# What Is OOPS And How Does A Business Respond?

### California Privacy Protection Agency

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All California consumers have the right to opt-out of the sale and sharing of their personal information, including through an **"opt-out preference signal"**, or **"OOPS"** for short.

# WHAT IS AN OPT-OUT PREFERENCE SIGNAL (OOPS)?

An OOPS is a simple and easy-to-use way for consumers to automatically exercise their right to opt-out of the sale and sharing of personal information with all the businesses they are interacting with online. With an OOPS, a consumer does not have to make individual requests with each business.

#### DOES MY BUSINESS HAVE TO RESPOND TO AN OOPS?

A business that answers yes to all these questions must treat an OOPS as a valid request to opt-out of sale/sharing:

- Are you a "business" that must comply with the CCPA?
- Do you collect personal information from consumers online?
- Do you sell or share personal information?

#### WHICH SIGNALS DOES MY BUSINESS HAVE TO PROCESS AS A VALID REQUEST TO OPT-OUT?

Signals that meet all the following requirements:

- Are in a format commonly used and recognized by businesses (e.g., an HTTP header field or JavaScript object)
- Make clear to the consumer that it's meant to have the effect of opting them out of the sale/sharing of their personal information (e.g., in the signal's configuration or public disclosures)

An example of an OOPS is the Global Privacy Control, a protocol available via internet browser or a browser extension, that automatically sends a signal to businesses they are interacting with that they want to opt-out.

"Sell" means to disclose or make available personal information to a third party for monetary or other valuable consideration.

"Share" means to disclose or make available personal information to a third party for cross-context behavioral advertising.

The California Privacy Protection Agency's mission is to protect consumer privacy, ensure that businesses and consumers are well-informed about their rights and obligations, and vigorously enforce the California Consumer Privacy Act.

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#### WHAT DOES MY BUSINESS NEED TO DO IN RESPONSE TO AN OOPS?

A business that receives an OOPS must stop selling and sharing any personal information associated with:

- That browser or device.
- **Any profile,** including pseudonymous profiles (*e.g., "user1234"*), associated with that browser or device.
- The consumer, if known. If a consumer is logged into their account with the business while visiting the business's website, the business knows the identity of the consumer and must apply the OOPS to all personal information associated with the consumer's account.

The business must stop selling and sharing that consumer's personal information as soon as feasibly possible, but no later than 15 business days after receiving the request.

#### WHAT IF THERE'S A CONFLICT BETWEEN OOPS AND THE CONSUMER'S PRIVACY SETTINGS?

If the OOPS conflicts with a consumer's business-specific setting allowing the sale or sharing of their personal information, the business still needs to treat the OOPS as a valid request to opt-out of sale/sharing.

The business may notify the consumer of the conflict and give the consumer the option to consent to the sale or sharing of their personal information, but the business must apply the OOPS unless the consumer states otherwise.

If the consumer is known to the business, the business may only ask the consumer to opt back into the sale or sharing of their personal information once every 12 months.

For more information California Privacy Protection Agency https://cppa.ca.gov/faq

#### ARE THERE SPECIAL REQUIREMENTS FOR BUSINESSES RESPONDING TO OOPS?

A business can give the consumer the option of providing more information, only if it will help facilitate the consumer's request to opt-out of sale/sharing. E.g., Asking the consumer to login to their account so the request to opt-out of sale/sharing can apply to the consumer's account with the business.

If the consumer chooses not to do so, the business must still apply the OOPS to the browser or device and any consumer profile associated with that browser or device, including pseudonymous profiles.

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#### WHAT IF THE CONSUMER IS PART OF A FINANCIAL INCENTIVE PROGRAM THAT REQUIRES SALE OR SHARING?

If the OOPS conflicts with the consumer's participation in a financial incentive program that requires the sale or sharing of personal information, the business may:

- Notify the consumer that the OOPS would withdraw the consumer from the financial incentive program; and
- Ask the consumer to confirm that they intend to withdraw from the financial incentive program.

If the consumer confirms, the business must comply with the OOPS.

If the consumer does not confirm their intent or ignores the request, the business may ignore the OOPS with respect to that consumer's participation in the financial incentive program.

If the business does not ask the consumer to confirm their intent, the business must still process the OOPS.

**Note:** Businesses must comply with certain requirements when obtaining consumer consent. Agreement obtained through the use of dark patterns does not constitute consent. See 11 C.C.R. § 7004.

#### WHAT IS THE FRICTIONLESS RESPONSE TO OOPS?

A business that responds to an OOPS in a "frictionless" manner is not required to post the "Do Not Sell or Share My Personal Information" link or the Alternative Opt-out Link required by the CCPA.

To qualify for this exception, a business must NOT do the following:

- Charge a fee or something else of value if the consumer uses an OOPS.
- Change the consumer's experience with the product or service offered by the business.
- Display a notification, pop-up, text, graphic, animation, sound, video, or any interstitial content in response to the OOPS. (Displaying the status of the consumer's opt-out does not violate this provision.)

The business must also include all the following in its privacy policy:

- A description of the consumer's right to opt-out of sale/sharing.
- A statement that the business processes the OOPS in a "frictionless" manner.
- Instructions for any methods by which a consumer can submit a request to opt-out of sale/sharing, including via OOPS.