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California Privacy Protection Agency Publishes CCPA Enforcement Advisory*

The California Privacy Protection Agency (CPPA) is responsible for overseeing the regulation and enforcement of the California Consumer Privacy Act (CCPA). While the CPPA was originally granted the authority to enforce the CCPA (and its implementing regulations) starting from July 1, 2023, this enforcement capability was initially delayed due to a court order issued by a California Superior Court. See *Cal. Chamber of Commerce v. Cal Privacy Protection Agency*, No. 34-2023-8000416- CU-WM-GDS (Cal. Super. Ct. June 30, 2023). On February 9, 2024, the California Third District Court of Appeal overturned the lower court's order. *Cal. Privacy Prot. Agency v. Superior Court*, 2024 Cal. App. LEXIS 86 (Ct. App. Feb. 9, 2024). Thus, the CPPA is now authorized to fully enforce the CCPA.

On April 2, 2024, the CPPA's Enforcement Division released its first Enforcement Advisory regarding the CCPA, designated as Enforcement Advisory No. 2024-01 (Enforcement Advisory). According to the CPPA, enforcement advisories are intended to address select provisions of the CCPA and its implementing regulations. However, they do not implement, interpret, make specific laws, or provide safe harbors for compliance. An enforcement advisory provides questions and hypothetical examples of how a business might review its practices. This Enforcement Advisory focuses specifically on the topic of "data minimization" and how it applies to a business' procedures when addressing consumer requests under the CCPA, such as a request to delete.

Data Minimization. According to the Enforcement Advisory, the CCPA's data minimization principle stems from the law's general purpose and intent that businesses should collect consumers' personal information (PI) only to the extent that it is relevant and limited to what is necessary for the purposes for which it is collected, used, and shared. This is further implemented throughout various parts of the statutory text of the CCPA and its implementing regulations. For instance, 11 CCR Section 7002(d) provides that when determining whether a business' collection, use, retention, or sharing of PI is reasonably necessary and proportionate to achieve the purpose for which it was collected, a business must consider: (i) the minimum amount of PI necessary to achieve the identified purpose; (ii) the possible negative impacts posed on consumers; and (iii) the existence of additional safeguards that could be used to address any potential negative impacts.

Applying the Data Minimization Principle. The CPPA then provides two hypothetical scenarios in the Enforcement Advisory to illustrate how a business might apply the data minimization principle in connection with: (i) responding to a consumer's CCPA request to opt-out of the sale or sharing of their PI; and (ii) verifying a consumer's identity in response to a request to delete (RTD). Below is a summary of the second hypothetical the CPPA describes in the Enforcement Advisory.

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- **Facts:** Business B receives requests for RTD from consumers who do not have accounts with Business B. Business B keeps these consumers' names and email addresses on file and receives an RTD from consumers using their email address on file. Business B is considering how to comply with those requests, including how to verify consumers' identities.
- **Data Minimization Analysis:** The Enforcement Advisory indicates the data minimization principle would apply to Business B's procedures for verifying these consumer's identities. The CPPA indicates that in determining whether its verification procedures are consistent with this principle, Business B could consider the following questions: What is the minimum PI needed to verify these consumers' identity? Do we need to ask for more PI than we already have on file? What are the potential negative impacts of collecting or using additional information for identity verification? What additional safeguards could we put in place to address negative impacts?

The Enforcement Advisory can be read in its entirety on the CPPA's website at <https://cppa.ca.gov/resources.html>. For more information, contact John Davis at JDavis@ABLAWYERS.COM.