

Comparing Key Points of the GDPR and CCPA

What You Need to Know

On May 25, 2018, the General Data Protection Regulation (GDPR) became enforceable in the European Union (EU) and on June 28, 2018, the California Consumer Privacy Act of 2018 (CCPA) was enacted. Both of these laws significantly impact companies that process personal data. For companies subject to both laws, an understanding of how the laws overlap (or don't) may help streamline compliance efforts. The chart below sets out certain of the similarities and differences between the GDPR and the CCPA. It is not intended to cover every obligation imposed by the GDPR and CCPA, but rather is meant to highlight where the GDPR and CCPA have analogous yet differing obligations.

GDPR

General Applicability

Applies to any processing of personal data of individuals in the EU ("data subjects"), by an entity established in the EU, or, where an entity is not established in the EU, when the processing activities are related to the offering of goods and services to EU data subjects or when an organization "monitors" data subjects' behavior that takes place within the EU.

Does not exempt any type of organization or de minimis data processing activities.

Definition of Personal Data

"Personal data" includes any information relating to an identified or identifiable natural person, such as an employee, customer, consumer, or business contact.

Applies to data that relates to an individual.

Notice to Individuals

Requires that companies provide information to individuals about the processing of their personal data (generally through the privacy policy). Notice to individuals must meet the following content requirements:

CCPA

General Applicability

Applies to any "business," defined as any company that does business in California for a profit that collects personal information from a California resident; and that either (i) has annual gross revenue over \$25 million; (ii) annually buys, sells, receives, or shares for a commercial purpose the personal information of 50,000 or more consumers, households, or devices; or (iii) derives 50% or more of its annual revenues from selling a consumer's personal information.

Nonprofit organizations are generally exempt from the CCPA.

Definition of Personal Information

"Personal information" is information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.

Applies to data that relates to an individual or a household.

Notice to Individuals

Requires companies to inform consumers at or before the point of collection about the categories of personal information collected and the uses of the information. Prohibits companies from collecting additional categories of personal information or using collected personal information in new ways without notice. Requires businesses to disclose the following information on the business's website:

(Notice to Individuals continued)

- The categories of information processed, and the source of the information
- The purposes for the processing and the legal basis for such processing, including the legitimate interests pursued by the entity
- The recipients of information, and information regarding the transfer of information to international locations or organizations
- The retention periods for which the information is held; and individuals' rights under the GDPR
- A list of the categories of personal information collected in the past twelve months
- A list of the categories of personal information sold in the past twelve months
- A list of the categories of personal information the business has disclosed for a business purpose in the past twelve months

Individual Rights

Requires that companies afford individuals the following rights:

- Right of access
- Right to rectification
- Right to erasure
- Right to restriction of processing
- Right to data portability
- Right to object
- Right to not be subject to automated decision-making, including profiling

Individual Control

Offers individuals the following control over their data:

- Right to data access
- Right to deletion
- Right to know where data is collected from and to whom it is sold
- Right to opt out of the sale of information to third parties
- Rights regarding children's and teens' data
- Right to receive services on equal terms

Please contact us to ensure your company's privacy health.



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