



State of California
Office of the Attorney General

XAVIER BECERRA
ATTORNEY GENERAL

February 25, 2020

The Honorable Roger Wicker
Chairman
U.S. Senate Committee on Commerce,
Science, & Transportation
555 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
U.S. Senate Committee on Commerce,
Science, & Transportation
510 Hart Senate Office Building
Washington, DC 20510

The Honorable Frank Pallone, Jr.
Chairman
U.S. House of Representatives Committee
on Energy & Commerce
2107 Rayburn House Office Building
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
U.S. House of Representatives Committee
on Energy & Commerce
2185 Rayburn House Office Building
Washington, DC 20515

RE: The California Consumer Privacy Act and Federal Privacy Legislation

Dear Chairman Wicker and Ranking Member Cantwell; and Chairman Pallone and Ranking Member Walden:

I write to express my appreciation for your ongoing efforts to advance legislation to extend much-needed data privacy rights to consumers across the country. As you continue this process, I want to provide a brief update on the implementation of the California Consumer Privacy Act (CCPA), which went into effect on January 1, 2020. I hope that your work can be informed by our undertaking in California. I am optimistic Congress will be able to craft a proposal that guarantees new privacy rights for consumers, includes a meaningful enforcement regime, and respects the good work undertaken by states across the country, looking to state law as providing a floor for privacy protections, rather than a ceiling.

As you know, California consumers now enjoy robust new data privacy rights, including the right to know, the right to delete, and the right to opt out. Consumers can find out what categories of personal information a business collects about them, as well as specific pieces of personal information obtained. Consumers can request that businesses delete the information about them that is held by a business and by a business's service providers. And consumers can opt out of the sale of their personal information. Businesses cannot sell the personal information



of children under the age of 16 without opt-in consent, and a parent or guardian's consent is required for children under 13.

CCPA applies to businesses that meet at least one of three criteria: (1) have gross annual revenues in excess of \$25 million; (2) buy, receive, or sell the personal information of 50,000 or more consumers, households, or devices; or (3) derive 50 percent or more of their annual revenue from the sale of consumer information. CCPA requires these businesses to provide notice to consumers at or before the time that their data is collected; to create procedures to respond to requests to know, delete, and opt out; and to post a "Do Not Sell My Information" link on their website or mobile app. Businesses must verify the identity of consumers who make requests to know and requests to delete, whether or not the consumers have password-protected accounts. Finally, businesses must disclose any financial incentives they offer in exchange for a consumer's personal information and must explain how they have calculated the value of the incentive and why it is not discriminatory against consumers who exercise their rights under the law.

CCPA is now in effect, and enforcement of the law will begin following promulgation of final regulations. We released draft regulations on October 10, 2019, followed by an extensive public input and comment period. We then released a revised draft on February 10, 2020, after reviewing hundreds of comments. Today, the final period for public comment closes. Now we will review all comments to inform our final regulations, which must be published by July 1, 2020.

I urge you and your colleagues to develop a final bill that builds on the rights afforded by CCPA and the additional guidance in our regulations. Congress should provide consumers with data privacy protections, including but not limited to:

- The right to access, correct, and delete personal data that has been collected;
- The right to minimize data collection, processing, and retention;
- The right to data portability among services; and
- The right to know what data is collected and processed and for what reasons.

I welcome a federal partner with the tools and resources for vigorous enforcement of new consumer rights. Nevertheless, it's critical that Congress extend enforcement powers broadly. Congress should make clear in any legislative proposal that state attorneys general have parallel enforcement authority and that consumers also have the opportunity to protect their rights directly through a private right of action.

Finally, and most importantly, I invite Congress to look to the states as sources of innovation and expertise in data privacy, and not to undermine protections, like CCPA, that states have already developed. Therefore, as I noted above, I encourage Congress to favor legislation that sets a federal privacy-protection floor rather than a ceiling, allowing my state—

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and others that may follow—the opportunity to provide further protections tailored to our residents.

Should you have any questions on CCPA, its policy goals, or its interactions with potential federal legislation, please contact Alejandro Perez, Special Assistant to the California Attorney General, at alejandro.perez@doj.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Xavier Becerra", with a large, stylized loop at the end.

XAVIER BECERRA
California Attorney General