

WHITE PAPER

# 10 Things You Need To Know About California's New Consumer Privacy Act

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# Foreword

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In this white paper, we provide an exploration of the essential takeaways from California's New Consumer Privacy Act. Unfortunately, there's no escaping data regulation. It is evolving as quickly as technology and preparation is paramount to avoid any legal and financial consequences. We provide the key factors that make up the CCPA, details on its compliance and disclosure terms, and the steps a company will be required to take in accordance with the law.

Evisort was founded in 2016 out of the Harvard Innovation Lab in collaboration with advisors at Harvard Law School. Evisort uses artificial intelligence to classify legal and business contracts, extract data from them, and apply basic legal analysis to those contracts.

Our white papers are informed by our first-hand experiences as founding members of a start-up and our legal background at Harvard. As the Director of Sales at Evisort and a Harvard law graduate himself, Memme Onwudiwe consulted with privacy lawyers and legal colleagues to provide an informative outlook on CCPA.

# About Evisort

Evisort's founders started the company with a single idea in mind: that the time spent by lawyers and business executives organizing, reading through, tracking and performing due diligence on contracts could be made vastly more efficient with the application of advanced artificial intelligence. The question that remained was "How can recent advances in areas such as natural language processing AI be best applied to make the job of a lawyer, banker, supply chain executive, salesperson, etc. easier and infinitely more valuable?" Thus began a thorough investigation of the market that would eventually culminate in a contract management product designed for the modern business.



Over the past three years, between the two of us, we have spoken with more than one thousand general counsel and business executives, selling our AI-powered contract management platform into businesses of all kinds. Our current clients include legal, finance, and procurement teams at companies that range from small engineering firms in the Midwest to billion-dollar telecommunication companies.

Evisort's current client base reflects its early success and the premier value of its technology, and while none of this happened overnight, Evisort's story over the past several years has indeed been one of exponential growth. Evisort's founders, Jake Sussman, Jerry Ting, (both Harvard Law School alumni students at the time of the company's formation) and Amine Anoun (former MIT PHD candidate and the data scientist responsible for Uber Express Pool), jump-started the company by applying for membership at the Harvard Innovation Lab, which housed our small team of students for the first few years.

# Overview

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California passed the California Consumer Privacy Act (CCPA) in 2018, which is effective on January 1, 2020. The CCPA controls the collection, storage, and sale of Californian's data, bringing significant ramifications for large corporations (especially tech) that buy or sell customer data. Indeed, the CCPA will fundamentally change the way businesses deal with California resident's personal information.

Within this white paper, we will discuss how the CCPA will impact the market, especially with large corporations and tech companies here in California. Then, we will start focusing on how Evisort's AI and technology will help your corporation ensure compliance with the CCPA.

Security Magazine outlines the three parameters that would require businesses to comply with CCPA:

1. Annual gross revenue of \$25M or more;
2. Annually buy or receive for commercial purposes or sell or share for commercial purposes personal information (PI) of 50,000 or more CA consumers, households, or devices;
3. Derive 50 percent or more of annual revenues from selling CA consumers personal information (PI); and/or
4. Any company that is more than 50% owned by a corporation or entity that meets the above criteria.

The state of California, the world's fifth largest economy, will soon enforce strict new electronic privacy laws giving consumers increased authority over the collection and use of their personal information. Does it affect your business? And how? To start, let's go over 10 things you should know about the CCPA.

# 1. Enforcement

The California governor approved the CCPA on September 23, 2018. The CCPA is effective on January 1, 2020, and companies should be compliant with the CCPA on that date.

<sup>1</sup> See Kevin Cahill et al. Consumer Privacy Act: Potential Impacts and Key Takeaways, 30 *Intell. Prop. & Tech. L. J.* 11, 12 (2018).



# 2. Consumer Disclosure

The CCPA requires all covered for-profit businesses to disclose to consumers upon request the specific types of personal information it collects as well as the sources of that information.

Consumers can also tell the companies to delete their personal information, not sell it, and can pursue legal action if businesses do not comply.

Additionally, the bill protects other consumer rights and provides consumers other remedies, like, consumers can:

- A. Request that a business delete any personal information about the consumer which the business has collected from the consumer.
- B. Request that the business that collects personal information about the consumer discloses broad categories of information including information it has collected about that consumer, the sources of collection, the business or commercial purpose, and any third parties with whom the business will share personal information.
- C. Request that a business that sells the consumer's personal information, or that discloses it for a business purpose, disclose certain categories of personal information to that consumer.
- D. Direct a business that sells personal information about the consumer to third parties not to sell the consumer's personal information. This is known as the right to opt out.

## 3. Types Of Personal Info

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Some categories of personal information subject to the CCPA include names, addresses, email addresses, social security numbers, some medical information, commercial information, account names, geo-location information, biometric information, browsing history, search history, unique identifiers (such as cookies and IP addresses), audio, or employment-related information.

Nonetheless, there are still exceptions. Companies can still use data collected from publicly available sources. Furthermore, the CCPA does not apply to data that is governed by HIPAA or the sale of information under the Fair Credit Reporting Act.

Therefore, it is vitally important that companies understand the type of personal data that they manage to be in compliance with the new legislation.

## 4. Fines

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The CCPA is enforceable by the California Attorney General's office, which can fine companies \$2,500 for each violation and \$7,500 for each intentional violation, according to Digital Guardian.



## 5. Americas' Version Of GDPR

Last month marked the one-year anniversary of the GDPR in Europe, which is increasingly becoming the model for data privacy laws around the world. In California, the CCPA mimics the GDPR, but several differences exist. The GDPR gives the EU enforcement power to fine companies that violate its consumer privacy protections. In fact, the European regulatory body has already fined Google \$57 million for failing to disclose data collection tactics to consumers.

California is the first state in this country to regulate how businesses retain and use electronic consumer data.

## 6. Current Compliance

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Even as the CCPA deadline looms, only 14% of enterprises are fully compliant. 84% percent of companies have begun the compliance process, with 56% in the process of implementation, according to Marketing Land.

## 7. “Do Not Sell My Personal Information”

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Many websites will need to add a "button" that says, "Do Not Sell My Personal Information." It is not yet clear if California will require the button to be uniform across all sites, but the law does require it to be clearly marked on the website and in any privacy policy. The CCPA's definition of "sale" includes any exchange that benefits the transferor of personal information. Therefore, once a consumer opts-out of their personal information being sold, the company must follow this definition to be in compliance with the CCPA.

## 8. Not Just California

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Keep in mind that companies both inside and outside of California will be impacted by the CCPA's requirements. The CCPA applies to any company, even those outside of California, that meets the above requirements. The law does not specifically state that it only applies to companies within the state of California.

In application, the CCPA will apply to most major companies that obtain consumer data like retailers, cellular network providers, and Internet companies. These companies will have to alter its data-rights' infrastructures to comply with the law or resort to a patchwork data regime in which Californians will be treated one way, and everyone else will be treated another.

## 9. Businesses Must Give Notice

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Within a privacy policy or at collection, a business must disclose consumers' rights under the CCPA, the categories of personal information the business collects, the business purpose for each category, and the categories of personal information sold by the business in the past year. It must use "reasonable" security measures or risk liability under the CCPA.

Furthermore, companies that sell consumers' personal information to third parties can only sell that data after giving the consumer express notice of the sale and allowing the consumer to opt out of having their information sold.

Therefore, CCPA covered companies need to be careful in how it manages its relationships and purchasing agreements as well.

## 10. Identify Or Delete My Personal Information

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Businesses will have to identify or delete personal information upon consumer request since consumers will now have the right to know what information is collected. Consumers can also demand that businesses delete their personal information. The business must respond and cure the issue within 30 days of the consumer's request.

# Conclusions

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The legislature has left open the door for amendments to the new law, so we can expect even more specific compliance guidelines for the industry during the months ahead.

In the end, the challenge for businesses will be to understand the rights of consumers and how it can translate those rights into business operations, processes, and practices to ensure total compliance with the law.

Wondering how we are poised to help?

Briefly, Evisort's technology can specifically help your company with:

- A. Identifying clauses (or lack thereof) that need to be added or changed in its contracts to ensure compliance
- B. Comparing millions of documents/contracts to identify which terms and conditions need to be altered, changed, or modified
- C. Decreasing the amount of time, labor and costs that a large corporation will have to spend in order to ensure compliance with CCPA

**Call us now to request a demo.**

## Looking to learn more?

With Evisort, clients can track contract by contract and clause type to determine where their outstanding risks are and develop contingency plans accordingly. Contact Evisort today to learn more about how Evisort can make your company CCPA Ready!

[Contact Us](#)