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CALIFORNIA PRIVACY PROTECTION AGENCY

AMENDED TRANSCRIPTION OF RECORDED PUBLIC MEETING

AUGUST 25, 2022

OAKLAND, CALIFORNIA

Present: BRIAN SOUBLET, General Counsel
LISA KIM, Department of Justice,
Deputy Attorney General
ASHKAN SOLTANI, Executive Director
TRINI HURTADO, Moderator
CHRIS THOMPSON, Board Member

Public Speakers: Luigi Mastria, AdChoices
Joel Odelson
Ben Medina
Alistair Mactaggart
Justin Brookman
Bud Tender
Yadi
Sani Brosig

Transcribed by: Marion G. Santiago
eScribers, LLC
Phoenix, Arizona

Oakland, California
August 25, 2022
9:00 a.m.

AMENDED TRANSCRIBED RECORDED PUBLIC MEETING

August 25, 2022

MR. SOUBLET: Good morning, and thank you for being here. On behalf of the California Privacy Protection Agency I would like to welcome you to today's hearing regarding proposed regulations implementing the California Privacy Rights Acts -- California Consumer Privacy Act.

My name is Brian Soublet, and I'm the acting General Counsel of the California Privacy Protection Agency. I will be the hearing officer for today's proceedings.

Also present here today with me are Lisa Kim from the Department of Justice, and Ashkan Soltani, the Executive Director for the CPPA. Ms. Trini Hurtado will be serving as our timekeeper today.

For the record, today is August 25th, 2022, and the time is 9:02 a.m. We are at the Elihu M. Harris State Building, located at 1515 Clay Street, Oakland, California.

MR. SOLTANI: Brian, one second. There seems to be low audio. We'll turn up the input volume for --

1 you hit, basically (indiscernible), yeah. Turn it up.

2 And to the court reporter, how is that audio?

3 MR. COURT REPORTER: It's still pretty low. It's

4 low for you as well, Mr. Soltani.

5 MR. SOLTANI: Okay. If I speak up here, is it

6 louder?

7 MR. COURT REPORTER: That's better, yes.

8 MR. SOLTANI: Okay. And Brian, if you can speak

9 up as well.

10 MR. SOUBLET: Testing, testing.

11 MR. COURT REPORTER: Okay.

12 MR. SOLTANI: Great. Thank you for that

13 clarification.

14 MR. SOUBLET: For the record, today is August

15 25th, 2022, and the time is 9:02 a.m. We are at the

16 Elihu M. Harris State Building, located at 1515 Clay

17 Street, Oakland, California.

18 This hearing is being conducted both in person and

19 virtually due to COVID-19 restrictions. Before we

20 begin, there are a few points I'd like to make.

21 The Notice of Proposed Rulemaking for the CPPA

22 regulations was published in the California Regulatory

23 Notice Register on July 8th, 2022, in Register number

24 27-Z, starting at page 770. The notice and related

25 rulemaking documents were posted on the Agency's

1 website on July 8th, 2022, and emailed to all
2 interested parties who had requested rulemaking
3 notices.

4 Today is the second day of the public hearings
5 that were announced in the notice. The deadline for
6 submitting written comments closed on August 23rd,
7 2022, at 5:00 p.m. But those who have written comments
8 that they would like to submit may email them to the
9 comment -- you may email comment to
10 regulations@cpha.ca.gov before the end of this hearing.

11 We recently posted additional resources on our
12 website about the Agency's CCPA rulemaking processes,
13 including two documents in PDF format, entitled "Tips
14 on Submitting Effective Comments" and "Information
15 About the Rulemaking Process". Please visit our
16 website at cpha.ca.gov.

17 Today's hearing is quasi-legislative in nature,
18 and is being held pursuant to the California
19 Administrative Procedures Act. The California
20 Administrative Procedures Act specifies that the
21 purpose of this hearing is to receive public comments
22 pertaining to the proposed regulations.

23 If you are speaking today, we ask that you limit
24 your comments to the proposed regulations or the
25 rulemaking procedures we are following. We do not

1 intend to answer questions or otherwise engage in a
2 dialogue in response to any oral or written comment.
3 However, we may ask that you speak slower or louder, or
4 ask a limited follow-up question just to clarify our
5 point.

6 Today's hearing is being recorded and will be
7 transcribed by a court reporter. The transcript of the
8 hearing, and any written comments presented during the
9 hearing, will be made part of the rulemaking record.
10 Please try your best to speak slowly and clearly to
11 help the court reporter create the best possible
12 record.

13 After the public comment period ends, the Agency
14 will review and consider all relevant comments and
15 recommendations provided at the public hearings and in
16 writing. The Agency will then compile a summary of
17 each relevant comment or recommendation, and prepare a
18 response to it, which will be included in the Agency's
19 final statement of reasons.

20 Once the final statement of reasons is complete,
21 the entire rulemaking record will be submitted to the
22 Office of Administrative Law and a copy of the final
23 statement of reasons along with a notification of any
24 changes that were made to the proposed regulations will
25 also be posted to the Agency's website.

1 We will notify all persons who provided a comment,
2 and all those otherwise interested, of any revisions to
3 the proposed regulations, and any new material relied
4 on in proposing these rules.

5 Accordingly, we have a check-in table outside the
6 room for speakers who are here present. You may also
7 sign in to speak without providing your name or contact
8 information. However, please note that we will not
9 then be able to provide you with notice of any
10 revisions or other rulemaking materials. If you
11 previously RSVP'd on line or here in person and
12 provided your email address, you will automatically be
13 included in our mailing list.

14 For those attending virtually and haven't signed
15 up, but would like to be notified via our emailing
16 list, please go to our website. Again, that's
17 coppa.ca.gov, click on contact us, and then click on
18 sign up to the mailing list to add yourself to the
19 rulemaking proceedings mailing list.

20 If you are attending virtually and would like to
21 comment, please use the raise hand feature. We will
22 call your name, and you will be unmuted and prompted to
23 speak. Again, if you would like to be identified,
24 state and spell your name and your organization. If
25 you do not want to give your name, you can use an

1 appropriate pseudonym.

2 Attendees who did not RSVP will be given a chance
3 to speak after we make it through (indiscernible). If
4 you are participating by phone, you can raise your hand
5 by pressing star 9. Once you are called on, you can
6 also toggle to mute or unmute by pressing star 6.

7 Each speaker will have five minutes to speak. To
8 assist the speakers, Ms. Hurtado will alert the speaker
9 when they only have 30 seconds left to speak. In the
10 interest of time, if you agree with comments that were
11 made by a prior speaker, please state that and add any
12 new information that you may want to present.

13 Also, there is no need to repeat or read aloud any
14 written comments already submitted. All comments,
15 whether written or oral, will be responded to by our
16 office.

17 If we have time remaining after all of the
18 speakers have had a turn, we will give the speakers an
19 opportunity to take a second turn to add to their
20 remarks.

21 Lastly, if we have to take breaks, we will make an
22 announcement and return promptly at the time that we
23 said. At this time, we welcome your comments.

24 Ms. Hurtado, please call on our first speaker. We
25 have one speaker with their raised hand -- with their

1 hands raised, sorry.

2 MS. HURTADO: Okay. Our first speaker is Luigi
3 Mastria. Mr. Mastria, you've been unmuted. You now
4 have five minutes to speak. Your time begins now.

5 MR. MASTRIA: Thank you very much. My name is Lou
6 Mastria. That's L-O-U, M-A-S-T-R-I-A. I'm the
7 President and CEO of the Digital Advertising Alliance.
8 We are a nonprofit organization that runs the popular
9 AdChoices program. Thank you for giving me a moment to
10 speak on this very important initiative in California.

11 On behalf of the Digital Advertising Alliance,
12 we'd like to provide the following additional comments
13 in response to the CPPA's July 8th request for public
14 comment on the text of the proposed regulations to
15 implement CPRA.

16 We are concerned that several provisions in the
17 proposed regulations contravene clear text of CPRA. We
18 also believe that the Agency has underestimated the
19 cost it will accrue from the new and, in some cases,
20 yet unclear requirements set for in the proposed rules.

21 We and the companies which participate under the
22 DAA principles, many of whom do substantial business in
23 California, strongly believe consumers deserve
24 meaningful privacy protections supported by reasonable
25 laws, as well as responsible industry policies.

1 We ask the Agency to explore a public-private
2 partnership, so that experience, effective, efficient
3 processes such as the DAA Zone AdChoices program, which
4 is already available to millions of consumers on the
5 market, can be leveraged as part of the companies'
6 responses to CPPA regulations.

7 This action addresses the Agency's multifaceted
8 needs in our minds to provide rapid scale and the need
9 to provide cost effectiveness, while allowing consumers
10 to make informed decisions and benefit from database
11 services available on the internet.

12 Many of the proposed regulations today focus on
13 gatekeeper functionality, while instead we are for
14 privacy control solutions, which any company of any
15 size can put into the hands of consumers today.

16 Instead of using the still-young Agency's
17 resources on developing novel regimes and visual
18 signifiers to replace existing, well-placed, well-
19 deployed tools and techniques, we would encourage you
20 to partner with industry as a way of delivering on your
21 pro-consumer mission in a more rapid and efficient
22 fashion.

23 As a nonprofit with more than a decade of
24 experience, and catering to tens of millions of
25 consumers who have made privacy choices through our

1 web, app, and now our new identifier-based platforms,
2 we have both the pedigree and the reach to assist in
3 the Agency's work. We ask that you explore such a
4 partnership with DAA.

5 Thank you for this opportunity to speak, and I
6 look forward to continuing to participate in any way
7 that we can.

8 MR. SOUBLET: Thank you.

9 MS. HURTADO: Our next speaker is Joel Odelson.
10 Mr. Odelson, you've been unmuted. You now have five
11 minutes to speak. Your time begins now.

12 MR. ODELSON: Hello, can you hear me?

13 MS. HURTADO: Yes.

14 MR. ODELSON: All right. Thank you very much for
15 allowing me to speak today. My name is Joel Odelson.
16 I am a chief information security officer. As a part
17 of my role as a CISO, it is to protect the
18 confidentiality, integrity, and availability of systems
19 not only for my companies, but I also help out other
20 companies on a nonprofit basis.

21 I'm speaking here today, and I can't see everybody
22 on the panel, but I'd like to know by the show of
23 hands, how many of you have tried to actually use your
24 rights under CCPA, for the right to get the information
25 which a company has on you, or the right to be

1 forgotten. Have any of you done that yourselves? Have
2 gone through the process? With any company? Okay.

3 I just wanted to give you an experience what I had
4 just recently as I was trying to do this with NBC, a
5 major corporation here in the United States, and a
6 global corporation.

7 I filled out the forms. I got the responses back
8 from them. They, of course, wanted me to multifactor
9 to prove that I was who I said I was. So over 15
10 minutes ago I sent the request to get the multifactor
11 via my email. I have yet to receive the multifactor in
12 my email, and there is only a 15-minute window in which
13 they give me to enter my multifactor authentication
14 that they sent me via email.

15 The point that I'm trying to make here is,
16 although you're implementing this law, right, I would
17 wish that you would follow more of a GDPR-style law,
18 where I have to opt in before a company can take my
19 data.

20 And the reason is, that because I find it nearly
21 impossible as a citizen, and talking to other citizens
22 in California and their constituents, to actually get
23 these companies to follow along with processing GDPR
24 requests. So if a company like NBC Universal is having
25 difficulty doing it, imagine the smaller companies who

1 probably won't be able to do it.

2 My request is that this is my data, this is my
3 personal information. I do not want a company to be
4 able to have the right to scrape up information and
5 sell my information. Just yesterday alone, I had 16
6 real estate agents call me. And when I asked them
7 where they got my information, not one of them was
8 willing to give me that information.

9 So what I'm saying is, it's nearly impossible to
10 use what you have enabled today. I appreciate the
11 sentiment behind what you're trying to do, but at least
12 my experience in trying to invoke my rights under CCPA
13 seems nearly impossible. And the fact that there is
14 really no punishment or (indiscernible) associated with
15 these companies basically using my identity and taking
16 my personal information without my permission, I don't
17 think the law is strong enough as it is.

18 And I'll yield back the rest of my time.

19 MS. HURTADO: Thank you very much. Our next
20 speaker is Ben Medina. Mr. Medina, you have been
21 unmuted. You have five minutes to speak. Your time
22 begins now.

23 MR. MEDINA: Good morning, everybody. Thank you
24 for allowing me to speak this morning. My name is Ben
25 Medina. I work at the San Juan Capistrano Chamber of

1 Commerce, home of the Swallows, a famous
2 (indiscernible) Capistrano (indiscernible). I'm
3 calling today on behalf of the San Juan Capistrano
4 Chamber, and we represent more than 2,000 businesses
5 here in south Orange County.

6 The majority of our members are small and medium-
7 sized businesses that continue to have growing concerns
8 about the privacy regulations and --

9 MS. HURTADO: Mr. Medina -- excuse me, Mr. Medina.
10 Are you using a cellphone?

11 MR. MEDINA: Yes, I am.

12 MS. HURTADO: Because you're coming over a little
13 garbled. We can't understand.

14 MR. MEDINA: I'll go ahead and switch to a non-
15 Bluetooth.

16 (Audio interference.)

17 MR. SOUBLET: We can pause his time.

18 MS. HURTADO: We paused your time.

19 MR. MEDINA: Can you hear me now?

20 MS. HURTADO: Very low.

21 MR. MEDINA: Is that better?

22 MS. HURTADO: Yes.

23 MR. MEDINA: Okay. I'm calling in today on behalf
24 of the San Juan Capistrano Chamber of Commerce,
25 representing more than 2,000 businesses here in south

1 Orange County. The majority of our members are small
2 to medium-size businesses, who continue to have growing
3 concerns about data privacy regulations that this Board
4 is currently considering, including its impact on its
5 business operations that must be addressed before it's
6 too late.

7 While the protection of consumer privacy is
8 important, there must be a more balanced approach to
9 assure that California's small to medium-size
10 businesses aren't left behind in these regulations as
11 they are developed and implemented.

12 For example, our organization has been meeting
13 with state organizations about the threat of these new
14 regulations that pose judicial tools and services that
15 we use to reach our customers. If CPPA goes too far in
16 regulating the internet, then small businesses will not
17 have the ability to compete with large retail companies
18 that are able to spend billions in advertising.

19 We urge the CPPA to analyze the proposed
20 regulations to consider whether the new restrictions
21 will have an impact on the ability of small businesses
22 to continue to use the internet as a low cost and an
23 effective advertising solution alternative to mass
24 media.

25 San Juan Capistrano businesses are very proud and

1 continue to evolve to meet the needs of California
2 consumers during these times of post-pandemic
3 inflation, supply chain disruptions, and so on. But
4 hamstringing small business communities by implementing
5 costly and complex, and ever-changing regulations will
6 cause irreparable harm at this time, when businesses,
7 small and medium, can least afford it.

8 I respectfully ask the Board to take a much closer
9 look at how small to medium size businesses across
10 California could be impacted by the regulations that
11 you are considering.

12 Thank you for your time today. And I look forward
13 to working with the Board in the future on this
14 important issue.

15 MS. HURTADO: Thank you so much. Our next speaker
16 is Justin Brookman. Mr. Brookman, you've been unmuted.
17 You have five minutes to speak. Your time begins now.

18 MR. BROOKMAN: Thank you. Can you hear me?

19 MS. HURTADO: Yes.

20 MR. BROOKMAN: Thank you, great. My name is
21 Justin Brookman. I am Director of Technology Policy
22 for Consumer Reports. I am also a participant in the
23 Global Privacy Control project. Global Privacy Control
24 is a web-based signal that can be sent to universally
25 exercise opt-out right. It was the subject of an

1 enforcement action by Attorney General Bonta just
2 yesterday, resulting in a 1.2 million dollar settlement
3 with Sephora for failure to adhere to GPC signals.

4 We filed detailed comments on the proposed
5 regulations on Tuesday. I want to just briefly
6 summarize some of the points that we made.

7 In general, we were very supportive of the draft
8 regulations. We thought they were very thoughtful, did
9 a great job with balancing the interests of various
10 stakeholders.

11 A couple of areas where we specifically want to
12 urge the Agency to not to resist making changes. One,
13 on Global Privacy Controls, the current draft
14 regulations say that they are mandatory. I think there
15 is some ambiguity in the text of the CPRA about when
16 they are required. But I think section 135(e) of the
17 CPRA is quite clear that no matter how companies chose
18 to comply with section 135, that they are required to
19 adhere to GPC signals.

20 If the GPC signals are not mandatory, I think that
21 opt-out rights are not going to be usable or workable
22 in California. I agree with the comments from the
23 previous commentor, I think Mr. Odelson, who talked
24 about the practical difficulties in opting out one by
25 one. This echoes some of the research that Consumer

1 Reports. We published a study on the CCPA, where we
2 crowdsourced people to try to exercise opt-out rights
3 in California.

4 People found that even exercising one right was
5 incredibly tedious, confusing; people did not
6 understand how to do it. The CPRA intends to require
7 people to adhere to GPC signals. And so I strongly
8 urge the Commission to support the draft regulations,
9 which clarify that for companies.

10 The other piece I want to urge to maintain, I
11 thought that the provisions on consent were very
12 strong. We've seen, in response to laws like the CCPA
13 and the GDPR, companies use a variety of dark patterns
14 to try to simulate consent, where people have to click
15 okay, and do not understand what they have agreed to.
16 I thought that the language that was included in the
17 draft regs was very thoughtful, and did a great job of
18 laying out requirements for consent to be valid.

19 I also wanted to urge the Commission not to delay
20 implementation of the CPRA. Companies have had several
21 years now to adhere to California laws starting with
22 the CCPA, and then going to the CPRA, which was passed
23 in 2020. This goes into effect in 2023. I think
24 companies have had plenty of time to digest the
25 requirements, which again are incrementally different

1 from what was already in the CCPA.

2 A couple of narrow suggestions that we made in our
3 comments. One, we recommend that the Agency put
4 together a registry of global signals that companies
5 are required to adhere to, just to provide some more
6 certainty to companies about what signals they need to
7 respond to.

8 I believe, a representative from the DAA suggested
9 that their signal should be considered binding. There
10 has already been guidance in California that keep the
11 C-signals bindings. I would just recommend making a
12 list and updating it as far as what source of signals
13 companies are required to treat as binding opt-outs.

14 On non-retaliation, section 125(b)4 of the CPRA it
15 says that unjust, unreasonable, coercive, or usurious
16 inducements are prohibited. But there is no clarity as
17 far as what that means. We put together suggestions to
18 the Agency as to try to get more guidance to companies,
19 as what sort of financial incentives are unfair, that
20 do put their phone too much on the scale -- okay, thank
21 you.

22 And then finally, I should -- that's probably
23 sufficient. Thank you very much for the time. I
24 appreciate the opportunity to comment today.

25 MR. SOUBLET: I'd like to remind those of you that

1 are attending online, if you'd like to make a comment,
2 please use the raise your hand feature. If you're
3 dialing in by phone, you can press star 9 to raise your
4 hand. And then, once you are called upon, press star 6
5 to unmute.

6 MS. HURTADO: Our next speaker today will be Robin
7 West. Okay, Ms. West, you have five minutes to speak.
8 Your time begins now.

9 MS. WEST: Hello. My name is Robin West. Am I
10 allowed to speak?

11 MS. HURTADO: Yes.

12 MS. WEST: Thank you. I wasn't sure I was using
13 your system correctly. So this is good.

14 I have way too much to say today. But I wanted to
15 comment on what Joel -- I think his name was Odelson,
16 spoke up about. The businesses are not complying with
17 our request. And I typed up a very well written
18 request with all of the pertinent information, and
19 specific to Nordstrom.

20 Nordstrom, I think, has allowed someone else with
21 my same name to use my credit card and other things.
22 And this other person with my same name, Robin West,
23 according to a private investigator, has been scooping
24 up my telephone numbers and putting them -- my former
25 cell phone numbers -- and putting them onto their

1 phone -- onto her phone. I don't know if this is all
2 factual or not, but this is the information that I've
3 been given. It may have been going on for at least 10
4 years.

5 I'm a victim of very serious fraud in my medical
6 records. So at least 10 years' worth of fraud, serious
7 fraud. Wrong diagnosis, strange letters that practice
8 nurses have been writing and scanning into my chart.
9 I've never participated in any of the portals. I don't
10 have a passcode for any of the portals.

11 And recently, when I learned of all the fraud,
12 because I spent two years collecting 10 years' worth of
13 medical records, and I learned about the fraud, I opted
14 out. The medical institutions are not informing
15 patients, that that is an option.

16 I also have Break the Glass on my account. So if
17 a doctor from John Muir decides to snoop into my
18 records over at UCSF or Stanford, or at Sutter Health
19 records, they will leave a footprint.

20 Now, most people don't know anything about this.
21 Most people don't know that once they complete their
22 intake forms at the doctor's office, and once that
23 office adds them into their computer, those forms are
24 shredded. So if something happens and their portal is
25 hacked, their system is hacked, or somebody tries to

1 scan in a letter 10 years later into their file, this
2 happened to me.

3 I went to a well-known cardiologist in 2004, 10
4 years later. I just recently learned in July of last
5 year that this practice nurse wrote a letter that was
6 extremely defamatory, and with all sorts of strange
7 things. I mean, the letter looked like it was written
8 by somebody strung out on drugs. It was so poorly
9 written, and so odd and peculiar. And I disproved
10 everything in the letter.

11 But my point in sharing all this with you is, your
12 department, your organization and these laws are very,
13 very, very much needed. And unfortunately, your
14 regulation apparently is not going to actually kick in
15 until July of next year. So apparently we still have
16 to go to the Attorney General's office. I think that's
17 Bonta's office, possibly, if I recall correctly in the
18 message I received.

19 But I have this problem right now. In April,
20 there was fraud in my medical records, I mean blatant
21 fraud. I managed to accidentally capture a doctor in
22 September of last year committing the fraud, and I
23 captured it on video by accident, one hour of the
24 visit. And I'm shocked that these things are going on.

25 But you're very much needed. This is, like, past

1 due. So I'm very thankful that you have created this
2 organization. If I can help in any way moving forward,
3 I will volunteer time or help in any way I can.
4 Because in fact, just the other night I watched The
5 Circle, remember, that movie with Tom Hanks.

6 So you know, it's unfortunate, but they're not
7 compliant. So we do need the regulation. We do need
8 your committee. And thank you, for letting me speak.

9 MS. HURTADO: Thank you so much, Ms. West. Our
10 next speaker is Alistair Mactaggart. Mr. Mactaggart,
11 you've been unmuted. You have five minutes to speak.
12 Your time begins now.

13 MR. MACTAGGART: Great. And can you hear me?

14 MS. HURTADO: Yes, sir.

15 MR. MACTAGGART: Okay. Great. Well thank you,
16 Board Members, Agency staff for the opportunity to
17 speak today. I think I'm going to start off on --
18 you're all going to roll your eyes, but it's the thing
19 I talk about a lot, which is the global opt-out,
20 Section 7025, specifically (c)2 of the regs -- sorry,
21 (b) of the proposed regs.

22 And I want to support that proposed regulation and
23 urge that it not be amended. There is a lot of, I
24 think disinformation and misinformation floating around
25 this industry-propagated idea that the global opt-out

1 is voluntary.

2 And I think I just want to go over the Statute
3 section 1798.135(e), for Edward, which is just so clear
4 in my mind. Which -- it says that a consumer may
5 authorize another person to opt out of the sale or the
6 sharing of the consumer's personal information. And
7 then later on it says, you know, and the business shall
8 comply with an opt-out request received from a person
9 authorized by the consumer to act on the consumer's
10 behalf. Regardless of whether the business has elected
11 to comply with subdivision (a) or (b).

12 There is no choice here for businesses. We wrote
13 it this way because -- you think about it this way. If
14 a consumer may do something, that means they have to
15 have the right to do it. This is not the Commission,
16 that the Agency may chose to do something. Okay, in
17 that case the Agency could propagate a rule, one way or
18 the other.

19 But if you are saying, if the statute says that
20 the consumer may do something, that means that they
21 have to have the right to do it. And the right that
22 they have is to have another person, which is
23 another -- looking at the definition of person -- it's
24 a business or nonprofit, so you can have a tool, you
25 know, that a nonprofit controls or the global privacy

1 controls -- you could have a business privacy setting.

2 And I just want to point out that there is no
3 optionality about whether businesses must respond to
4 global privacy controls. And you know, just the plain
5 English reading of this is very clear in my mind. And
6 so that's why I think that the global opt-out Section
7 7025 should not be amended -- 7025(b) should not be
8 amended.

9 With that said, I do not, you know, I don't think
10 that the 705(c)2, where you allow the business to ask
11 for more information in the event that the person shows
12 up with a global opt-out. I disagree with that
13 concept. I understand the reasoning, which is that
14 people are concerned about -- what about selling
15 offline information, the businesses is also selling
16 offline information. They might need more information
17 from you.

18 But I think that what will happen if you allow
19 businesses to meet the global opt-out with a request
20 for your email or for your name, what will end up
21 happening is that this is that the business will go,
22 like wait, we're going to use this so that we can
23 collect more information. And even if they can't use
24 it in any other way but to talk you out, the hurdle to
25 the consumer experience would be such that people wind

1 up trading off their global opt-out. This will say,
2 every time I show up on a site, I have to give more
3 information.

4 So I would accept the 80/20 of life and understand
5 that businesses may have additional offline information
6 that they're selling. But I would strongly urge you to
7 say, look, when the consumer shows up with the global
8 opt-out either under 135(a) or (b), the business should
9 comply, but if the business has chosen 135(a), then
10 they can take advantage of the steps in 121. And if
11 the business shows up under 135(b), if they're choosing
12 that route, then the business may not retaliate at all.
13 It has to be the same user experience, as if the
14 consumer was showing up without any global opt-out at
15 all.

16 And then, you know, my last comment here would be
17 around data minimization. I love the idea of what an
18 average consumer would expect. I know that ADPPA, the
19 proposed federal bill everybody is flaunting, everybody
20 is talking about how it's got constraint issues and how
21 great that is. I actually like this more, because this
22 standard can change over time. And it's a real person
23 standard. And I would just urge you to look at the
24 phrase compatible with the context in which the
25 personal information is collected; look at that

1 strictly. Because the businesses should not be using
2 this ability to collect as much information as
3 possible.

4 Anyway, thank you very much for the opportunity to
5 comment. Bye-bye.

6 MS. HURTADO: Thank you. There are no other hands
7 raised at this time.

8 MR. SOUBLET: Okay. I just wanted to do one more
9 reminder. If you are attending online and would like
10 to speak, please use the raise your hand feature. If
11 you're dialing in by phone, you can do that by pressing
12 star 9, and once called upon to unmute, you would press
13 star 6. We'll wait a few minutes to see if there are
14 any more people that would like to raise their hand.

15 MS. HURTADO: Okay. We have another speaker, Sara
16 Geoghegan. You have been unmuted. You have five
17 minutes to speak. Your time begins now.

18 MS. GEOGHEGAN: Hello, my name is Sara Geoghegan,
19 and I am a law fellow at the Electronic Privacy
20 Information Center, or EPIC. On behalf of EPIC, I want
21 to applaud the Agency for its hard work to update the
22 CPRA to protect Californians from data abuses and
23 privacy violations. We urge you to continue to protect
24 consumers' rights, and strengthen privacy protections
25 at every opportunity, consistent with the expressed

1 will of California voters.

2 EPIC, along with the coalition of several society
3 groups, submitted detailed written comments addressing
4 the proposed regulations. And I speak today to
5 highlight a few important points.

6 First, the Agency should use its authority to
7 establish strong data minimization standards to omit
8 the collection use and disclosure of personal
9 information. The draft regulations would allow
10 businesses to collect and use personal information in
11 ways that are not necessary or proportionate to the
12 uses a reasonable consumer would expect. We believe
13 that these out of context data uses should be
14 prohibited.

15 Consistent with the text of the CCPA as amended,
16 the Agency should similarly establish strong
17 limitations on the use and collection of sensitive
18 data. Because Californians' most urgent need is not
19 for more notices about their rights. It is for
20 substantive, meaningful limitations on the use and
21 disclosure of their sensitive personal information.

22 EPIC further suggests that the Agency provide
23 clarity, that when a business has received an opt-out
24 preference signal, they may not prompt the consumer to
25 confirm that preference, or otherwise collect

1 additional personal information in connection with such
2 signal. An opt-out preference signal is by itself
3 sufficient confirmation and authentication of the
4 consumer's intent to opt out, which the business must
5 honor.

6 Absent this clarification, we are concerned that
7 businesses may attempt to undermine the efficacy of
8 opt-out preference signals by bombarding consumers with
9 confirmatory pop-ups, implementing consent fatigue. The
10 Agency should further provide more stringent
11 restrictions with respect to service providers and
12 third parties to ensure that companies cannot retain
13 personal information for longer than necessary.

14 Currently, Sections 7050 and 7051 contain language
15 that is too broad, including language that provides
16 unless expressly permitted by the CCPA for these
17 regulations. We recommend that the regulations should
18 enumerate the specific circumstances under which
19 service providers and contractors may retain personal
20 information.

21 Lastly, I would like to echo the point made by our
22 friends at Consumer Reports, that the CCPA should not
23 delay enforcement, and that businesses have had more
24 than enough warning about their obligations to
25 California consumers.

1 EPIC commends your work to protect the privacy of
2 consumers and individuals, and looks forward to more
3 robust protections for Californians. Thank you.

4 MS. HURTADO: Thank you. Our next speaker is --

5 MR. SOLTANI: Mr. Court Reporter, how is the audio
6 and video link. There is some quality degradation on
7 the video. Is that all right?

8 MR. COURT REPORTER: The audio has been pretty
9 good. You're a little low right now. Video has been
10 okay.

11 MR. SOLTANI: Okay. Thank you.

12 Go ahead.

13 MS. HURTADO: Okay. The next speaker is Bud
14 Tender (ph.). Just one moment.

15 MR. COURT REPORTER: Yeah, the video does seem to
16 be frozen now.

17 MS. HURTADO: Okay. Mr. Tender, you have five
18 minutes to speak. Your time begins now.

19 MR. COURT REPORTER: Yeah, I just lost the video.

20 MR. TENDER: I'd like to address a couple issues.
21 One of them is getting personal data from an
22 organization. I tried a couple days ago to get my
23 personal information from Samsung, and I was required
24 to fill out a form, submit a copy of the picture of the
25 front and the back of my divers license, and a personal

1 picture. And it froze on the last picture. And then I
2 had to start over again. And after doing this probably
3 half a dozen times, taking 30 minutes, I finally gave
4 up.

5 The problem is, I can't get my personal
6 information from Samsung, because their equipment
7 freezes on me. So I've tried this with other
8 organizations, and the same thing happened. So I get
9 kicked out. So I'm not really sure if that's something
10 that they built into their operating system, or if it's
11 just something that automatically happens because of
12 the data connection.

13 The second issue I'd like to bring up, not that
14 the first issue is anything that is within your
15 peripheral, but the second issue I'd like to bring up
16 is about cookies, and accepting cookies and rejecting
17 cookies when you go to a website.

18 And so what I've noticed is that the websites hide
19 the information on how to reject the cookies. There is
20 one I went to today, there is big blue bar that says
21 accept all cookies, and then a transparent bar that
22 says cookie -- it says manager. And the manager takes
23 you to a place where there is four required cookies
24 that you have to accept, and then there is 13 options
25 to reject, and there is four more that you are required

1 to accept.

2 And this is a very long choice, pages and pages
3 that you have read through in order to accept or reject
4 them taking your personal information.

5 I don't know if you are the organization that is
6 trying to make this clear for the consumer -- the
7 internet consumer, how to manage their data. So I was
8 hoping that there was something that you could be able
9 to do about this.

10 Some sites -- there was another site I went to
11 today, it's called pocket or getpocket.com, and
12 automatically a popup comes up that says accept them or
13 reject all. And that's really fairly easy and very
14 simple to do instead of spending 30 minutes or more
15 trying to get through this process of protecting your
16 personal data. And I'm hoping that there is going to
17 be something that you can do to help these companies
18 make their choices more clear for the consumer.

19 And that's pretty much what I wanted to say, and I
20 hope I came in clear enough for you. Thank you.

21 MS. HURTADO: Thank you for your comment.

22 MR. SOUBLET: At this time, we are going to take a
23 short 15-minute break. And we will return promptly at
24 10:00 a.m. Thank you.

25 (Recess at 9:44 a.m., until 10:00 a.m.)

1 MR. SOUBLET: If you are in our attending
2 (indiscernible) use the raise your hand feature if you
3 like to speak. If you have dialed in, you can raise
4 your hand by pressing star 9. And then once we call
5 your name, you press star 6 and you will unmute.

6 MS. HURTADO: Okay. Our next speaker is Yadi.
7 Yadi, you have been unmuted.

8 MS. YADI: Hi, can you hear me? Hi, can you hear
9 me? Hello? Can I get confirmation that I can be
10 heard?

11 MR. SOUBLET: Yeah, I can hear you.

12 MS. YADI: Okay, thank you so much. Yes, thank
13 you for giving me the opportunity -- yes, go ahead.

14 (Audio interference.)

15 MR. SOUBLET: Mr. Court Reporter, do you hear
16 anything?

17 MR. COURT REPORTER: No. I can't hear anything
18 now.

19 MS. HURTADO: Are you hearing me okay now?

20 MR. COURT REPORTER: Now I can hear you, but it's
21 not real loud.

22 MS. HURTADO: How about now?

23 MR. COURT REPORTER: Same.

24 MS. HURTADO: Please bear with us while we're
25 working through these technical difficulties. It'll be

1 just be a moment now.

2 MR. SOLTANI: Brian, can you say something?

3 MR. SOUBLET: Testing, testing, 1, 2, testing.

4 MR. COURT REPORTER: That's okay, but it's not

5 real loud.

6 (Audio interference.)

7 MR. SOUBLET: For those of you online, will you

8 please bear with us for a moment?

9 MR. SOLTANI: Roger, can you confirm you can hear

10 us? I think some other members of the public said they

11 can hear us, so --

12 MR. ROGER: Yeah, I can hear you.

13 MR. SOLTANI: Let's go ahead back on the record.

14 MS. HURTADO: Okay. Ms. Yadi, you have five

15 minutes to speak. Your time begins now.

16 MS. YADI: Great. Thank you so much to the Agency

17 for giving the public many opportunities to weigh in

18 along this process and the rules before us today. And

19 I'd also like to take a moment to thank the Agency for

20 their stance on the Federal Privacy Bill, the ADDPA

21 (sic). Thank you for standing up for Californians.

22 And also, I'd like to remind everyone that the

23 CCPA is for the protection of consumers, and that

24 consumers overwhelmingly voiced that they wanted more

25 privacy protections.

1 I'd just like to start with concerns with
2 implementation, deadline, and the impact voice,
3 especially from the small business community are
4 unfounded. Small business owners are also consumers
5 themselves. Aside from the general concern of burden,
6 there was no specific tangible obstacles that were
7 stated, nor have solutions towards a middle ground been
8 offered.

9 And as someone who built a tech company in a very
10 highly regulated industry, I can say firsthand that
11 compliance is affecting every business owner's life.
12 The technical lift required to give consumers more
13 privacy is not monumental. Furthermore, if I can build
14 and ship a product in six months, then companies
15 definitely have enough time to comply with these rules
16 and modify their data collection and handling
17 processes.

18 So the issue here is not really technical
19 capability, and at the end of the day, if privacy
20 compliance is too burdensome, then the easier solution
21 is to minimize the data collection done by companies.
22 It's that simple.

23 And then I'd like to speak on two sections of the
24 rules, 7021(a). I think that 10 business days is more
25 than ample time. I would actually suggest it's a

1 little long. Forty-eight to 72 hours is more than
2 reasonable. That's in line with how long it takes for
3 unsubscribe requests to take effect.

4 And with regarding section 7021(b), 45 calendar
5 days is very long, particularly for deletion. Also for
6 the request to know, the longer time line should maybe
7 only be extended to provide time for back and forth
8 communication that would be necessary in order to
9 comply. Deletion does not require any back and forth.

10 And then, my last comment is around GPC.
11 Consumers need global privacy control, and it will make
12 it easier for consumers to exercise their rights, as
13 well as make it easier for companies to honor
14 consumers' desire for greater privacy. So thank you so
15 much for that.

16 And to conclude, thank you for your work,
17 especially in a time where people's data is rapidly
18 being weaponized against them as is being seen with the
19 overturning of Roe v. Wade. And just to remind folks
20 that it's really people over profits. And data can be
21 used to criminalize and incarcerate people. So it's
22 very important that we treat it with the utmost care.
23 Thank you for your time.

24 MS. HURTADO: Our next speaker is Sani Brosig.
25 Sani Brosig, you've been unmuted. You have five

1 minutes to speak. Your time begins now. You need to
2 unmute. Please unmute your device. Okay. We will
3 move on to the next speaker. Sani Brosig, if you'd
4 like to speak, please raise your hand again. We're
5 trying to get that taken care of. Our next speaker is
6 Joel Odelson.

7 MR. ODELSON: Hi, this is Joel Odelson again.
8 Thank you. I just wanted to reemphasize that I think
9 that CCPA should follow the GDPR, the European data
10 privacy model, allowing me to affirm-in. And I'm going
11 to give you once again as the Chief Information
12 Security Officer.

13 It's not practical for me to opt out from every
14 single company that is acquiring my data through data
15 brokers and everything else. I will give you an
16 example. For all of us who are on Zoom right now, Zoom
17 has now collected a whole bunch of sensitive and
18 personal identifiable information about us. The
19 speaker, or the panel themselves, their faces will be
20 on this recording, and they use facial recognition to
21 do lots of things now and in the future.

22 But just going through Zoom's privacy policy right
23 now, the device information that they are able to
24 obtain on computers, phones, and other devices, may
25 include information about the speakers, microphones,

1 cameras, operating system versions, hard disc IDs, PC
2 name, MAC address, IP address, which can be used to
3 find the general location and city, and maybe even
4 block of where the person is, the device attributes
5 like a battery level, Wi-Fi information, and other
6 device information like Bluetooth signals.

7 Now, should Zoom be capturing all of that data on
8 all of us right now while we are having this
9 conversation, right? Other information, according to
10 the privacy policy, is that they can look at and
11 include the audio, the video, the in-meeting messages,
12 of course we're not using messages here, chat messages,
13 content transcription, written feedback, responses to
14 polls, questions and answers, and files.

15 I can go on and on, and on. But none of us
16 have -- I got no prompt before I logged into Zoom,
17 telling me that they were going to take all this
18 information. Now this information on itself is
19 probably, you know, fairly benign. But when you start
20 aggregating that data, that's when it becomes very
21 powerful to marketing agencies, to hackers. Because
22 this data on its own may not be sensitive. But as you
23 aggregate it, it's very important.

24 So really what I'm trying to say is, having me
25 trying to opt out or having the telephone consumer

1 trying to opt out of every company that is sucking up
2 data, and then correlating that data with other
3 sources, it's impossible. It's not practical. I would
4 have to have a team of thousands of people every single
5 day going in and trying to remove my data from all of
6 these companies.

7 I strongly suggest that you force these companies
8 through legislation that they must get my complicit
9 consent before they can capture data.

10 I thank you, and yield back my time.

11 MS. HURTADO: Thank you for your comment. There
12 are no other hands raised at this time.

13 MR. SOUBLET: Again, I'd like to remind if you are
14 with us online and would like to make a comment, please
15 use the raise your hand feature. If you are on the
16 phone, you can do that by pressing star 9, and then
17 once we call your name to unmute, you would press star
18 6.

19 It seems that we don't have any further speakers.
20 So at this time on behalf of --

21 MR. SOLTANI: Why don't we keep it open for a
22 little while longer?

23 MR. SOUBLET: Okay. We're going to keep the
24 recording going for another 10 minutes or so, and see
25 if we have anyone else that would like to participate.

1 So we'll be here if you'd like to make a comment,
2 please raise your hand as I mentioned before using the
3 raise your hand feature, or on the phone star 9.

4 MR. SOLTANI: Why don't plan to conclude at 10:20?

5 MR. SOUBLET: It's now about 10:12. We're going
6 to conclude the hearing at 10:20. So we will be here
7 for those of you that provide additional comments until
8 10:20.

9 (Pause)

10 MS. HURTADO: Okay. We have one more speaker.
11 Mr. Bud Tender, you've been unmuted. You have five
12 minutes to speak. Your time begins now.

13 MR. TENDER: I was wondering if you could get that
14 address again to send in comments. I wasn't able to
15 write it down the first time.

16 MR. SOUBLET: Sure. The address is [cppa.ca.gov](mailto:regulations@cppa.ca.gov).
17 And you want to send and submit your comments to
18 regulations, the full word, regulations@cppa.ca.gov.
19 Again that's regulations@cppa.ca.gov.

20 MR. TENDER: Is it regulation with an s or
21 without?

22 MR. SOUBLET: Regulations, R-E-G-U-L-A-T-I-O-N-S.

23 MR. TENDER: Okay, great.

24 MR. SOUBLET: Right. And you should send those in
25 right away, because at the conclusion of this hearing

1 the comment period will close.

2 MR. TENDER: Okay, thank you.

3 MR. SOLTANI:

4 MR. SOUBLET: You want to ask if there are any
5 additional commentors?

6 MR. SOUBLET: Are there any additional people who
7 would like to comment right now? Please use the raise
8 your hand function. I see none.

9 It is now 10:20 a.m. On behalf of the California
10 Privacy Protection Agency, we thank you for your
11 interest in this matter.

12 I hereby conclude the hearing and close the
13 comment period on the California Privacy Protection
14 Agency's proposed regulations. Thank you.

15 (End of recording)

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MARION G. SANTIAGO