



Notices & Disclosures Recommendations for Board Consideration

California Privacy Protection Agency

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AGENDA

- I. Background on Notices & Disclosures**
- II. Preliminary Rulemaking Activities**
- III. Recommendations for Board Consideration**

Background on Notices & Disclosures

Notices & Disclosures: Background

- Fundamental to [California's constitutional] right of privacy is the ability of individuals to control the use, including the sale, of their personal information. (Prop. 24, as approved by voters, Gen. Elec. (Nov. 3, 2020), § 2(A).)
- Many businesses collect and use consumers' personal information, sometimes without consumers' knowledge regarding the business's use and retention of their personal information... In addition, the terms of agreement or policies in which the arrangements are spelled out, are often complex and unclear, and as a result, most consumers never have the time to read or understand them. (*See id.* at § 2(E).)
- Consumers should know who is collecting their personal information, how it is being used, and to whom it is disclosed so that they have the information necessary to exercise meaningful control over businesses' use of their personal information. (*See id.* at § 3(A).)
- [I]f a consumer can tell a business not to sell the consumer's data, then that consumer will not have to scour a privacy policy to see whether the business is, in fact, selling that data, and the resulting savings in time is worth, in the aggregate, a tremendous amount of money. (*See id.* at § 2(G).)

Overview of Notice Requirements

Article 2 Required Disclosures:

- § 7011 Privacy Policy
- § 7012 Notice at Collection
- § 7013 Notice of Right to Opt-Out of Sale/Sharing
- § 7014 Notice of Right to Limit Sensitive PI
- § 7015 Alternative Opt-Out Link
- § 7016 Notice of Financial Incentive

Other Key Disclosure Requirements:

- § 7002 Purpose Limitation & Data Minimization
- § 7003 Requirements for Disclosures and Communications to Consumers
- § 7220 Pre-Use Notice Requirements for ADMT

Preliminary Rulemaking Activities

PRELIMINARY WRITTEN COMMENTS

- **> 20 written comments received, > 150 pages**
 - Comments relate to both notices & disclosures and employment data rulemaking topics
- **Commenters represented:**
 - Businesses and trade organizations
 - Consumers and consumer advocacy organizations
 - Academia

SUMMARY OF WRITTEN COMMENTS

Themes from Notices & Disclosures comments:

- Privacy policy should be easier to understand and navigate
- Additional guidance to promote consistent and clear disclosures
- Strengthen privacy protections on data collection and use

Notices & Disclosures Recommendations for Board Consideration

RECOMMENDATIONS OVERVIEW

1. Making Privacy Policies Easier to Navigate (§ 7011)
2. Improving Regulatory Clarity (§§ 7011, 7012)
3. Prior Privacy Policies (§ 7011)
4. Financial Incentive Program Revision (§ 7016)
5. Additional Examples (§ 7002)

1. Making Privacy Policies Easier to Navigate

Making Privacy Policies Easier to Navigate Cont.

Staff Recommendation

Require a short notice at the top of the privacy policy that includes the business's data practices and easy access to consumer rights portals or webforms.

2. Improving Regulatory Clarity

Improving Regulatory Clarity Cont.

Staff Recommendation

1. Sale/Sharing:

- Provide additional guidance that § 7011(e)(1)(D) requires a definitive past-tense statement (e.g., “In the past 12 months, we did/did not sell or share personal information”).

Improving Regulatory Clarity Cont.

Staff Recommendation

2. Retention:

- Provide additional guidance that vague retention statements (“as long as necessary”) are insufficient.

Improving Regulatory Clarity Cont.

Staff Recommendation

3. Collection:

- Provide additional guidance on what constitutes “meaningful understanding.”

Improving Regulatory Clarity Cont.

Example of “Meaningful Understanding”

- 7011(e)(1)(A): To the extent that the business has discretion in its description, the business shall describe the *category* in a manner that provides consumers a **meaningful understanding** of the information being collected.

3. Prior Privacy Policies

Previous Versions of Privacy Policy

Staff recommendation

Add a new subsection § 7011(f) requiring businesses to publish their prior privacy policy.

4. Financial Incentive Program

Financial Incentive Program Clarification

Staff recommendation

Require businesses to disclose the name of the consumer-facing financial incentive program and corresponding URL if they provide a CCPA-required “Notice of Financial Incentive.”

5. § 7002 Examples

Additional Examples — § 7002

Staff recommendation

Provide additional guidance on how disclosures to consumers work within the CCPA's purpose limitation requirements.

