Data Privacy: A Shifting Environment and Governance That Works

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Our Current and Future Data Environment

- Data collection and use practices over the past decade
- Factors that will most significantly impact data collection and use in the coming 1 – 3 years
- Balancing benefits and risks of data collection and use as businesses innovate with data

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Update on CCPA/US State and Federal Laws
Peter Blenkinsop
CCPA Proposed Regulations

- **Timeline**
  - Initial proposed regulations published on October 11, 2019
  - First set of modifications to proposed regulations published on February 10, 2020
  - Second set of modification published on March 11
    - Comments due March 27
  - Significant Change from February 10 to March 11
    - Guidance issued in the Feb 10 draft of the regulations: information is not “personal information” if a business is unable to link that information to a particular consumer or household.
      - To illustrate a situation in which personal information would not be collected, the Attorney General provided an example of a business that collects the IP addresses of visitors to its website, but is unable to link the IP addresses to particular consumers or households.
      - This interpretation, which had the potential to significantly reduce the scope of the CCPA, has been removed.
    - Cross-industry group letter asked AG for temporary forbearance from CCPA enforcement until January 2021 in light of COVID-19 situation.
    - Consumer groups opposed delay and AG has indicated no delay will be provided.

California Privacy Rights Act of 2020

- **Timeline**
  - November 13, 2019: Final copy of the CPRA submitted to the California Attorney General.
  - June 25, 2020: Final date to determine whether the initiative qualifies for the November ballot.
  - November 3, 2020: Election day.
  - January 1, 2021: Adoption date of:
    - CPRA’s final regulations. [1798.185(d)].
    - Provisions of the CPRA pertaining to the exemptions for job applicants/employees and B2B and the establishment of the California Privacy Protection Agency. [1798.145(m), (n) and 1798.199.10].
  - January 1, 2023: Full operative date of the CPRA.
    - The CPRA would apply to personal information collected by a business on or after January 1, 2022.

- **Amendment**
  - The CPRA may only be amended by the legislature if the amendment is consistent with and furthers the purpose and intent of the CPRA, which is to strengthen consumer privacy.
2020 Privacy Bills

Comprehensive Bill Models
- [CA] California Model
- [NV] Nevada Model
- [NY] New York Model
- [WA] Washington State Model

2020 Legislative Sessions

as of March 29
Focus of Other State Privacy Bills

- Expansion of data breach notification laws
- Requirement to implement data security safeguards
- Restrictions on collection and use of biometric data
- Restrictions on collection and use of genetic data

Federal Privacy Legislation

  - Bipartisan draft
  - Roger Wicker = Senate Commerce Committee Chair
- S. 2968 – Cantwell (D – WA) – “Consumer Online Privacy Rights Act”
  - Maria Cantwell = Senate Commerce Committee Ranking Member
  - Jerry Moran = Commerce Subcommittee on Consumer Protection Chair
What We Are Seeing with CCPA Implementation

- Q1 2020 experiences with CCPA requests have varied by industry
  - MassMutual experience with website banner
- Challenges operationalizing a compliance program with late statutory amendments and draft regulations

California Consumer Privacy Rights

Effective Date: January 1, 2020

If you are a California resident, the California Consumer Privacy Act (CCPA) provides you with certain rights related to the collection, use, and sale of your personal information. Under the CCPA, you may choose not to have your personal information used for certain purposes.

Request to Know:

You may request that we disclose to you certain information about your personal information.

- The categories of personal information we collected about you.
- The categories of sources from which we collected personal information.
- Our business or commercial purposes for collecting personal information.
- The categories of personal information we sold or disclosed for a business purpose.
- The categories of personal information we disclosed to a third party for a business purpose.

Request to Delete:

You may request that we delete personal information we have collected from you. Subject to exceptions, once we receive and verify your request, we will delete the personal information we collect.

Beginning January 1, 2020, if you are a California resident and want to submit a CCPA request, you may:

- Contact us by phone at (866) 351-3563.
- Initiate requests to complete your form.
What We Are Seeing with CCPA Implementation

Privacy Governance Model

- Privacy governance models currently used
- Opportunity for change