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CALIFORNIA PRIVACY PROTECTION AGENCY

TRANSCRIPTION OF RECORDED PUBLIC MEETING

AUGUST 24, 2022

SACRAMENTO, CALIFORNIA

Present: BRIAN SOUBLET, General Counsel
CHRIS THOMPSON, Board Member
ASHKAN SOLTANI, Executive Director
VONGAYI CHITAMBIRA, Deputy Director of
Administration
TRINI HURTADO, Moderator

Transcribed by: Brittany D. Payne
eScribers, LLC
Phoenix, Arizona

1 **TRANSCRIBED RECORDED PUBLIC MEETING**

2 **August 24, 2022**

3 **MR. SOUBLET:** Good morning, and thank you for being
4 here. On behalf of the California Privacy Protection
5 Agency, I would like to welcome everyone to today's
6 hearing regarding proposed regulations implementing the
7 California Privacy Rights Acts amendments to the
8 California Consumer Privacy Act. My name's Brian
9 Soublet. I'm the acting general counsel for the
10 California Privacy Protection Agency. I will be the
11 hearing officer for today's proceedings.

12 I'd like to briefly introduce Board Member Chris
13 Thompson, to say a few words before we start these
14 hearings.

15 **MR. THOMPSON:** Thank you, Brian. And good morning.
16 My name is Chris Thompson. I'm one of the five board
17 members of the California Privacy Protection Agency
18 Board. And I want to thanks the executive director and
19 staff who -- who've worked diligently to put together
20 these hearings. And I'm really pleased to invite your
21 participation over the next couple of days.

22 We've -- this is a continuation of a trend. We've
23 seen impressive stakeholder engagement. I would say,
24 during the preliminary rulemaking period, we received
25 hundreds of pages of written pre-rulemaking comments from

1 the public, and there was a lot of robust engagement in
2 our pre-rulemaking informational sessions and the
3 stakeholder sessions that we held earlier this year.

4 On July 8th of this year, this Agency marked a key
5 milestone when it began the formal rulemaking process to
6 adopt proposed regulations implementing the California
7 Privacy Rights Act of 2020, the CPRA. That's a law that
8 is amending and building on the California Consumer
9 Privacy Act. The CPRA amendments, the 2020 law, to the
10 CCPA, give California residents new rights over their
11 personal information that covered businesses, regulated
12 business maintain about them.

13 These proposed regulations updates -- the proposed
14 regulations update the existing CCPA regulations to
15 harmonize them with the CPRA. And you're going to hear
16 these -- these abbreviations a lot over the next couple
17 of days. The -- the proposed regulations update the
18 existing CCPA regulations to harmonize them with the CPRA
19 amendments to the underlining CCPA.

20 The proposed regulations operationalize new rights
21 and concepts introduced in the 2020 CPRA to provide
22 clarity and specificity to implement the law, and then
23 there's some clean up and reorganization and
24 consolidation of -- of requirements set forth in the law
25 to make the regulations easier to follow and understand.

1 The Agency and its Board are in a listening mode.
2 We're learning as much as we can. And as I mentioned,
3 that Agency staff are organizing and moderating this
4 event, but members of the Board, including me, will be
5 listening closely to your comments. We're eager to hear
6 about your experiences and receive your input in this
7 rulemaking process. I'm really looking forward to -- to
8 hearing your input and engagement, and thank you for
9 participating. Back to you, Brian.

10 **MR. SOUBLET:** Thank you, Mr. Thompson. Also present
11 with me here today is Ashkan Soltani, the executive
12 director of the California Privacy Protection Agency, and
13 Ms. Trini Hurtado, who will be acting as today's
14 timekeeper.

15 For the record, today is August 24th, 2022, and the
16 time is 9:12 a.m. We are at the Elihu M. Harris State
17 Building located at 1515 Clay Street, Oakland,
18 California. This hearing is being conducted both in
19 person and virtually due to COVID-19 precautions.

20 As a note on the COVID-19 precautions, we encourage
21 members of the public participating in person to wear a
22 mask during the hearings. We have masks available at the
23 sign-in table if you need one. You may remove your mask,
24 if you're comfortable, while making your public comment,
25 to ensure that we have a clean record of what was said

1 today. But we encourage you to resume wearing one when
2 returning to your seat.

3 As a housekeeping issue, restrooms are on the right
4 as you exit the auditorium, and then they're down the
5 hall on the right. And additional housekeeping matter,
6 if you have a cell phone, please put it on silent.

7 Before we begin, there are a few points I would like
8 to make. The Notice of Proposed Rulemaking for the CCPA
9 regulations was published in the California Regulatory
10 Notice Register on July 8, 2022 in Register No. 27-Z,
11 starting at page 770. The notice and related rulemaking
12 documents were posted on the Agency's website on July
13 8th, 2022, and emailed to all interested parties who had
14 requested rulemaking notices.

15 Today is the first day of the public hearings that
16 were announced in that notice. The deadline for
17 submitting written comments closed on August 23rd, 2022
18 at 5 a.m. -- 5 p.m., sorry, yesterday evening. But any
19 attendees who have any written comments that they would
20 like to submit, may provide them to the staff at the
21 sign-in table to -- or to email to comments to
22 regulations@coppa.ca.gov at the end of this hearing.

23 We recently posted additional resources on our
24 website about the Agency's CPPA -- CCPA rulemaking
25 process, including two documents in PDF format, tips on

1 submitting effective comments, and information about
2 rulemaking processes. Please visit the CCPA website at
3 cppa.ca.gov for more information.

4 Today's public hearing is quasi-legislative in
5 nature and is being held pursuant to the California
6 Administrative Procedures Act. The California
7 Administrative Procedures Act specifies that the purpose
8 of this hearing is to receive public comments pertaining
9 to the proposed regulations. If you are speaking today,
10 we ask that you limit your comments to the proposed
11 regulations or the rulemaking procedures that we are
12 following.

13 We do not intend to answer questions or otherwise
14 engage in dialogue in response to any oral or written
15 comment. However, we may ask that you speak slower or
16 louder or ask a limited follow-up question to clarify a
17 point.

18 Today's hearing is being recorded and will be
19 transcribed by a court reporter. The transcript of the
20 hearing and any written comments presented during the
21 hearing will be made part of the rulemaking record.
22 Please try your best to speak slowly and clearly to help
23 the court reporter create the best possible record.

24 After the public comment period ends, the Agency
25 will review and consider all relevant comments and

1 recommendations provided at the public hearings and in
2 writing. The Agency will then compile a summary of each
3 relevant comment or recommendation and prepare a response
4 to it, which will be included in the Final Statement of
5 Reasons. Once the Final Statement of Reasons is
6 complete, the entire rulemaking record will be submitted
7 to the Office of Administrative Law, and a copy of the
8 final statement of reasons, along with a notification of
9 any changes that were made to the proposed regulations,
10 will also be posted on the Agency's website.

11 We will notify all persons who provided comment and
12 all those otherwise interested of any revisions to the
13 proposed regulations, and any new material relied upon in
14 proposing these rules. Accordingly, there's a check-in
15 table as you entered the room where speakers and
16 attendees can sign in and provide their contact
17 information. You may also sign in to speak without
18 providing your name or contact information. However,
19 please know that we will not then be able to provide you
20 with written notice of any revisions or rule -- or other
21 rulemaking activities if you haven't given us your
22 contact information.

23 If you've previously RSVP'd online or here in person
24 and provided your email address, you will automatically
25 be included on our mail. If you are attending virtually

1 and haven't signed up but would like to be notified via
2 our mailing list, please go to our website, cppa.ca.gov,
3 click on "Contact Us", and then click on "Sign up to the
4 Rulemaking List" to add yourself to the Rulemaking
5 Proceedings List.

6 If you RSVP'd to speak today, we will call on
7 speakers in order of the RSVP. When we call your name,
8 please come to the microphone here in the front of the
9 room, and if you would like to be identified, state and
10 spell your full name, and identify the organization you
11 represent. If you have a business card, please provide
12 it to us directly before approaching the microphone. You
13 can hand that in at the sign-in table. If you have not
14 signed up and would like to speak, please sign in at the
15 door.

16 If you're attending virtually, when we call your
17 name, please use the "raise hand" feature, and you will
18 be unmuted and prompted to speak. Again, if you would
19 like to be identified, state and spell your name and your
20 organization, if any. If you do not want to give your
21 name, you can use an appropriate pseudonym. Attendees
22 who did not RSVP will be given a chance to speak after we
23 make it through the RSVP list.

24 Each speaker will have five minutes to speak. To
25 assist speakers, Ms. Hurtado will have a speaker alert

1 and alert you when there's thirty minutes -- thirty
2 seconds left in your allotted time. In the interest of
3 time, if you agree with comments that were made by a
4 prior speaker, please state that fact and add any new
5 information you feel is pertinent to the issue.

6 Also, there is no need to repeat or read aloud any
7 written comments already submitted. All comments,
8 whether written or oral, will be responded to by our
9 office. If we have remaining time after all the speakers
10 have had a turn, we will give speakers the opportunity to
11 take a second turn and add to their remarks.

12 Lastly, we will need to take breaks during the
13 proceeding, including at least a forty-five-minute lunch
14 break. It appears -- if it appears that we have no
15 speakers waiting for their turn to provide comments, we
16 may end the hearing.

17 At this time, we welcome your comments. And I'm
18 going to start calling people that have RSVP'd and are
19 here in person. Our first speaker is Mr. Brian Olsen.

20 Mr. Edwin Lombard, you're next, so please be ready
21 to go when Mr. Olsen is finished.

22 So Mr. Brian Olsen, if you would approach the
23 microphone?

24 Okay. I see Mr. Olsen may not be here, so we'll
25 come back to him.

1 Mr. Lombard, you're next.

2 **MR. LOMBARD:** Good morning.

3 **MR. SOUBLET:** Good morning, Mr. Lombard. Thank you
4 for coming today.

5 **MR. LOMBARD:** Yes. Good to see you again, Mr.
6 Soublet.

7 Chair and members of the Board, my name is Edwin
8 Lombard, and I'm here as a small business owner and
9 consultant with the representation of small black-owned
10 businesses throughout the state of California.
11 Proposition 24 regulations represent a significant body
12 of law that will have consequential impact on small
13 business owners like myself and those I represent.

14 Under the immerse (sic) burden of the ongoing
15 pandemic and inflation, online platforms have been the
16 lifeline for many small businesses serving underserved
17 communities. While these small businesses remain
18 committed to upholding Proposition 24 to provide strong
19 privacy protection for our customers, we are very
20 concerned that the excessive and impractical regulation
21 could further devastate small and diverse businesses
22 during these difficult times.

23 At this point, after witnessing many critical CPPA
24 actions and inaction, it is unfortunate and disappointing
25 that the CPPA and its proposed regulations fall short of

1 what is required under Prop 24. But there's still time
2 to get this right and have California serve as a national
3 model.

4 First, the Privacy Protection Agency is operating
5 with a lack of accountability. The Agency had a chance
6 to work with the legislature to expire -- extend the July
7 1st, '22 adoption deadline, and it chose not to.

8 However, the Agency can work with the legislature to
9 extend the July 1st, 2023 enforcement date. It is
10 important because small businesses should not have to
11 spend more money to comply with a shorter time frame for
12 something the Agency could have addressed but refused to.

13 Second the Agency is -- is very vastly
14 underestimating compliance costs facing small businesses.
15 The Agency's estimate is \$127.50 per business is, at
16 best, a lowball figure. We are aware that nor -- that no
17 effort by the Agency to reach out to small businesses to
18 discuss compliance and better understand the cost they
19 face, not the least of which include the cost
20 effectiveness of online platforms that rely on -- we rely
21 on to connect with and serve our customers.

22 Third, the Agency has the legal issue -- has a legal
23 issue. I'm not a lawyer, but I question the legality of
24 the regulation going beyond the statutory adoption date
25 of July 1st, as required under Prop 24. How can these

1 regulations even be legal at this point? Finally, I'll
2 close with this; when corporations catch a cold, small
3 businesses like mine catch pneumonia.

4 These privacy regulations can avoid this by
5 significantly changing -- but significant changes are
6 needed. We urge that the Agency take the responsible
7 action by working with the legislator (sic) before it
8 adjourns to extend the deadline for adopting regulations
9 to the January 1st, 2023 -- and extend their enforcement
10 date to January 1st, 2024. This would be consistent with
11 the one-year enforcement time line extended by Prop 24.
12 Thank you very much.

13 **MR. SOUBLET:** Thank you, Mr. Lombard.

14 Our next speaker, Mr. Julian Canete.

15 And Donald Seals, please be ready after that.

16 **MR. CANETE:** Good morning, Mr. Soublet and members
17 of the Board. Julian Canete, President/CEO, California
18 Hispanic Chambers of Commerce. At the chamber we
19 represent the interests of the over 800,000
20 Hispanic-owned businesses here in California, which range
21 from small to large businesses, the whole gamut. As the
22 largest regional ethnic business organization in the
23 nation, we promote the economic growth and development of
24 California's emerging Hispanic businesses.

25 When an issue such as this one arises, we uplift the

1 vote -- voices of the small business owners to ensure
2 agencies consider how they are impacted. A privacy
3 protection agency was created by voters to protect
4 Californians' privacy while taking into account potential
5 impacts on business and innovation. This unfortunately,
6 has not happened and needs to change. For Hispanic
7 businesses in California, failure to make a course
8 correction could mean undoing years of hard-earned gains.

9 Over the last ten years, Hispanic-owned businesses
10 have set the pay -- pace for business growth,
11 increasing -- increasing forty-four percent nationwide,
12 compared to four percent for all others. In California,
13 Hispanic-owned businesses in 2020 accounted for nearly
14 fifteen percent of all enterprises, bringing in more than
15 \$150 billion in receipts.

16 During the pandemic -- during the pandemic, many
17 Hispanic businesses adapted by learning to utilize
18 technology and social media to build customer loyalty and
19 transform their businesses from -- from more expensive
20 brick and mortar operations to highly cost-efficient
21 e-commerce and online marketing platforms. However, the
22 Privacy Agency's proposed regulations would make online
23 tools less effective and cost efficient, which will also
24 add significant costs for the daily operations of small
25 businesses.

1 These small businesses are already facing market
2 uncertainty and will have difficulty understanding new
3 requirements of the sprawling regulatory framework for
4 everything from reporting to training to recordkeeping.
5 This results in compliance costs that are especially hard
6 for small businesses to absorb.

7 Small and minority businesses are -- are no
8 strangers to adversity. Resiliency is in our DNA. At
9 the same time, we are committed to protecting personal
10 privacy. It's vital to our business success and to our
11 customers, not only to trust us, but believe in us and
12 the products and services they provide. But we can't do
13 it alone.

14 We need the Privacy Agency to work with us, not
15 against us. Take the time to get these complex, new
16 policies right, extend the enforcement deadline, take
17 into account the impact that these regulations will have
18 on businesses and innovation. We owe this not just to
19 small businesses, but all Californians. Thank you for
20 your time.

21 **MR. SOUBLET:** Thank you.

22 Donald Seals?

23 Our next speaker after Mr. Seals is Craig Erickson.

24 Good morning, Mr. Erickson.

25 **MR. ERICKSON:** Good morning. Thank you very much.

1 My name is Craig Erickson. I'm a California consumer,
2 and like other California consumers who have exercised
3 their privacy rights under the CCPA, spent a significant
4 amount of time and money issuing data requests. And one
5 of the difficulties that I found was determining when
6 organizations are exempt or not.

7 And that leads to the question of, if an
8 organization that isn't exempt does want to voluntarily
9 comply with the CCPA in the CPRA, but then turn around at
10 the end of the process and say they're exempt, what I --
11 what I'm asking for, is some type of guidance, in terms
12 of would the CPPA take up those type of complaints, or
13 would that guidance be directed better to the FTC?

14 And I -- I know it's -- there's no questions, but
15 that's my comment, and so I would appreciate some type of
16 guidance around that.

17 **MR. SOUBLET:** Thank you very much.

18 **MR. ERICKSON:** Thank you.

19 **MR. SOUBLET:** Our next speaker is McKenzie Lombard.
20 That's spelled M-C-K-E-N-Z-I-E, for the record.

21 Good morning, Ms. Lombard.

22 **MS. LOMBARD:** Good morning. My name is McKenzie
23 Lombard, and I am the owner of Wild Fern Marketing, a
24 small minority-owned business in Long Beach, California.
25 I thank you for the opportunity to provide comments

1 before the Board today. I used to work in the service
2 industry as a restaurant manager until COVID-19 hit. I
3 lost my job and suffered for two years. And after that,
4 I created Wild Fern Marketing, an internet-based firm. I
5 use social media to gain and service my clients.

6 The regulations published on July 8th, 2022, has
7 left businesses in a pickle. We don't understand this
8 complex regulatory framework, therefore, we don't know
9 how to ensure compliance. As a result, my business could
10 be subject to costly lawsuits, forcing us to close our
11 doors. To continue to run a successful business, we need
12 our customers to believe in us. Therefore, we remain
13 committed to protecting the privacy of all of our
14 customers and providing the best services we can.

15 However, with very little time left to comply with
16 such complicated regulations, I am concerned how this
17 framework will affect my business and other small
18 minority-owned businesses like myself in California. I
19 ask that the Agency simply listens to our voices and
20 consider the real impact that these regulations and the
21 missed deadlines will have on us. Thank you.

22 **MR. SOUBLET:** Thank you very much.

23 I'm going to go back to Mr. Brian Olsen, if you're
24 present?

25 Okay.

1 Donald Seals, if you're present?

2 We'll come back to them at the end of the day.

3 We're going to take our first online speaker. Don't have
4 a name, so I'm just going to call out the email address.
5 Yes.

6 Data -- datumooo. D-A-T-U-M-O-O-O, if you're
7 online, please raise your hand, and we'll unmute you.

8 Okay. I'm going to move to the next online speaker.

9 ilenox, I-L-E-N-O-X, if you're online, please raise
10 your hand, and we will unmute you.

11 **MS. HURTADO:** Your time begins now.

12 **MR. SOUBLET:** She's unmuted.

13 **MR. THOMPSON:** Are you asking me?

14 **MS. HURTADO:** Cheryl --

15 **MS. BROWNLEE:** Good -- yes. Good afternoon, Chair
16 and -- good morning, Chair and Board members. My name is
17 Cheryl Brownlee, and I'm the owner of CB Communications,
18 a small minority-owned business in Sacramento,
19 California. I appreciate the opportunity to provide
20 comments before the Board today.

21 The regulations published on July 8th, 2022 have
22 left businesses like mine to quickly work to understand
23 this complex regulatory framework, and make sure we are
24 in compliance. If we make a misstep, my business could
25 be subject to costly and lots of (audio interference).

1 Without online, my business will simply not be here
2 (audio interference) July (audio interference).

3 We cannot afford to lose such an important tool. To
4 be successful, we need our customers to believe in us and
5 our businesses. Because of that, we remain committed to
6 protecting their privacy and providing the best services
7 we can. However, with very little time left to comply
8 with such complicated regulations, I am deeply concerned
9 how this framework work will affect my business and other
10 small minority-owned businesses in California.

11 At this time, I would respect -- respectfully ask
12 that the Agency listen to the voices of small business
13 owners like myself, and consider the very real impact
14 these regulations and the missed deadlines will have.
15 Thank you very much.

16 **MR. SOUBLET:** Thank you. Our next online commenter
17 is Roman Hill. Roman Hill (ph.), if you're online,
18 please raise your hand.

19 **MS. HURTADO:** Roman Hill, you may begin speaking.
20 You now have five minutes.

21 **MR. HILL:** Hi. This is Roman Hill. I actually
22 don't have any comments. There must have been a mistake.
23 Thank you.

24 **MR. SOUBLET:** Thank you, Mr. Hill.

25 Our next commenter is Scott Chapman (ph.).

1 Mr. Chapman, if you're online, please raise your hand.
2 Okay. We'll move on.
3 Mia Wang? Mia Wang, if you're online, please raise
4 your hand.
5 Our next speaker, Tony Lengeling, L-E-N-G-E-L-I-N-G?
6 If you are online, please raise your hand.
7 Okay. Daniel Magana, M-A-G-A-N-A, if you're online,
8 please raise your hand.
9 Amy Dunn, D-U-N-N. Ms. Dunn, if you're online,
10 please use the "raise your hand" function.
11 And I'm going to apologize, but I really spent --
12 pronounce this name poorly, Joao Chagas, C-H-A-G-A-S, if
13 you're with us online, please use the "raise your hand"
14 function.
15 Moving along. Amber Ogawa, O-G-A-W-A, if you're
16 with us, please use the "raise your hand" function.
17 Luigi Mastria, M-A-S-T-R-I-A, if you are with us
18 online, please use the "raise your hand" function.
19 Okay. Janae Hill, if you're online, please use the
20 "raise your hand" function.
21 Okay. We're now up to number 20 on our list.
22 Braden Carkhuff, C-A-R-K-H-U-F-F, if you are online,
23 please use the "raise your hand" function.
24 Margaret Gladstein, G-L-A-D-S-T-E-I-N, if you're
25 with us online, please use the "raise your hand"

1 function.

2 I just have first name, Steve. Steve, if you are
3 with us online, please use your "raise your hand"
4 function.

5 We're going to move on to Don Marti, M-A-R-T-I. Don
6 Marti, if you're online use -- please use the "raise your
7 hand" function.

8 **MS. HURTADO:** Mr. Marti, you've been unmuted. You
9 now have five minutes. Your time begins now.

10 **MR. MARTI:** Thank you. My name is Don Marti, and
11 I'm representing CafeMedia. CafeMedia is an advertising
12 services firm that exclusively represents the advertising
13 businesses of more than 3,600 web publishers, including
14 346 small and mid-sized websites published in California.
15 These independent publishers fill an important role on
16 the internet by providing many kinds of free content to
17 more than 183 million web users who visit at least once a
18 month.

19 As the largest ad representative for independent
20 publishers, we took our compliance responsibilities
21 seriously when CCPA came into effect, including becoming
22 an early adopter of global privacy control and the
23 Interactive Advertising Bureau's CCPA compliance
24 framework.

25 In the 2020 election, the voters of California

1 passed Proposition 24 to strengthen our privacy
2 protections in the State of California. However, gaps in
3 privacy regulations continue to allow some companies to
4 avoid respecting the intent of the voters, which is
5 unfair to those of us who do. Today, we in California
6 have an opportunity to fix the gaps in the regulations by
7 clarifying and reforming them to make it practical for
8 everyone in California to exercise their basic privacy
9 rights.

10 Some of the gaps in the existing regulations include
11 arbitrarily complex verification processes. California
12 residents must take selfies, upload photos to poorly
13 tested websites with limited device support, pass
14 quizzes, pass quizzes that only work if you put in wrong
15 answers, print documents, scan documents, even have
16 documents notarized. Regulations must address the issue
17 of complex verification pathways in order to make it
18 practical for anyone in California to exercise their
19 right to know and right to delete under the law.

20 Second, categories of information, not values, must
21 be disclosed under the current regulations. That means
22 that when I do a Right to Know, I can get results back
23 like "Social: Influencer Propensity 14". Influencer
24 Propensity 14. What's that? Is that good? Or I can get
25 "Lifestyle Stage 87Q". What's an 87Q? Does that mean

1 I'm retired? Pregnant? I don't know. This is a simple
2 fix for the regulations. The new regulation need to
3 include the actual data points in the list of items that
4 need to be disclosed in a way that is meaningful to the
5 consumer.

6 Finally, large companies are still failing to
7 disclose shadow profiles. When company A sells or shares
8 my information to company B, then, under the law, I can
9 still exercise my right to know with company B, even if I
10 am not a registered user there. The law does not allow
11 company B to require me to accept their contractual terms
12 of service in order to exercise my right to know. I
13 realize that there is substantial complexity around this
14 issue, but allowing shadow profiles without right to know
15 is unfair to companies that do comply with the law.

16 I have additional background information on some of
17 these issues in my written comments, and I'm also
18 available to provide additional background information
19 after the meeting. Thank you again for the opportunity
20 to comment.

21 **MR. THOMPSON:** You're muted.

22 **MR. SOUBLET:** Mr. Dan Frechtling? Mr. Frechtling,
23 if you are online, please use the "raise your hand"
24 function, and we will unmute you.

25 **MS. HURTADO:** Mr. Frechtling, you've been unmuted.

1 You have five minutes to speak. Your time begins now.

2 **MR. FRECHTLING:** All right. Thank you for this
3 opportunity. My name is Dan Frechtling, CEO of Boltive,
4 the software company doing business in California. We
5 help companies fix consent errors and data leakage
6 through online ads and web digital objects, like the
7 analytics trackers. Well, the reason I'm speaking is to
8 present an understanding of consent errors that we see on
9 a regular basis, and this can happen 100 times or more to
10 the average U.S. consumer. And this can happen with
11 consent management platforms. But there are other ways
12 of managing consent, like web forms, ad choices, global
13 privacy control, and others.

14 Users will visit websites. They will opt out of
15 data sharing, and nonetheless, that data is shared
16 anyway. And our software finds that this is commonplace
17 in cross-context behavioral advertising, commonplace in
18 programmatic advertising. There are 250 billion bid
19 requests are so per day, which compares to 15 billion
20 stock trades per day. And the error rate for consent
21 management platforms is greater than one-third.

22 When we unpack consent errors and how this is
23 happening, we see that there are elements within the
24 proposed rulemaking that is actually very favorable to
25 solving this problem. It's often a problem of the

1 consent system and the network of partners where websites
2 integrate. The error rate for consent management
3 platforms, and that is when somebody opts in or opts out
4 to data sharing, and that gets passed on with errors,
5 meaning it's unintelligible or uninterpretable, that
6 error rate for content management platforms averages
7 twenty percent.

8 The error rate with networks that consent management
9 platforms integrate with is about twenty-four percent,
10 and combined, the error rate is thirty-seven percent. So
11 this produces what we call dark signals, consumers'
12 elections to opt out that are lost in the chain of
13 vendors, which we spoke about on November 5th in written
14 testimony and in spoken testimony on May 5th.

15 This can happen with problems to consumer data
16 sharing in -- in ways that can be malicious. We worked
17 with a hospitality company and discovered that there were
18 data skimmers, like hardware attached to gas pumps and
19 ATMs. They look like they're supposed to be there, but
20 they're actually foreign objects. That's in credit card
21 fraud a known risk and hazard. But in online
22 advertising, these online skimmers sit and read bitstream
23 data and can in -- get involved, in the case of the
24 hospitality company, in malware distribution.

25 We worked with another company that is in the

1 wireless space, and tracing their third parties led us to
2 Segmento, which is owned by Russia's Sberbank, and was on
3 a list of sanctioned entities after the invasion of
4 Ukraine. They were invisible to the company involved and
5 to third parties. With reviews, audits and tests, as
6 outlined in the CCPA language and the new proposed
7 language, these data skimmers can be discovered and data
8 exfiltration can be stopped.

9 What can we do about this? We applaud the way the
10 language is written today and it's 7053(b) and 7062(f),
11 whereby third parties and similar intermediaries bear
12 responsibility for honoring and transmitting opt-out
13 signals. Section 7053(b) helps ensure businesses
14 contract with third parties to check and honor opt-outs.
15 7026(f) states that obligations to businesses and third
16 parties to pass opt-outs through the chain of vendors.
17 We think these are very favorable, because they can stop
18 dark signals.

19 However, we would recommend going a little bit
20 further and applying certain clauses regarding service
21 providers in 7051 to third parties in 7053. The audits
22 and scans of service providers in 7051(a)(7), really
23 should refer to third parties as well in 7053(a)(4).
24 Today, the way it's written under 7051(a)(7), the
25 contracts between businesses and service providers grant

1 the business to undertake scans and audits at least every
2 twelve months. And we're puzzled as to why this language
3 is missing from 7053(a)(4).

4 Similarly, Safe Harbor requirements applying to
5 service providers in 7051(a) should apply to third
6 parties and 7053(a).

7 **MS. HURTADO:** Thirty seconds.

8 **MR. FRECHTLING:** And so we propose that you add the
9 audit and test language to ensure best practice in 7053.
10 Finally, we would ask for a simple process to withdraw
11 consent, similar to what is in the Connecticut law, the
12 text of ADPPA and in GDPR. We think there's a lot of
13 good news in the language, but if they aren't amended to
14 require audits and checks of third parties, that means
15 companies may do just enough to serve the letter of the
16 law and not the spirit of the law. Thank you.

17 **MR. SOUBLET:** Thank you.

18 I just want to remind those attending here and
19 present, can you please silence your cell phones?

20 Our next speaker is Yadi, Y-A-D-I. Yadi, please
21 raise your hand function, and we will unmute you.

22 **MS. HURTADO:** Yadi, you have been unmuted. You have
23 five minutes to speak. Your time begins now.

24 **YADI:** Oh. Hi there. I -- I would like to be put
25 back into the queue and speak on the second day, if

1 that's an option. Thank you so much.

2 **MS. HURTADO:** Thank you.

3 **MR. SOUBLET:** Our next speaker is Rich. Rich, if
4 you are with us, please use the raise your hand function,
5 and we will unmute you.

6 **MS. HURTADO:** Rich, you've been unmuted.

7 **MR. WALLACE:** I am --

8 **MS. HURTADO:** You have five minutes to speak. Your
9 time begins now.

10 **MR. WALLACE:** Oh. Good afternoon, and thank you for
11 allowing me to speak. My name is Rich Wallace, and I am
12 the president of the Southern California Black Chamber of
13 Commerce, from the desert to the sea, with eighteen
14 chapters and over -- a little over 2,200 members of our
15 organization, which are all small businesses, which are
16 affected by the July 8th, '22 decision.

17 So I -- and I'm here today to ask the -- to ask the
18 Board to actually reconsider the deadline, and go back to
19 the table and allow the small businesses here to be a
20 part of the decision that's going to affect their lives.
21 The economic situation that we live in today is tough
22 enough. We're already down to the bare bones of trying
23 to survive and getting our businesses up and running, and
24 decisions like this that doesn't involve the community
25 doesn't allow us to be able to be a part of what we're

1 trying to grow.

2 Small business is the backbone of America. And I
3 ask you to reconsider and to listen to what the small
4 business people have to say. And then allow you -- even
5 if you make the same decision, at least open the door so
6 other businesses can be a part of what we're doing here,
7 so we can all feel like we're on one accord here and make
8 the decisions that we need to make.

9 My name is Rich Wallace. I'm with the Southern
10 California Black Chamber of Commerce, from the desert to
11 the sea, and I thank you for this opportunity to be able
12 to speak to you today. And ask that you reconsider your
13 decisions that you've made for July the 8th. Thank you.

14 **MR. SOUBLET:** Thank you, Mr. Wallace, for your
15 comments.

16 I just want to note that this is the public
17 participation part of our rulemaking process where the
18 public has the opportunity to submit both written and
19 oral comments. We've also held several pre-rulemaking
20 sessions where the public was invited to participate in
21 the process. So I just want to make sure that the record
22 reflects that.

23 Our next speaker is Chris Pedigo, P-E-D-I-G-O.
24 Chris Pedigo, if you're with us online, please use the
25 raise your hand function, and we will unmute you.

1 **MS. HURTADO:** Mr. Pedigo, you've been unmuted. You
2 have five minutes to speak. Your time begins now.

3 **MR. PEDIGO:** Great. Thanks very much. Again, my
4 name's Chris Pedigo. I'm the Senior Vice President for
5 Government Affairs at Digital Content Next. DCN is a
6 Trade Association. We represent exclusively digital
7 publishers who create digital content, original digital
8 content. According to Comscore, 100 percent of U.S.
9 online population will visit at least one of our members'
10 websites every month.

11 So as you can imagine, our members spent a lot of
12 time and resources making sure that the consumer
13 experience matches with the consumer's expectations.
14 Against that backdrop, our comments on the draft
15 regulations are almost entirely focused on how the
16 regulations would impact the ability of publishers to
17 meet consumer expectations. I'd like to discuss a few of
18 the points that we raised.

19 First, we have some concerns about the requirement
20 that businesses display in real time, whether they have
21 processed a consumer's opt-out preference. We're
22 concerned this may present a significant burden on
23 technical and employee resources. We're also concerned
24 that the consumer screen, especially in smaller devices,
25 may become overly crowded with disclosures and links, as

1 are required under other California law.

2 Second, the illustrative examples under Section
3 725(c) (7) envisions a scenario where a login consumer
4 visits a business' website via a browser with an enabled
5 opt-out preference signal. In this example, it suggested
6 that the business should apply the opt-out preference to
7 the business' entire relationship with the consumer,
8 including to offline sales or sharing.

9 We're concerned that it may be inappropriate to
10 always extend that opt-out preference to the entirety of
11 a business' relationship with the consumer. For -- for
12 starters, it -- it may be technically difficult. It
13 would certainly invert -- inadvertently require companies
14 to collect more information about the consumer, which
15 seems to run contrary to the -- the intent of the CPRA.

16 You can imagine a scenario where the consumer is
17 logged in with an email. But that might be different
18 than any information that they've provided in an offline
19 setting, for instance, a newspaper subscription where
20 they simply provided an address and a name.

21 In addition, consumers tend to have different
22 expectations in different contexts. So in the scenario
23 envisioned, the consumer may have enabled the opt-out
24 preference signal because of concerns about unknown third
25 parties tracking them across the web. But this consumer

1 may have no intention of impacting data collection by the
2 first party in other contexts, or data collection in
3 general or on other devices, like a television or in a
4 physical store where third parties are less prevalent.

5 All that said, lastly, I'll -- I just want to close
6 on a positive note by reiterating our three -- iterating
7 (sic) our support for two key components of the draft
8 regulations. First, we support the ability for consumers
9 to opt out using opt-out preference signals. We agree
10 that these signals can be turned on by default,
11 especially if they are marketed as privacy enhancing. We
12 also agree that the consumer should not be required to
13 confirm or authenticate this signal. The whole point of
14 these signals is to eliminate friction in the consumer
15 experience and quickly align with consumer expectations.

16 Second, we support provisions in Section 72 -- 7026
17 and 7052, which require that third parties must revert to
18 the role of a service provider when they receive a
19 consumer's opt-out signal. It's imperative that there
20 are clear rules for the road in order to avoid a
21 situation where a few large tech companies might attempt
22 to use their market dominance to negotiate special terms
23 in order to avoid the impact of the law.

24 That said, I appreciate the opportunity to speak
25 today, and thank you for all your work.

1 **MR. SOUBLET:** Thank you. Our next speaker, number
2 28, is Mike. Mike, if you're with us online please use
3 the "raise your hand" function, and we will unmute you.

4 Okay. We're going to move on to Ashlee Garrison.
5 Ms. Garrison if you are with us online, please use the
6 "raise your hand" function, and we will unmute you.

7 We're going to move on to Shima, S-H-I-M-A, Shams,
8 S-H-A-M-S. Shima Shams, if you're on -- with us online,
9 please use the "raise your hand" function.

10 Okay. Another name I will probably mispronounce but
11 looks like Khyati Dalal, K-H-Y-A-T-I, D-A-L-A-L. If
12 you're with us online, please use the "raise your hand"
13 function, and we will unmute you.

14 David LeDuc, L-E-D-U-C, if you're with us online,
15 please use the "raise your hand" function, and we will
16 unmute you.

17 Travis Frazier, if you're with us online, please use
18 the "raise your hand" function, and we will unmute you.

19 **MR. FRAZIER:** Here I go. Good morning, and thank
20 you for the --

21 **MS. HURTADO:** You have five minutes to speak.
22 You've been unmuted. Your time begins now.

23 **MR. FRAZIER:** Thank you. Good morning, and thank
24 you for the opportunity to testify on the proposed
25 regulations to implement the California Privacy Rights

1 Act of 2020. My name is Travis Frazier, and I'm the
2 manager of government relations at the Association of
3 National Advertisers, the ANA. The ANA serves the
4 marketing needs of 20,000 brands, with a membership
5 consisting of U.S. and international companies, including
6 hundreds based on California.

7 Our members collectively invest more than 400
8 billion in marketing and advertising annually. The ANA
9 and our members believe that protecting consumer privacy
10 is of paramount importance. We have filed more detailed
11 comments in writing, however I would like to take the
12 time today highlight several areas we believe are
13 critical. First, the CPRA support the time line for
14 finalizing regulations by July 1st, 2022, followed by
15 agency enforcement a year later. This time line would
16 have provided a one-year ramp-up period for businesses to
17 comply with new mandates. Unfortunately, given the delay
18 in finalizing regulations, companies will not have a full
19 year to operationalize the requirements as intended by
20 the law. As a result, we urge the agency to delay
21 enforcement until one year following the finalization of
22 regulations.

23 Second, the agency should promulgate regulations
24 that are consistent with the plain text of the CPRA.
25 Several provisions in the proposed regulations contradict

1 the clear text of the law. For example, the "necessary
2 and proportionate" standard in Section 7002 should be
3 aligned with the plain text of the CPRA.

4 The proposed regulations would time necessary and
5 proportionate data collection use and retention to a
6 vague average consumer expectation standard is not
7 present in the text of the CPRA and would read the rule
8 of notice out of the law. The section should be amended
9 to match the CPRA by time necessary and proportionate to
10 purposes disclosed to consumers in applicable notices.

11 Additionally, the proposed regulations approach to
12 opt-outs preference signals conflicts with the text of
13 the law. The proposed regulations make it adherence to
14 opt-out preference signals mandatory, when the law
15 clearly gives businesses the choice to either accept such
16 signals or provide consumers the ability to opt out via a
17 clearly labeled link. The agency should update the
18 proposed regulations to reflect this clear option set
19 forth in the CPRA.

20 Additionally, the agency should promulgate
21 regulations to clarify key safeguards set forth in the
22 CPRA for businesses' evaluation of such optional opt-out
23 preference signals; namely, safeguards to ensure that
24 such signals are true expressions of consumer choice, not
25 set by default, and do not disadvantage certain

1 businesses in the marketplace.

2 Finally, mandating the opt-out request be sent
3 downstream is inconsistent with consumer choice and the
4 CPRA's text. Requiring businesses to forward opt-out
5 requests to other businesses in the marketplace could
6 contravene consumer choice. When a consumer submits an
7 opt-out choice to one business, the consumer expects that
8 choice to apply to that business, not the entire
9 marketplace.

10 Additionally, the CPRA does not require businesses
11 to forward opt-out selections to others. The statute
12 clearly includes such requirement for deletion requests,
13 but it makes no similar mandates for opt-out requests.
14 The agency should consequently remove the proposed rule
15 requiring businesses to forward opt-out requests
16 downstream.

17 In addition, the agency should remove Section
18 7050(c) because -- because it is duplicative and
19 unnecessary. The section merely restates the CPRA, which
20 prohibits entities from acting service providers to
21 provide cross-context behavioral advertising services.
22 The CPRA and the proposed regulations reconfirm that
23 service providers may provide advertising and marketing
24 services subject to specific limits set forth in the text
25 of the law. Because this section is duplicative of the

1 law and provides no additional clarity, it is
2 unnecessary, and the agency should remove from the text
3 of the regulations.

4 It is ANA's hope that the agency will develop
5 reasonable regulations that protect consumer privacy and
6 allow businesses to continue to innovate, subsidize the
7 economy, and facilitate consumers' access to a wealth of
8 information online. The agency should avoid rules that
9 would significantly reduce the use and value of consumer
10 data. Overly broad regulations would significantly
11 hinder business operations, kill small and start-up
12 businesses, and deprive Californians of benefits and
13 advantages they currently receive through access to an
14 open and largely free internet ecosystem. Consumers will
15 also certainly feel the effects of the CPRA, which will
16 raise the cost of doing business in California.

17 Thank you for the opportunity to speak to you today,
18 and we look forward to continue to working with you
19 during the rulemaking process.

20 **MR. SOUBLET:** Thank you, Mr. Frazier. Our next
21 speaker, Dan Murphy. If you are with us online, please
22 use the "raise your hand" function, and we will unmute
23 you.

24 Joel Odelson, O-D-E-L-S-O-N. Joel Odelson, if you
25 are online, please use the "raise your hand" function.

1 Ashley Keller, K-E-L-L-E-R. Please use the "raise
2 your hand" function, and we will unmute you. Okay.
3 Yeah.

4 Xenia Morris, X-E-N-I-A, Morris. Xenia Morris,
5 please use the "raise your hand" function, and we will
6 unmute you.

7 **MS. HURTADO:** Ms. Morris, you've been unmuted. You
8 have five minutes to speak. Your time begins now. Ms.
9 Morris? If you're speaking, we can't hear you.

10 **MR. SOLTANI:** We can invite them back to speak.

11 **MR. SOUBLET:** We'll -- we'll come back to Ms.
12 Morris. Cheryl Brownlee, B-R-O-W-N-L-E-E. Cheryl
13 Brownlee, please use the "raise your hand" function, and
14 we will unmute you.

15 Justin Kloczko, K-L-O-Z -- K-L-O-C-Z-K-O. Justin
16 Kloczko, please use the "raise your hand" function, and
17 we will unmute you.

18 **MS. HURTADO:** Mr. Kloczko, you've been unmuted. You
19 have five minutes to speak. Your time begins now.

20 **MR. KLOCZKO:** Hey. Good morning. Thank you to the
21 Board for the thorough draft regulations on behalf of
22 California voters. I'm just going to highlight a couple
23 areas here really quick that we think are important to
24 flag.

25 The first is on global opt-out and friction. We --

1 we commend the Regulation 725 for making clear that
2 companies must display a do not share/sell my information
3 button, and limit the use of my sensitive personal
4 information button on their home page as well as honor
5 global opt-out signal. We think the home page button is
6 crucial for informing consumers who are not aware of
7 their privacy rights, and it's -- the global opt-out was
8 critical to make privacy choices as seamless as possible
9 for those who already know they want to exercise those
10 rights. Requiring global privacy signals be honored by
11 businesses is an easy, seamless way for consumers to
12 notify all businesses of their privacy preferences.

13 That many advertising and tech industry firms who
14 monetize our data say that the global opt-out is
15 voluntary under the -- the law says a lot about the
16 importance of such a mechanism. Now we know that's
17 incorrect with the -- the regulations. However, we -- we
18 do worry about some friction, worry about businesses
19 making it difficult for consumers to exercise that opt-
20 out right. Under proposed Regulation 7025, it says, "A
21 business may provide the consumer with an option to
22 provide additional information if it will help facilitate
23 the consumer's request to opt out of sale or selling".

24 We -- we think this can open a door for -- for
25 friction in the form of, like, worse service or pop-ups,

1 and that we think goes against the intent of the law.
2 For example, companies could still ask for information
3 even if do not sell or share is enabled. It could be
4 interpreted as allowing companies to ask for, you know,
5 names, emails, you know, quite frequently, and consumers
6 will get fatigued for -- for being punished for
7 exercising privacy rights.

8 So kind of the ability for a business to have, like,
9 a last say in this exchange over data sharing should just
10 be eliminated. I know the agency's regulations state
11 that the path for a consumer to exercise a more privacy
12 protective option shall not be longer than the path to
13 exercise a less privacy protective option.

14 And you know, finally, I wanted to talk about the
15 fifteen days. There's a provision that says there's
16 fifteen days to opt out of sale and -- and sharing.
17 Under Sections 7026 and 7027, businesses have fifteen
18 days to honor a person's request to stop selling or
19 sharing data with third parties as well as fifteen days
20 to limit use and disclosure of sensitive personal
21 information.

22 This is a pretty big window that threatens to upend
23 the entire law. We don't believe the regulation is
24 backed up by the -- the statutory language. The problem
25 is once people's data is acquired, it's usually sold by

1 businesses right away, and once data gets out in the
2 world, it can get into anyone's hands.

3 So even when somebody opts out, personal information
4 will still be sold because businesses are granted this
5 two-week grace period. It will also spur companies to
6 concentrate on using and selling data within the window,
7 kind of producing this wild, wild west effect on data
8 selling, and even though it says a business should honor
9 a request "as soon as feasibly possible", businesses will
10 cite fifteen days as soon as feasibly possible.

11 So we think, you know, businesses should be forced
12 to honor a person's opt-out request just as soon as
13 they're able to sell your data, which apparently is -- is
14 mere seconds. So please, we urge the Board to close this
15 gap, and that's it. We -- we look forward to seeing
16 final regulations that address issues and the next round
17 of draft -- draft rules. Thanks for listening.

18 **MR. SOUBLET:** Thank you. Our next speaker is Andrea
19 Cao, C-A-O. Andrea, please use the "raise your hand"
20 function, and we will unmute you.

21 **MS. HURTADO:** Ms. Cao, you've been unmuted. You
22 have five minutes to speak. Your time begins now.

23 **MS. CAO:** Okay. Thank you so much. Good afternoon,
24 Chair and members of the Board. My name is Andrea Cao,
25 public policy manager at the California Asian Pacific

1 Chamber of Commerce, and we represent -- we represent
2 more than 600,000 Asian and Pacific Islander, also
3 referred to as AAPI, owned businesses throughout
4 California. We serve as the listening ear and voice for
5 California's AAPI small business owners, ensuring they
6 are heard on the issues that will impact them the most,
7 such as the state privacy regulation.

8 To be clear, without further changes, the
9 regulations proposed by the Privacy Protection Agency
10 will negatively impact AAPI businesses throughout the
11 state. For starters, since the agency missed its July
12 1st deadline to adopt privacy regulations, there has been
13 no communication about whether the agency will extend the
14 enforcement deadline to ensure businesses have a full
15 year to comply as intended by Proposition 24. AAPI and
16 other California businesses did not miss the July 1st
17 deadline. We are concerned that they will be made to pay
18 the price for it much more than the agency's estimated
19 \$127.50 per business.

20 According to a study by Berkeley Economic Advising
21 and Research for the attorney general, the estimated cost
22 of initial compliance with the agency's privacy
23 regulations will be 55 billion dollars, and that is
24 before the agency moves toward a shorter compliance
25 period. Having a shorter compliance period leaves

1 several hundred thousand small businesses in the dark,
2 which will result in more costs as they try to catch up
3 to a regulatory process that has not been transparent,
4 nor accountable.

5 There are always costs our members absorb when laws
6 are changed. Unfortunately, this process will lead to
7 more financial burden for businesses that are doing all
8 they can to stay afloat. To give small, diverse
9 businesses sufficient time to comply with new
10 regulations, we encourage the agency to work in
11 coordination with the state legislature to extend the
12 date of enforcing new privacy regulations from July 1st
13 of 2023 to January 1st of 2024.

14 California's small, minority-owned businesses are
15 not only the backbone of the state's economy, but they
16 bring immense value to our community. Now is the time to
17 listen to their -- their voices and get this right.
18 Thank you so much for your time.

19 **MR. SOUBLET:** Thank you. That was the end of our --
20 our list. So what I'm going to do now is I'm going to
21 ask those of you that had RSVPed to speak and are
22 attending remotely, if you'll just please raise your
23 hand, and we will identify you one at a time and give
24 you -- unmute you and give you an opportunity to speak.
25 So if you've RSVPed online, please raise your hand if we

1 have not heard from you already.

2 **MR. THOMPSON:** We'll start with Nick Hill.

3 **MR. SOUBLET:** Okay. Nick Hill.

4 **MS. HURTADO:** Mr. Hill, you've been unmuted. You
5 have five minutes to speak. Your time begins now.

6 **MR. HILL:** Good morning. My name is Nick Hill. I'm
7 president and CEO of the Kern County Black Chamber of
8 Commerce, and on behalf of small black-owned businesses
9 that I represent, I urge this agency to extend the
10 deadline for compliance with these newly released
11 regulations.

12 California small minority-owned businesses are the
13 backbone of the state's economy. The agency's reg --
14 regulations have the potential to further disrupt the
15 livelihoods of many of our community members, but that
16 does not have to be the case. There is still an
17 opportunity to listen to these small businesses and allow
18 us to be a part of this decision. I ask that you listen
19 to the voices like mine and consider doing so. Thank you
20 so much.

21 **MR. SOUBLET:** Thank you.

22 **MR. SOLTANI:** Xenia, Xenia Morris.

23 **MR. SOUBLET:** Okay. Xenia Morris.

24 **MS. HURTADO:** Ms. Morris, you've been unmuted. You
25 have five minutes to speak. Your time begins now.

1 **MR. SOLTANI:** Her microphone may not be -- she's
2 unmuted, but her microphone may not be working.

3 **MR. SOUBLET:** Just -- Ms. Morris, can you unmute and
4 check and see if your microphone is working?

5 **MR. SOLTANI:** She can also dial in. That would --

6 **MS. HURTADO:** Ms. Morris, if you wish, you can dial
7 in using the phone options, and we can take your comment
8 over a phone call.

9 **MR. SOLTANI:** We also have a chat.

10 **MR. SOUBLET:** Can we just give the dial-in number?

11 **MR. THOMPSON:** I just posted it -- I'll reread it.
12 The dial-in number for those that are having technical
13 issues is area code 866-434-5269. Again, 866-434-5269,
14 and the conference code is 682962. Again, 682962. It's
15 on our website, and I've also pasted it in the chat. Why
16 don't we go now to the room, I don't think anyone --

17 **MR. SOUBLET:** Okay.

18 **MR. SOLTANI:** -- on this list has RSVP'd, and then
19 we'll go back to them.

20 **MR. SOUBLET:** There were several people that are
21 present that had signed up to speak that we missed
22 earlier. So I'm going to go back to the top my list.

23 Mr. Brian Olsen, if you're here and present, would
24 you please come forward?

25 Okay. I'll move down to Donald Seals. If you are

1 here and in person, please come forward to the podium.

2 Okay. That was it. Again, Maxi Levie, if you are
3 here, please come forward.

4 **MR. THOMPSON:** Anyone in person?

5 **MR. SOUBLET:** Okay. Why don't you come forward.
6 Identify yourself, give us your name and if you're with
7 an organization. Just come on up. Good morning and
8 welcome.

9 **MR. WASHINGTON:** Thank you. Greetings, everyone.
10 I'm Sammuel Washington with the Silicon Valley Black
11 Chamber of Commerce. I'm the president of that
12 organization, representing roughly 700 businesses here in
13 northern California. I'm also a principal security
14 consultant at Pfizer for companies such as HP supporting
15 the -- the (indiscernible) security officer. I have a
16 number of concerns. I think I may be a little loud, but
17 it's (indiscernible) over there, so I'm going to back up
18 from the mic.

19 But that having been said, just a few things that I
20 would like you all to consider. As Nick Hill with the
21 Kern County Chamber of Commerce said, for minority
22 businesses, especially small businesses, I have to say
23 businesses in general, the acts and the -- the notices
24 that are being given for -- for businesses to comply with
25 the -- the proposed mandates as they currently sit would

1 just about destroy small companies and small businesses
2 in the state.

3 You know, and not just -- you know, not just
4 restaurants or technical firms, but companies that sell
5 shoes, companies that -- that sell clothes, even
6 companies that provide services like hair care and those
7 kinds of things, because those firms use software that
8 collects the consumer information for banking, for
9 processing, all of those kinds of things. Those systems
10 generally collect -- collect consumer information, and
11 they're not necessary related or engaged with -- with --
12 with the third-party agencies that are collecting this
13 information.

14 In addition, there is the -- there's the simple fact
15 that very large companies, like Google, collect consumer
16 information just by entering their websites. Government
17 agencies do the same thing, and so there are all of
18 these -- these prospects and components of collecting,
19 storaging -- storing, managing, and distributing consumer
20 information that the agency would need to try to address
21 in order to become in compliance with its own
22 regulations.

23 I would highly recommend that, one, a -- a time
24 period be set, possibly a graduated time period for
25 businesses to comply that's actually stretched out a

1 greater distance than, say, any time in 2022. We would
2 probably be looking at a more realistic time frame of
3 probably 2024 or 2025, given the complexity of the
4 requirements that would need to be put forth -- and they
5 are not bad requirements. It's just that we need to let
6 people catch up with the technology.

7 Most people, most companies are buying services that
8 collect information. They have no idea what that
9 information is or how those systems work, and so the
10 management of that would be a little involved. From that
11 standpoint, I look forward personally and on behalf of
12 the Chamber of working with you all to lay down those
13 prospects, that -- that construction of the solutions
14 that are possible and actually providing people with some
15 form of written guidance or advisory services to -- not
16 just for larger, complicated businesses, but for small
17 business of every type who are going to be engaged in
18 consumer information collection, even nonprofits that do
19 it every day. Thanks a lot.

20 **MR. SOUBLET:** Thank you. I'm looking out, and if
21 there's anyone else present here in the room who would
22 like to make a comment and haven't already had the
23 opportunity to do so, why don't you please come forward.
24 Step to the microphone, tell us your name, and if you're
25 representing an organization, that organization, and

1 we'll give you five minutes to comment.

2 I see it's about 10:20. We're going to take a ten-
3 minute break until 10:30, and then we'll come back on the
4 record and see if there are any more people who would
5 like to comment. So we're going to go off the record
6 now. Thank you.

7 **MR. SOLTANI:** And I'm going to let people know that
8 folks online can raise their hand when they --

9 **MR. SOUBLET:** Yeah.

10 **MR. SOLTANI:** -- come back.

11 **MR. SOUBLET:** Yeah. When we come back online, we'll
12 ask those people that are attending online if you'd
13 please use the "raise your hand" function, we will call
14 you and then you will have five minutes to speak. So
15 we're going to go off for about -- for ten minutes, and
16 then we'll be back at 10:30. Thank you.

17 (Whereupon, a recess was held from 10:20 a.m. until
18 10:33 a.m.)

19 **MR. SOUBLET:** You're muted. Okay. We're -- we're
20 now going back on the record. We're resuming. Again,
21 this is the California Privacy Protection Agency's public
22 hearing on proposed regulations implementing the
23 California Privacy Rights Act's amendments to the
24 California Consumer Privacy Act.

25 We're going to go back to the people that we may

1 have missed online. If you are attending our hearing
2 remotely online and I would like to speak, please use
3 your "raise your hand" function. We will then call you,
4 and you will have five minutes to speak. So again, I
5 would like to encourage you, if you would like to speak
6 this morning, please use the "raise your hand" function,
7 and we will call on you.

8 **MS. HURTADO:** Mr. Geroe, you've been unmuted. You
9 have five minutes to speak. Your time begins now.

10 **MR. GEROE:** Hi. Thank you. My name is Mike Geroe.
11 I'm legal counsel to members of the community regulated
12 by California privacy laws around the world. I've been
13 advising companies, both as outside legal counsel and as
14 in-house counsel on data compliance matters since 2004.

15 And as I've listened to many of the comments made
16 today, primarily by organizations representing small
17 businesses as well as the gentleman who -- who spoke in
18 the capacity of a consumer, I think he -- he was one of
19 the first few speakers, a sort of lightbulb goes off in
20 my head that I'd like to comment on, and the comment is
21 that the CPPA Board should not dismiss these comments of
22 small businesses suggesting that the cost of compliance
23 will be more than the CPPA Board anticipates or that the
24 complexity will be greater by -- by thinking that these
25 small businesses are not going to be captured by the new

1 regulations.

2 The CPRA regulations have tinkered with what the
3 definition of the regulated community will be. They've
4 raised the minimums so that fewer small businesses will
5 be captured. However, I think the CPPA Board may
6 underestimate or runs the risk of underestimating the
7 impact of these privacy laws on small businesses due to
8 the private right of action that remains in the law.

9 I have seen this movie before, back in 2003-2004
10 with the CAN-SPAM Act, and I have reason to believe a
11 cottage industry is going to develop, has probably
12 already started developing, that is going to test the
13 limits of what the private right of action is under the
14 CPRA, and it will take years before the concrete dries on
15 those boundaries as cases wind their way through the
16 courts.

17 During this time, is going to be small and medium-
18 sized businesses that -- that suffer as claimants of this
19 cottage industry will have honed their skills from prior
20 experiences, such as CAN-SPAM and other types of
21 legislation that have been passed in other industries, in
22 how to extract settlements and impose other indirect
23 costs on the regulated community. And that is my
24 comment. Thank you very much for your time.

25 **MR. SOUBLET:** Thank you for your comment.

1 **MS. HURTADO:** Our next speaker is Johan Gallo. Mr.
2 Gallo, you've been unmute --

3 **MR. GALLO:** Yes. Good morning.

4 **MS. HURTADO:** You've been unmuted. You have five
5 minutes to speak. Your time begins now.

6 **MR. GALLO:** Okay. Thank you very much. My name is
7 Johan Gallo, executive director and founding member of
8 the California Automotive Business Coalition, also known
9 as CalABC; we were founded in 1992. California
10 Automotive Business Coalition members are part of the
11 automotive repair business that represents small, medium,
12 and large automotive dealers that are registered with the
13 Bureau of Automotive Repair.

14 CalABC would like to express our deep concerns over
15 the data privacy regulations currently being considered
16 by CPPA. Many businesses remain confused about the data
17 privacy laws, and the regulations have changed many times
18 in the recent years, causing future uncertainty around
19 compliance. Some of our members operate businesses
20 throughout the state and will be subject to all the
21 regulations.

22 Legal advisors are recommending a number of new,
23 costly changes, which including the following: We will
24 need to update all of our contracts because the CPPA
25 regulations impose new and different data protection

1 requirements and contracts; we will need to prepare for
2 special privacy audits; operational data minimize --
3 operational data minimization, principals, redo again our
4 processes around consumer information that's required
5 also by the Bureau of Automotive Repair Act.

6 Many computer systems that are provided to auto
7 repairs shops in California and those providers are
8 resistant of making changes in California because of the
9 fact that California continues to change and require
10 different things in the law that are not required in
11 other states, which puts an undue burden on these
12 businesses that provide the software and systems for
13 California automotive repairs shops.

14 The level of uncertainty, confusion that exists
15 around privacy laws and regulations and new ones being
16 considered is significant, including CCPA, CPRA, GDR --
17 GDPR, and out-of-state laws. How are businesses supposed
18 to understand and navigate compliance with these several
19 laws aimed at regulating the same thing?

20 Rather than further harming California small and
21 medium-sized businesses, we believe that California is
22 obligated to take an approach that is more supportive and
23 collaborative rather than punitive and disruptive. We
24 agree consumer privacy is important, and there is way to
25 move forward by implementing a less costly and confusing

1 approach that threatens small and medium-sized
2 businesses, jobs, and harms the economy and puts our
3 industry and operations, along with many others, in
4 jeopardy and is not the way to go.

5 One thing we've learned with CalABC is that we pride
6 ourselves that we have started working with the Bureau of
7 Automotive Repair, which just celebrated fifty years in
8 existence. We found it's better to sit down and work
9 with the Bureau of Automotive Repair, which we have now
10 been doing for over thirty years, and ensure that all
11 stakeholders that are involved have a win-win-win
12 environment where the government can do its job,
13 consumers are protected, and the businesses are in
14 compliance with those laws and create a better business
15 environment for all stakeholders involved.

16 I want to thank you for your time today, and I look
17 forward to further engagements with this Board, and we
18 hope you take to heart the businesses here. We're at the
19 table. We want to work with you, we want to find a way
20 to be in compliance, but we also want to find a way to
21 continue doing our business and not have further
22 disruptions and costs that are already eaten up by all
23 the down time our businesses have suffered during the
24 COVID pandemic shutdown. Thank you very much for your
25 time today.

1 **MR. SOUBLET:** Thank you. Ms. Hurtado, will you
2 please call our next speaker?

3 **MS. HURTADO:** Yes. Our next speaker is John
4 Kabateck. Ms. --

5 **MR. KABATECK:** Hello, yes. Can you hear me okay?

6 **MS. HURTADO:** Yes. You've been unmuted now. You
7 have five minutes to speak. Your time begins now.

8 **MR. KABATECK:** Okay. Wonderful. Thank you. Thank
9 you, Chair, and thank you, board members. I appreciate
10 being with you this morning. My name is John Kabateck.
11 I had head of -- actually the California state director
12 for the National Federation of Independent Business, also
13 known as the NFIB. We represent about 15,000 small
14 businesses here in California, about 300,000 nationwide.

15 I here -- I'm here today on behalf of NFIB and
16 nearly eighty small and medium-sized business
17 organizations that have been working together on privacy
18 and other important state issues, especially to make sure
19 we have the best outcomes related to these privacy rules.
20 Our groups are -- definitely believe in good outcomes
21 here, but we're highly consider would the newly proposed
22 regulations and the impact it could have on Main Street
23 businesses.

24 California's ever-changing privacy laws are creating
25 confusion, uncertainty, and compliance problems, both for

1 consumers and the business community, especially small
2 business. The proposed regulations are highly technical,
3 and there hasn't been a significant level of outreach, we
4 believe, to provide compliance assistance to the business
5 community.

6 In addition to that, we believe there will be
7 increasing costs for small business to hire staff and
8 implement compliance measures, which will ultimately
9 trickle down to the consumer. These costs were shared in
10 the agency's economic and fiscal impact statement, but
11 we're deeply concerned that it underestimates the
12 financial burden.

13 As was noted in the letter that our group had
14 submitted to the agency, which was cosigned by nearly
15 eighty organizations in California, it states, and I
16 quote, "The economic and fiscal impact statements by the
17 agency contradicts the independent economic impact
18 assessment prepared for the Office of the Attorney
19 General, which found that the total initial cost of
20 compliance of the California Consumer Privacy Act for
21 businesses in California was estimated to be at 55
22 billion.

23 "In stark contrast, the CPPA recently submitted the
24 economic and fiscal statement that stated its proposed
25 regulations are going to have an initial compliance cost

1 of \$128 for each of the 66,076 California businesses that
2 are impacted by the newly created data privacy
3 regulations. The difference between these two cost
4 estimates on businesses is extremely troubling, and it
5 really creates an additional layer of confusion for small
6 businesses", and I end -- I end that quote.

7 And so in summary, given the business challenges
8 from the pandemic, the global shipping and supply chain
9 challenges, soaring fuel and energy costs, and now
10 inflation, it's very, very difficult to expect the small
11 business community and the job-creating community to
12 manage the uncertainties and the high costs of CC -- CCPA
13 regulations. So we urge you as the Board and the agency
14 to consider the impact that these proposed regulations
15 will have on small businesses and provide compliance
16 assistance.

17 Lastly, since there has been a delay in finalizing
18 the regulations, we respectfully request that the Board
19 would delay the enforcement of the date of January 1st,
20 2023 to allow our businesses to have enough time,
21 sufficient time to review and develop a plan of action
22 for compliance. We definitely want good outcomes here,
23 but we believe in its current form, there are a lot of
24 problems, challenges, and I think small businesses and
25 consumers deserve to have a thoughtful pathway here.

1 So I thank you for your time, and small business
2 does, and I appreciate everything. We look forward to
3 keeping the door open and being a resource for you as
4 well. Thank you.

5 **MR. SOUBLET:** Thank you very much.

6 Ms. Hurtado, please call our next speaker.

7 **MS. HURTADO:** Yes. Our next speaker is Andrew.
8 Andrew, you've been unmuted. You can unmute your
9 microphone. You have five minutes to speak, and your
10 time begins now.

11 **MR. ALSOP:** Thank you. Good morning. My name is
12 Andrew Alsop (ph.), and I'm a privacy-conscious
13 California citizen. I would like to join others in
14 expressing my support for the regulations requirements
15 that businesses respect global opt-out preference signals
16 such as GPC as a valid way for consumers to express their
17 privacy preferences to all the businesses that they
18 interact with online.

19 I would, however, like to express concern that
20 businesses under the proposed regulations may be allowed
21 to introduce an unreasonable amount of friction for users
22 who wish to utilize these opt-out preference signals on
23 websites which choose to include manual, do-not-sell
24 links. I hope that additional language can be added to
25 prevent excessive additional friction, whether in the

1 form of fees, a degraded user experience, excessive pop-
2 ups, or other strategies intended to force consumers to
3 unwillingly allow the sale of their personal information.

4 Aside from that, I would also like to express my
5 full support for the requirement that businesses must
6 forward opt-out and deletion requests downstream to the
7 service providers and third parties. This is a fairly
8 common-sense requirement as often data is sold or shared
9 nearly instantaneously with third parties, while opt-out
10 or deletion requests can mysteriously take weeks to
11 process. In this situation, there's no reasonable way
12 for consumers to even know, let alone opt out, of their
13 data being collected and sold by third parties that they
14 may have never even heard of.

15 Lastly, I would like to take a moment to address
16 businesses who argue that the regulations are too
17 confusing. I would argue that the simple decision not to
18 sell consumers' personal information for the purposes of
19 invasive and privacy-violating, cross-context behavioral
20 advertising is quite a simple decision to make. Thank
21 you.

22 **MR. SOUBLET:** Thank you. Ms. Hurtado, if you could
23 please call our next speaker.

24 **MS. HURTADO:** Yes. The next speaker is Lucy
25 Chinkezian. Ms. Chinkezian, you're -- you've been

1 unmuted. You have five minutes to speak. Your time
2 begins now.

3 **MS. CHINKEZIAN:** Good morning. My name is Lucy
4 Chinkezeian, C-H-I-N-K-E-Z-I-A-N, and I am counsel at
5 Civil Justice Association of California, also known as
6 CJAC. We would like to thank the agency for the
7 opportunity to comment on the proposed regulations and
8 commend your significant efforts in drafting them. CJAC
9 has submitted detailed written complaints to the agency,
10 so for purposes of the hearing today, we would like to
11 highlight some of our overarching concerns.

12 First, a major concern with the rulemaking for
13 businesses is CPPA's enforcement deadline of July 1,
14 2023. Even before the CPRA's adoption, businesses were
15 struggling with the implementation of the CCPA. CPRA's
16 added layer has meant even more complexity and questions,
17 and the agency's rulemaking adds significant new
18 obligations for businesses.

19 Businesses will need substantial time to consult
20 with experts, build and modify national and global
21 systems, and add numerous staff and contractors to
22 implement the final rulemaking. We urge the Agency to
23 extend the enforcement deadline by twelve to eighteen
24 months from the adoption of the final rulemaking, which
25 is consistent with the time frame originally contemplated

1 by the statute in which enforcement of the CPRA
2 regulations was suspended until twelve months after the
3 final rulemaking.

4 Second, we are very concerned about provisions in
5 the regulations that conflict directly with or exceed the
6 plain language of the statute, for example, the proposed
7 mandatory universal preference signal. The plain
8 language of the CPRA clearly states several times that
9 honoring global opt-out preference signals is one of two
10 options for businesses to elect; yet, proposed Section
11 7025 makes mandatory.

12 The proposed rulemaking instead states that the
13 choice businesses have is whether to process the
14 universal opt-out signal in a non-frictionless or
15 frictionless manner. This conflicts with the statute and
16 should be eliminated. The agency should also revise the
17 rulemaking to fully address the specifications set forth
18 in the statute and respond to business' concerns about
19 whether universal preference signal technologies can
20 reliably and securely indicate consumer choice.

21 Our third overarching concern is that many of the
22 rules are unnecessarily burdensome and do not adequately
23 take into account business operations or functions, and
24 in some instances even interfere with consumer choice and
25 interests. For example, several requirements around

1 displaying customer opt-out choices on company websites
2 are unwork -- unworkable and will be difficult for
3 consumers to use. The Agency should instead allow
4 companies more flexibility to provide functional links
5 that allow consumers to go to an area of the company's
6 website where they can make all their privacy choices.

7 Overall, we respectfully request the agency to take
8 the time to work with all stakeholders, including the
9 business community, to address the issues we have raised
10 orally and in our written comments. This will facilitate
11 compliance and implementation, which is in everyone's
12 best interest. Again, thank you for the opportunity to
13 comment and for considering our concerns.

14 **MR. SOUBLET:** Thank you for your comment.

15 Ms. Hurtado, can you please call our next speaker?

16 **MS. HURTADO:** Ms. Chinkezan was the last speaker
17 that raised their hand.

18 **MR. SOUBLET:** Okay. We're just going to wait for a
19 few minutes to see if there are other people who are
20 either attending online or have come here in the room
21 that would like to speak. So don't -- it'll be quiet for
22 a few minutes, but we're just going to wait and make sure
23 that we provide an opportunity for those that are
24 watching us online. If they would like to speak, we want
25 to hear their comments.

1 **MS. HURTADO:** We do have another commenter online.
2 Mr. Ben Hayes. Mr. Hayes, you've been unmuted. You have
3 five minutes to speak. Your time begins now.

4 **MR. HAYES:** Okay. Thank you. My name is Ben Hayes.
5 I'm the chief privacy officer of Zeta Global and have
6 served in chief privacy officer roles for over twenty
7 years for a variety of other companies as well. I am
8 speaking to express concern about the proposed
9 regulations.

10 One potential effect of the regulations as currently
11 drafted is to lower the availability and effectiveness of
12 cross-contextual advertising. Cross-contextual
13 advertising produces a higher rate of return on
14 investment, which funds much of the content and services
15 which consumers enjoy for free online. It provides
16 revenue for local and regional media outlets without
17 which they cannot continue to function.

18 Contextual advertising, as opposed to
19 cross-contextual advertising, simply does not produce the
20 same results per dollar spent on advertising as
21 cross-contextual advertising. It is not an economically
22 viable replacement for cross-contextual advertising.

23 The current estimated impact of CPRA is 55 billion
24 dollars. I would suggest that the proposed regulations
25 could significantly expand that impact, particularly on

1 smaller businesses or businesses operating on tight
2 margins that rely on advertising revenue and that the
3 regulations should be delayed until independent economic
4 studies can determine the true impact, both of -- of the
5 implementation, but of -- of loss of ad revenue over time
6 and that the final regulations be crafted to minimize
7 those impacts as best they can within the confines of the
8 CPRA statute. Thank you.

9 **MR. SOUBLET:** Thank you. Ms. Hurtado, any other
10 speakers?

11 **MS. HURTADO:** No. There are no other speakers at
12 this time.

13 **MR. SOUBLET:** Okay. Since we're scheduled for
14 today, I just want to -- we're going to be here with the
15 record open for just a little while and make sure that we
16 don't miss anyone who would like to comment today. So
17 although you may not hear us speaking right now, we're
18 just going to keep that -- keep it open so that we can
19 facilitate any speakers who may jump in now.

20 (Pause)

21 **MS. HURTADO:** We have another commenter. Alexis
22 Carmichael (ph.), you've been unmuted. You have five
23 minutes to speak. Your time begins now.

24 **MS. CARMICHAEL:** Hi, there. Good afternoon. My
25 name is Alexis Carmichael, and I am owner and operator of

1 19 Meadow (ph.) in San Bernardino region. I am concerned
2 about the lack of input of for the minority-owned
3 business leaders look myself in the stakeholder process.
4 Every morning -- every moment that we take to monitor
5 this week's stakeholder meetings is time away from
6 serving our customers and taking care of our employees,
7 and the COVID-19 pandemic has put us through the ringer,
8 but we're able to use social media to communicate
9 directly with our customers to stay in business.

10 I also advertise online to reach perspective
11 customers and to build my business' reputation in the
12 community. Protecting the privacy of my customers is
13 critically important, and I respect the efforts being
14 made to ensure the privacy of all Californians is
15 protected, but it is also important that small businesses
16 like mine, which are the backbone of our community, can
17 compete and survive.

18 There must be a balance between these two important
19 priorities, and the CPPA has itself acknowledged the
20 importance of striking this balance. Not all business
21 owners are able to take time away from their day-to-day
22 operations to log onto three days of stakeholder meetings
23 to ensure that their voices are heard as the CPPA put
24 these crucial regulations. The CPPA needs to do more to
25 reach small business owners where they are. These

1 regulations will drastically impact how we do business,
2 and we should have a seat at the table in establishing
3 fair, equitable, and practical regulations. Thank you.

4 **MR. SOUBLET:** Thank you.

5 **MS. HURTADO:** There are no -- no other commenters at
6 this time.

7 **MR. SOUBLET:** Okay. I see it's now 11 a.m. We're
8 going to close the record for the hearing today, but this
9 is not -- does not close the opportunity to -- to speak
10 and provide additional comments. We will resume the
11 hearing again tomorrow morning at 9 a.m., both here
12 present and online, and so if you've missed the
13 opportunity to speak today, you will have an opportunity
14 to speak tomorrow when we go back on the record.

15 I'd like to thank those of you that are -- took the
16 time to come here and be present and provide your
17 comments this morning. We greatly appreciate it. I
18 would also like to thank those of you who are online who
19 have provided comments to us today. We appreciate your
20 input. Again, we will be back on the record at 9 a.m.
21 tomorrow morning. Thank you.

22 (End of recording)
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TRANSCRIBER'S CERTIFICATE

STATE OF CALIFORNIA

This is to certify that I transcribed the foregoing pages 1 to 65 to the best of my ability from an audio recording provided to me.

I have subscribed this certificate at Phoenix, Arizona, this 2nd day of September, 2022.

Brittany D. Payne

Brittany D. Payne
eScribers, LLC

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