wordsmith this right now, but I trust you guys to -- if it  
17 -- if it were the sense of the Board, I just want to -- this  
18 is my point right now. So it may not be the sense of the  
19 Board. But if it were, I just would like a nod in that  
20 direction, understanding that we may not get everything  
21 we're looking for, but it just feels like a -- given that we  
22 are in an area of technology, it feels like an important  
23 thing to actually point out, anyway.

24           MS. URBAN: Thank you, Ms. Mactaggart. Ms. Colson  
25 and Ms. Garcia, are you comfortable incorporating that? And

1 the Board is comfortable with staff doing that. Okay. Mr.  
2 Liebert.

3 MR. LIEBERT: Yeah, I'm -- I just wanted to note,  
4 I'm super comfortable kind of giving whatever is the  
5 appropriate delegation to staff to kind of make this all  
6 happen the way we're describing it right now. So I don't  
7 know what form that should take, but I wanted to pass that  
8 along.

9 MS. URBAN: Yes, we'll talk about that when we --  
10 soon. Thank you.

11 All right. Comments or questions related to the  
12 process for evaluating the candidates that Ms. Garcia  
13 outlined?

14 Mr. Mactaggart?

15 MR. MACTAGGART: Yeah, I don't know. I'm pausing  
16 because I don't know if the appropriate time to to bring  
17 this up, but I think just speaking just for me I think this  
18 is our most important responsibility as a Board, is hiring  
19 this person. And so I personally would like the chance to  
20 look at the resumes of the candidates.

21 And I understand that it might be useful to have  
22 someone on staff somewhere produce a list of the top  
23 criteria. Probably not the people who are going to be  
24 working for this person, but, you know, somewhere in the  
25 system. And then, I don't know, I -- my suggestion would be

1 that all of us get a chance to weigh in on that and in a way  
2 that obviously works for Bagley-Keen, and then we get a  
3 chance to then have a second round, or we might interview  
4 the person.

5 MS. URBAN: Thank you. So you are imagining a sort  
6 of a two stage process from the perspective of the five  
7 people here on the Board, that staff would be delegated to  
8 put together the process for recruiting and accepting the  
9 applications and working with the HR at DGS, I would assume,  
10 to score the applications according to the desirable  
11 qualifications and to give us some feedback at which point  
12 the Board would presumably meet in closed session to look at  
13 all of the applications and the scoring process, and  
14 evaluate our sense of the pool and recommendations for  
15 candidates, who would then move to an interview process,  
16 which we would do in a subsequent meeting. Does that -- is  
17 that right.

18 MR. MACTAGGART: Perfect. Yeah, exactly right.

19 MS. URBAN: All right.

20 MR. MACTAGGART: And my only desire, I don't know  
21 if it's crazy, would be like we could meet the people,  
22 because it's -- so we're in a virtual world now. It'd be  
23 great to be able to go back to world that we could actually  
24 meet some candidates eventually.

25 MS. URBAN: Indeed. Other comments? All right.

1 MR. LE: I do have a comment.

2 MS. URBAN: Mr. Le, please.

3 MR. LE: Yeah, I just want to put to the rest of  
4 the Board, you know, happy and to have a closed session item  
5 if can figure out the scheduling to meet and discuss, you  
6 know, these candidates if -- you know, even outside the  
7 timeline, whatever works best for the applicants and the  
8 hiring pool.

9 So not a real comment, just saying, you know, if  
10 we have to go out of order and do a closed session, I'd be  
11 -- I'd be happy to do that, knowing it's a lot on staff to  
12 host these. But I could come in person and everyone else  
13 could be remote.

14 MS. URBAN: Thank you, Mr. Le. Not a real comment.  
15 I'm not -- I -- you've broken my Chair brain, Mr. Le. I  
16 don't know. Anyway, thank you very much for the input --  
17 additional input. All right. In that case, my profound  
18 thanks to Ms. Garcia and Ms. Colson for helping put together  
19 this plan and working through what some of our options are  
20 so that we have a very careful transition process, where we  
21 sort of get as much more time from Mr. Soltani as we can  
22 while we carefully transition to a new executive director,  
23 which is an exciting moment in the agency's history as well.

24 And I suggest that we move to the question of  
25 process, which Mr. Liebert alluded to a moment ago. I think

1 that one way to move forward would be a motion to move  
2 forward with the hiring plan as set out, but as amended by  
3 our discussion today, and then to delegate to staff the  
4 portions of the hiring plan needed and as recommended by  
5 Executive Deputy -- Chief Deputy Executive Director Garcia  
6 to get the process started and then -- and then follow it as  
7 -- and that was not the actual motion. I'll say it better.

8 All right. Thank you. Yeah. Yes, Mr.  
9 Mactaggart. Actually, just a moment. I just -- before we  
10 move to Mr. Mactaggart's comment, does that -- is that  
11 appropriate and is that a -- the delegation to staff for  
12 that purpose is appropriate? Okay. Thank you.

13 All right. Mr. Mactaggart.

14 MR. MACTAGGART: I just -- although would think it  
15 would be useful if we could give a little timing-ish kind of  
16 update about expected timing and everything. In terms of --  
17 you know, it's -- Thanksgiving's coming up, Christmas is  
18 coming up, and sort of what -- what's -- the perfect person  
19 might walk through the door tomorrow, but ultimately might  
20 not happen. So kind of what are our expectations about  
21 timing and then what's our fallback and do we have any  
22 update about Mr. Soltani and his schedule and all the rest  
23 of that kind of thing, which I don't -- I don't know how  
24 much of that we need to talk about now, but just whatever  
25 you think, Madam Chair.



1 MS. URBAN: Thank you. I don't want to put Mr.  
2 Soltani on the spot. So what I would suggest is that we  
3 focus on the really important observation, Mr. Mactaggart,  
4 made about the holidays and, you know, that we need a  
5 process that makes sense and a process that is efficient and  
6 just want -- and then ask Ms. Garcia if we could sort of  
7 check in on that.

8 MS. GARCIA: Yes, absolutely. Would you -- would  
9 you like a rough timeline now.

10 MS. URBAN: Sure.

11 MS. GARCIA: Okay. Thank you. So after a motion,  
12 potentially, what you had alluded to today staff --

13 MS. URBAN: It wasn't a real motion.

14 MS. GARCIA: I know. That's -- like, if this  
15 happens, staff are prepared next week to work with the  
16 Department of General Services on their recruitment, which  
17 would include a duty statement, the modified amended,  
18 desirable qualifications, and then all the other legal  
19 requirements for posting, that could be advertised, perfect  
20 world, by the end of next week, for a minimum of 10 days, or  
21 if we wanted to provide some more time for staff again, then  
22 given the Thanksgiving holiday, we could close that  
23 application period the first week of December or roughly the  
24 9th. And then that would give between the 9th and the 16th  
25 for human resources staff, not CPPA staff, to review the

1 candidates and score and present that information to the  
2 Board by the next board meeting.

3 MS. URBAN: And would we be possible to leave the  
4 application window open if needed? Past.

5 MS. GARCIA: Past. Absolutely.

6 MS. URBAN: Okay. And so that would anticipate  
7 that that first discussion that Mr. Mactaggart outlined  
8 would happen sort of mid to late December, and then we would  
9 go from there?

10 MS. GARCIA: Correct. Roughly in December 19th.  
11 So before at least the Christmas holiday.

12 MS. URBAN: Thank you very much.

13 Mr. Mactaggart.

14 MR. MACTAGGART: And what's the law? I mean,  
15 we're, you know, obviously a pretty high profile agency, so  
16 I'm sure everybody in the privacy world will hear about  
17 this. But what's the law on, I don't know, advertising or  
18 -- I mean, we put it on the Cal statement, you know, the Cal  
19 government website, but it's not necessarily something that  
20 everybody who's a privacy lawyer out there is checking every  
21 day. And so that and then how does that work? And so --  
22 and then just the Chair's point, so that means you can keep  
23 it open if we don't get enough interest?

24 MS. URBAN: And just to follow on Mr. Mactaggart,  
25 again, can we call people and offer them the posting? Can

1 we post it on social media?

2 MS. GARCIA: Absolutely. That would -- that could  
3 all be part of our recruitment. And we've done that across  
4 the agency -- the agency in terms of the positions. We've  
5 also advertised on the Capitol Morning Report, for example,  
6 and also like professional IAPP organizations to get broad  
7 reach. And then you can obviously share at least the link  
8 to the recruitment with networks. Absolutely.

9 MS. URBAN: Thank you. All right. I have one -- I  
10 have an additional request, which is that we take advantage  
11 of -- we take advantage of processes that CalHR and/or DGS  
12 can provide to us to cast a net that will be open to and  
13 welcoming of people underrepresented in the industry and  
14 underrepresented in state government so that we can have as  
15 inclusive and full search as possible, and that it is  
16 welcoming to candidates who might not otherwise think that  
17 they should apply.

18 MS. GARCIA: Thank you.

19 MS. URBAN: Okay. In that case, may I have a  
20 motion to approve moving forward with the hiring plan we  
21 have discussed for the executive director position, which is  
22 based on the materials we have today with amendments flowing  
23 from the Board's discussion today, and to delegate to staff  
24 portions of the hiring process is recommended by Chief  
25 Deputy Executor -- Executive Director Garcia, with the

1 hiring decision to be made by the Board.

2 MR. LIEBERT: That is perfect.

3 MS. URBAN: Thank you, Mr. Liebert. I have a  
4 motion. Do I have a second.

5 MR. LE: Second.

6 MS. URBAN: Thank you. I have a motion from Mr.  
7 Liebert and a second from Mr. Le. And with that, I'd like  
8 to ask if there's public comments on this item.

9 MS. MARZION: Okay. This is for Agenda Item number  
10 7. If you'd like to make a comment at this time, please  
11 raise your hand using the "raised hand" feature, or by  
12 pressing star nine if you're joining us by phone. This is  
13 for Agenda Item number 7.

14 Madam Chair, I'm not seeing any hands at this  
15 time.

16 MS. URBAN: Thank you, Ms. Marzion.

17 In that case, I will ask the Board to vote on  
18 whether to approve the motion as stated. And, Ms. Marzion,  
19 would you please perform the roll call vote?

20 MS. MARZION: Yes. Board Member Le?

21 MR. LE: Aye.

22 MS. MARZION: Board Member Liebert?

23 MR. LIEBERT: Aye.

24 MS. MARZION: Board Member Mactaggart?

25 MR. MACTAGGART: Aye.

1 MS. MARZION: Board Member Worthe?

2 MR. WORTHE: Aye.

3 MS. MARZION: Chair Urban?

4 MS. URBAN: Aye.

5 MS. MARZION: I have -- Madam Chair, you have five  
6 yeses and zero nos.

7 MS. URBAN: Thank you very much, Ms. Marzion.  
8 Thank you to the staff for putting this together, the Board  
9 for the careful discussion and approach that you'll be  
10 taking to hiring a new executive director. And most of all,  
11 thank you, Mr. Soltani, for your exemplary service to the  
12 agency and to the state of California and to privacy for  
13 everyone. Thanks again.

14 And we will now move to Agenda Item number 8,  
15 regulation proposals and priorities discussion. As a  
16 reminder for everyone, this is on our regularly scheduled  
17 agenda twice a year. It's an opportunity to staff -- for  
18 staff to let us know what priorities for regulations are  
19 coming up over time, and for the Board to propose topics for  
20 prioritizing in regulations.

21 We lasted this in May, I believe, and this is our  
22 regularly scheduled discussion. It will be presented by Mr.  
23 Laird, our general counsel, and Lisa Kim, senior privacy  
24 counsel and advisor for the CPPA.

25 Ms. Kim, please go ahead.

1 MS. KIM: Good afternoon. I'm Lisa Kim, senior  
2 privacy counsel and advisor here at the agency. I'm a  
3 little surprised we got to this. So I personally, I want to  
4 congratulate the Board for their efficiency today. So as  
5 mentioned, Item 8 is our biannual update on the rulemaking  
6 efforts and items proposed by individual board members as  
7 well as those of the public.

8 As Chair Urban mentioned, this was something that  
9 we covered during May meeting. And during that May meeting,  
10 we provided the Board with the attached chart in your  
11 meeting materials. Given the agency's workload at the time,  
12 the Board decided to wait until the next biannual  
13 regulations discussion to begin assigning priority to the  
14 concepts -- to the concepts that were introduced.

15 So the chart and the updated rulemaking topics  
16 document in your materials represents ideas that have been  
17 raised by individual board members, lawmakers, and the  
18 public on various occasions. If the Board recalls, these  
19 were generally items in the chart last year, and they were  
20 identified as requiring more time and resources.

21 At that time, the Board had not expressly  
22 determined which topics staff should dedicate resources to  
23 analyze and/or pursue when it has the capacity to begin new  
24 projects. And, certainly, we can add or delete items off  
25 the list. Some were introduced by former board members. So

1 to the extent that the Board is not interested in pursuing  
2 the many longer, we can certainly remove them from the list.

3 Now I just wanted to take a moment, if the Board  
4 would like us to move forward with any of these items, we do  
5 ask that the Board come to a consensus and provide us some  
6 specific direction, even if that direction is to go out and  
7 do some preliminary research and then come back and present  
8 ideas. But it would be very helpful for us as staff to have  
9 consensus and clear direction from the Board.

10 We could note and recommend a few possible action  
11 items. First, you know, one of the items that staff has  
12 internally identified would be for the topic of authorized  
13 agents. Over the years, we have received several comments  
14 or topics that relate to this topic, and it would also align  
15 with our rulemaking mandate under DROP.

16 Another possible item that has been raised by  
17 members of the Board are regulations related to employment  
18 since the CCPA does apply to employees or employees that are  
19 considered consumers. And a third possible item that we'd  
20 like -- that we have identified is potentially some  
21 rulemaking related to financial incentives or specifically  
22 loyalty programs.

23 So those are three topics we wanted to put out for  
24 the Board to consider, but also anything related to topics  
25 identified or in addition, anything you'd like to speak to,

1 this would be a great time to do it.

2 MR. LAIRD: Thank you, Ms. Kim. And I'm just going  
3 to jump in to say as well, I think staff's feeling is many  
4 of the things that you've seen on this list and the items  
5 that Ms. Kim just mentioned are things that will take a  
6 little bit of time for staff to really kind of sink their  
7 teeth into, do some preliminary research, and come back with  
8 some initial recommendations.

9 So the point being, we're not necessarily thinking  
10 these are anything we could execute immediately, but the  
11 next step would potentially be for staff to come back after  
12 having done sort of that additional leg work to kind of come  
13 back with a full fledged proposal for these topics. So,  
14 again, we largely do defer to the Board here and are eager  
15 to hear what the thoughts are from the members, but are  
16 willing to start work on any number of these topics.

17 MS. URBAN: Thank you very much, Ms. Kim and Mr.  
18 Laird. I think in return I would at least ask if you have a  
19 sense of, if we start loading you up when we have gone  
20 beyond your resources, because I have some ideas, and I, you  
21 know, I realize that we have the DROP system to come, you  
22 know, we have a lot of things that are to come that are  
23 required by our statute or other statutes. And so I want to  
24 be sure that we're proceeding in a reasonable manner.

25 With that said, understood, heard loud and clear



1 that the policy priorities need to come from the Board. So  
2 we appreciate that. And we -- and we will work on that.  
3 I'll start us off. I think the three that you identified,  
4 Ms. Kim, are very good candidates for the reasons that you  
5 mentioned, but the agents for opt-outs, we have heard quite  
6 a bit about that. And there does seem to be some desire and  
7 need for some implementation that would help everyone know  
8 how to proceed.

9 With regard to the regulations relating to  
10 employment, I hope I'm not speaking \*\*on term, I think Mr.  
11 Mactaggart has mentioned that before as well it does seem to  
12 be something that, again, we are hearing a lot from labor,  
13 we're hearing from employers, and that seems -- that seems  
14 important.

15 Similarly, with financial incentives and loyalty  
16 programs, that's an area in the statute we haven't worked  
17 with in terms of making sure people have the information  
18 they need to implement it. So those are -- those all seem  
19 very helpful to me.

20 It also seems like quite a lot if it were all on  
21 your plate. And let me just say one more thing, which is  
22 you've heard part of this from me before. I know it's a  
23 fairly big lift and it's something that we will do when we  
24 have the resources, but I do think it would be incredibly  
25 valuable to both the regulated community and to consumers

1 for us to produce model notices and disclosures.

2 And today we heard a comment asking for model risk  
3 assessments. I think that that is a value that we could  
4 really add. I think it's probably not intuitive to many  
5 people that we can't just write those, that we would have to  
6 do them through regulation.

7 And when there is resource opening, I would like  
8 us to think about doing that because I think it could be so  
9 valuable for businesses who maybe, you know, don't want to  
10 write a bespoke one or have somewhat fewer resources, and  
11 for consumers because they would be able to know sort of  
12 what the model version means at least.

13 So starting us off with one, are there other  
14 thoughts, options?

15 Mr. Liebert.

16 MR. LIEBERT: I just want to echo what you said.  
17 I've gotten the impression from today's meeting that you're  
18 all plenty busy. And so I love the points that you made,  
19 especially the one that we probably need to kind of give our  
20 staff here a little pause as they're trying to accomplish  
21 all these other things which need to be accomplished really  
22 well in the midst of lots of pressures from a lot of  
23 different directions.

24 So I know you're appropriately seeking our  
25 guidance about jumping into new things, but I'm certainly

1 aware of the benefits of giving you the space that you need  
2 to get this other stuff up and running.

3 MS. URBAN: Thank you, Mr. Liebert.

4 I have a process question as well in line with  
5 that, which is, if we were to sort of stick with what's on  
6 our plate, but make sure we have the list, we could revisit  
7 this in May and sort of --

8 MR. LAIRD: Absolutely.

9 MS. URBAN: Okay.

10 MR. LAIRD: We can -- we can -- we'll be happy to  
11 revisit this at any time.

12 MS. URBAN: Okay. And then the second thing, which  
13 probably goes without saying, is that I'm sure staff will  
14 inform us if there's an emergency, which would usually be,  
15 we have, you know, legislation that requires us to do a  
16 regulation right away or it could be though that something  
17 is happening in the world and the regulation really needs to  
18 be done right then. Thank you.

19 Mr. Le.

20 MR. LE: Yeah, I'll echo the other board members.  
21 And, you know, I don't think any of this needs to be  
22 addressed until we get these rulemaking packages well  
23 underway that we voted out today. Now, I -- you know, just  
24 for May or consideration like six months from now or  
25 whenever there is capacity, yeah, I'll double click on the

1 employee data, you know, figuring out like what needs  
2 clarification there from the regulated community and  
3 employers and employees.

4 And also I'm just maybe curious about like, where  
5 insurance is at, right? I think we talked about where the  
6 gap filler between insurance, but I don't know if there's  
7 been progress on those model insurance regulations. So I'll  
8 add that to the list. I know there's other folks who are  
9 interested in that. So just a status update potentially.

10 MS. URBAN: Thank you, Mr. Le.

11 Mr. Laird?

12 MR. LAIRD: If I may, I'll just respond to Mr. Le  
13 about his second suggestion. It's something staff is  
14 continuing to monitor actively and in fact, we have a  
15 meeting scheduled next week with the Department of Insurance  
16 due to some updates in the model code, so we'll be looking  
17 forward to updating the Board on those.

18 MR. LE: Yeah. Thank you.

19 MS. KIM: Thank you, Mr. Laird.

20 Mr. Mactaggart?

21 MR. MACTAGGART: Thanks. So I agree with the  
22 Chair, but let me just actually ask you -- oh, sorry. I  
23 agree with the Chair, but let me just ask you, Ms. Kim, if  
24 you were to go through or you and your team to go through  
25 this list, where do you -- were those three that you gave

1 us, the authorized agents, the employee regs, and loyalty,  
2 are those where you think in a perfect world you'd spend  
3 your time first?

4 MS. KIM: I think there is room there for us to  
5 explore those areas, especially given the comment and the  
6 feedback that we've received. But it's also somewhat in  
7 line with trying to think how we can harmonize what is  
8 already on our plate, particularly, with regard to DROP.  
9 But that said, I would have to agree with Chairperson Urban,  
10 that all three would be quite a lot of work. We can explore  
11 perhaps where we could see some synergy and best utilize our  
12 resources and be efficient in, you know, addressing one or  
13 two of the topics.

14 MR. MACTAGGART: And for you when you guys talk  
15 about it, and I'll -- by the way, I love the notion of the  
16 model disclosures and the model recruits. I think it's  
17 great. Where would you rank order them in a -- in a world  
18 of limited priorities?

19 MS. URBAN: I know you tried.

20 MS. KIM: I -- I'm not sure if I could answer that  
21 question on my own. Certainly, there's a whole legal  
22 department. I don't think we've necessarily done a survey  
23 or anything amongst us.

24 MR. MACTAGGART: Reason -- the reason I'm asking is  
25 because, you know, we all I think here understand that it's

1 -- they're busy, but at the same time, we want to give you a  
2 sense of what to -- what to go forward. And I just rather  
3 than sort of loosey goosey just kind of go, there's four  
4 things on the table right now. I kind of wouldn't mind just  
5 us as a Board giving you feedback to rank order them. I  
6 mean, I don't know whether we all want to jump in here, but  
7 at least like to give you a direction.

8           And if nothing gets done because you're so busy on  
9 this stuff, great. But, like, at least it tells you that we  
10 thought that they should be in this order. So, I mean, we  
11 can tell you. I guess we could take a poll here, but I  
12 would just as soon have -- because you might be like, well,  
13 this one actually is only going to take X amount of time, so  
14 we might as well knock it off because this other -- the  
15 other one's a huge lift.

16           MR. LAIRD: I actually find this very helpful and I  
17 was going to propose if the Board would be comfortable, you  
18 know, we've identified now four topics, including the  
19 Chair's that are kind of broad strokes, big topics. And so  
20 I think what we could do is actually take that back, do some  
21 thinking on these and come back with a proposal on what we  
22 might strategize -- prioritize and strategize for starting  
23 the work on this -- on these items.

24           MR. MACTAGGART: That would -- that would -- like  
25 at the next meeting?

1 MR. LAIRD: Potentially, if we're going to do a  
2 meeting in December, we could strive to. That might be a  
3 little bit of a lift, but certainly by the meeting.

4 MR. MACTAGGART: If you can prioritize it. I mean  
5 --

6 MR. LAIRD: Yeah.

7 MR. MACTAGGART: -- I'm not talking about doing  
8 them obviously.

9 MR. LAIRD: Okay. Fair enough.

10 MR. MACTAGGART: Yeah, just prioritizing. Just  
11 telling us a list. I would -- I would --

12 MR. LAIRD: Prioritize, we absolutely can.

13 MR. MACTAGGART: Okay.

14 MR. LAIRD: I -- what I'd love to do though is also  
15 maybe make some recommendations along strategies, right?  
16 Maybe preliminary comment on one of these or something where  
17 we could at least start information gathering early on. So  
18 priority's easy by December, but we -- if we can, we'd love  
19 to even provide a little bit more in terms of the strategy.

20 MR. MACTAGGART: And then I have a sort of -- that  
21 was the bigger picture thing, and then I have a couple of  
22 small comments as usual. So one thing, if you wouldn't mind  
23 -- I don't know, Mr. Laird or Ms. Kim, at some point, I do  
24 like the idea of -- are we allowed to legally have like a  
25 bounty kind of system where people report.

1           And I remember back in the day, you used to be  
2 able to call for like the air quality if you saw a car, you  
3 know, a smog thing or whatever. And at least if we get  
4 reported, we can do that. But could you have a system where  
5 we paid someone something, I don't know, like a bounty kind  
6 of, if they report some violation, some website that's not  
7 displaying the Do Not Sell button?

8           MR. LAIRD: Great question. Under the law is  
9 currently written we could not do that. However, I believe  
10 we're aware of legal models that are out there if there was  
11 an interest in pursuing a legislative sort of function like  
12 that.

13           MR. MACTAGGART: So could I just add -- ask that  
14 where there is a list somewhere of legislation, I think  
15 Maureen's here somewhere or Ms. Mahoney was, but could we  
16 add a list? That's the list of things to be on that list.  
17 And then just kind of wordsmithing here, if you don't have  
18 right there probably in front of you, but in a regulation  
19 here in 7012(e)(3), we're talking about TBs or smart, you  
20 know, that they collect your information.

21           And it says that the consumer will encounter the  
22 notice before the device begins collecting the personal  
23 information. If you could just, at some point, think about  
24 adding before and after because what I find oftentimes is  
25 you see the -- you see the notice once and then it



1 disappears, and finding it again it's just like it takes you  
2 15 minutes to find it because they've hidden it now. They  
3 -- they're like, oh, we showed it to you and then your kid  
4 pushes the wrong button, you're in the wrong screen. You're  
5 like, oh, I can't find it back. That's in 7012 (e)(3) and  
6 also in 7014 (e)(4).

7           And then my only -- my last -- I promise I'm about  
8 to end here. 7012(e)(3) and 7014(e)(4)(C) -- (e)(3)(C), I'm  
9 sorry. And then my only other thing in 7015 we're talking  
10 about the opt-out -- the button. And I just would love it  
11 if you guys would also maybe think about just clarity there,  
12 because I cannot tell you how many times -- I mean, we're  
13 all pretty expert here. I'm on the site, it's like, push  
14 the button. I'm like, what do I do? Left or right?

15           Because they're making it difficult and they're  
16 doing it on purpose. And then you have to like, rethink,  
17 okay, they're trying to trick me into doing this. I'm going  
18 to do the other, you know. And it's just super frustrating.  
19 And it would be wonderful if it was clear, push this button  
20 to opt-out.

21           Some sites are great and they make it super clear,  
22 and then some sites are not. So I know you've got the  
23 little sticker here, but even though I saw the check mark in  
24 the X, I'd be like, was check sell or is check opt-out? I  
25 don't know. Or Xs don't sell. So, thank you. I'm done.

1 MS. URBAN: Thank you, Mr. Mactaggart.

2 I'm just going to join a little small complaint  
3 about like the ones that meld it with cookies as well and  
4 you don't have any idea what you've actually opted in or out  
5 of. It's very frustrating.

6 All right. Any further comments?

7 Mr. Liebert, are you --

8 MR. LIEBERT: Yeah, I'm just struggling, cookies,  
9 cookies, cookies. First of all, who came up with that term?  
10 Second of all, if we do surveys, what percentage of people  
11 actually really understand the cookie process and how  
12 cookies work and how they last and what does it mean and all  
13 of those things? That's a whole new area that obviously is  
14 going to require education.

15 MS. URBAN: Thank you. All right. Given that, is  
16 it -- would we like to ask Mr. Laird and Ms. Kim to prepare  
17 a sense of priorities among the four options that we  
18 discussed directly today for our December meeting or close  
19 thereafter, and perhaps with a little background information  
20 behind them so that the Board can help them prioritize next  
21 step.

22 I see nodding heads. I don't think I need to vote  
23 on this, do I? Okay. Wonderful. With that, I would like  
24 to request public comment.

25 MS. MARZION: This is for Agenda Item number 8. If

1 you'd like to make a public comment at this time, please  
2 raise your hand using the "raised hand" feature or by  
3 pressing star nine if you're joining us by phone. Again,  
4 this is for Agenda Item number 8.

5 Madam Chair, I'm not seeing any hands raised at  
6 this time.

7 MS. URBAN: Thank you, Ms. Marzion. Thank you to  
8 the Board and thank you very much to Ms. Kim and Mr. Laird  
9 for keeping us on the path. And we will help you as much as  
10 we can. With that, we will turn to Agenda Item number 9,  
11 which is our agenda item for future agenda items.

12 As a reminder, under this agenda item, board  
13 members and the public can propose items for future -- for  
14 discussion -- agenda discussion at future board meetings.  
15 The Board cannot discuss or deliberate those items directly,  
16 but we can discuss putting them on a future agenda. We do  
17 have a regularized schedule we've been working to. There  
18 were some other items usually for November, which we will  
19 probably pick up in December. I'm not sure whether we have  
20 announced the December board meeting.

21 Is it all right if I do that? I assume it is, of  
22 course. We will be meeting on December 19th in Sacramento  
23 in the location where we had one of our hearings or our  
24 public comment sessions, preliminary rulemaking for the  
25 ADMT, cybersecurity regulations, and risk assessment draft

1 regulations. The information will all be available soon,  
2 and we will also hold that in a hybrid format as well.

3 It is on a Thursday, just to give everybody a  
4 heads up, instead of on a Friday. And we will be working to  
5 address some of the regularized agenda items that would  
6 normally be on the November calendar that were displaced by  
7 the October meeting being rescheduled. We also have a few  
8 things that are under development and the Hopper that  
9 haven't come back yet. Question of adequacy from the  
10 perspective of the EU.

11 We had discussed maybe some EC experts present to  
12 us, collaboration with legislature and other agencies. That  
13 is on the timeline that's going to make the most sense, but  
14 it's on our list. Growth and hiring. Of course, below the  
15 Board will be working to hire an executive director. But we  
16 also have on the agenda perhaps discussion of contract for  
17 services, which can't be provided by employees and so forth.

18 We, of course, have formal rulemaking going into  
19 effect for the large package that we talked about under  
20 Agenda Item number 3 today. And those will come back for  
21 full Board consideration a couple of times at least. And  
22 then as Mr. Laird -- or sorry, Mr. Le asked about the  
23 insurance regulations may come back for discussion as things  
24 develop there.

25 This adds to my -- a running list from previous

1 meetings as well, which is the public awareness budget  
2 details and breakdown as that continues. And we do have a  
3 request maybe for metrics on success. More public  
4 awareness. We always want more. We're rapacious. We want  
5 more and more cookies and so forth, would be -- that was  
6 actually already on my list, Mr. Liebert.

7 So -- and we've covered a few things already. We  
8 will return just to close up the rulemaking process  
9 subcommittee that Ms. De La Torre finished out right before  
10 she left. And the Board handbook is still outstanding. In  
11 December, we will also talk about the regularized calendar  
12 for the upcoming year and the schedule for board meetings.

13 With that, do board members have additional agenda  
14 items to consider?

15 No? Thank you very much. In that case are there  
16 additional agenda items from the public?

17 MS. MARZION: Okay. This is for Agenda Item number  
18 9, future agenda items. If you'd like to comment at this  
19 time, please raise your hand using the "raised hand"  
20 feature, or by pressing star nine if you're joining us by  
21 phone.

22 Madam Chair, I'm not seeing any hands raised at  
23 this time.

24 MS. URBAN: Thank you, Ms. Marzion. Thank you to  
25 the Board. With that, we have finished our agenda proper,

1 and we will move to Agenda Item 11, which is adjournment.  
2 Our final agenda item for today. I'd like to thank board  
3 members for their time, attention, and care today, staff for  
4 their expertise and their hard work on behalf of the agency  
5 and supporting the Board's work and making it possible for  
6 us to do our part of the work for the public.

7 Mr. Soltani, most especially for getting us where  
8 we are today. And to everyone for their contributions to  
9 the meeting. I'd like to thank our technical support. I  
10 can see in the window in the back. Thank you so much for  
11 keeping us going all day on this long meeting, and Ms.  
12 Marzion for her expert moderation. Everyone who has  
13 contributed, thank you very much. May I have a motion to  
14 adjourn the meeting?

15 MS. MARZION: Yes, the motion is to adjourn.

16 MS. URBAN: I need to actually have it first.

17 MS. MARZION: Oh, sorry.

18 MS. URBAN: Thank you. It's Friday afternoon and  
19 there is traffic. Yes. Thank you. I have a motion to  
20 adjourn the meeting from Mr. Le and a second from Mr.  
21 Worthe.

22 Ms. Marzion, could you please conduct the roll  
23 call vote?

24 MS. MARZION: Yes, absolutely. The motion is to  
25 adjourn. Board Member Le?

1 MR. LE: Yes.

2 MS. MARZION: Board Member Liebert?

3 MR. LIEBERT: Before I say aye, I just want to just  
4 let everybody know that all of these great staff are driving  
5 back to Sacramento on a Friday, a three-day weekend. And,  
6 boy, it's going to be tough. So thank you all very much for  
7 coming here.

8 Aye for adjourn.

9 MS. MARZION: Thank you. Board member Mactaggart?

10 MR. MACTAGGART: I'm optimistic. So I'll say it's  
11 going to be a good ride back for you guys. I vote yes.

12 MS. URBAN: Board member Worthe.

13 MR. WORTHE: You'll still get home before I will.  
14 Aye.

15 MS. MARZION: Chair Urban?

16 MS. URBAN: Aye.

17 MS. MARZION: Madam Chair, you have five yeses?

18 MS. URBAN: The motion passes with a vote of 5 to  
19 0. And with that, the -- this meeting of the California  
20 Privacy Protection Agency Board stands --

21 (Meeting Adjourned)

22

23

24

25