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# Understanding CCPA Requirements, Privacy & Postal Data

April 1, 2020

# Welcome - Logistics

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- Webinar is being recorded.
- All lines will be muted during the presentation.
- Use the **chat/questions window** to submit your questions.
- All questions will be answered at the end of the presentation.
- A recording of this webinar will be emailed to you shortly after the webinar has ended.

# Today's Discussion

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- Overview of the CCPA Regulations
- Understanding Privacy & Postal Data
- Data Security & Postal Regulations



# Our Presenters

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**Michael Signorelli**  
Attorney  
Venable



**Matt Field**  
Attorney  
Venable



**Angelo  
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VP Postal Affairs  
GrayHair Software



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# Overview of the CCPA Regulations

Michael Signorelli

Learn more at [www.GrayHairSoftware.com](http://www.GrayHairSoftware.com)

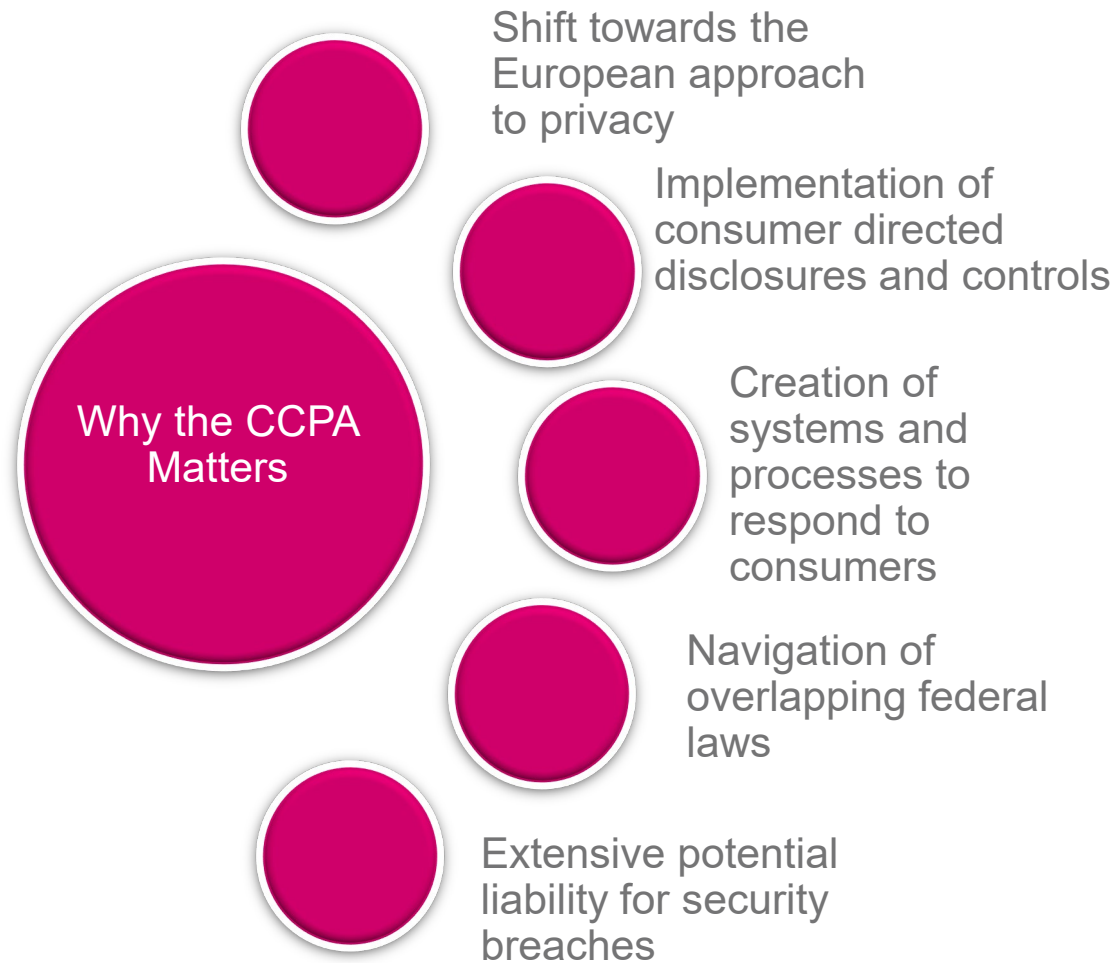
# Agenda

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- Background, Scope, Key Definitions
- Consumer Rights
- California Attorney General Regulatory Process and Enforcement
- Strategic Considerations

# CCPA

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# Background

**October 2017** –  
Ballot initiative  
submitted to the  
California Attorney  
General's Office by  
consumer  
advocates.



**June 21, 2018**  
– CCPA  
introduced to  
replace the  
ballot initiative.



**September 23, 2018**  
– Governor Brown  
signs bill making  
limited amendments  
to CCPA.

**May 3, 2018** –  
Advocates  
announced the  
initiative had  
obtained  
enough  
signatures to go  
to voters.

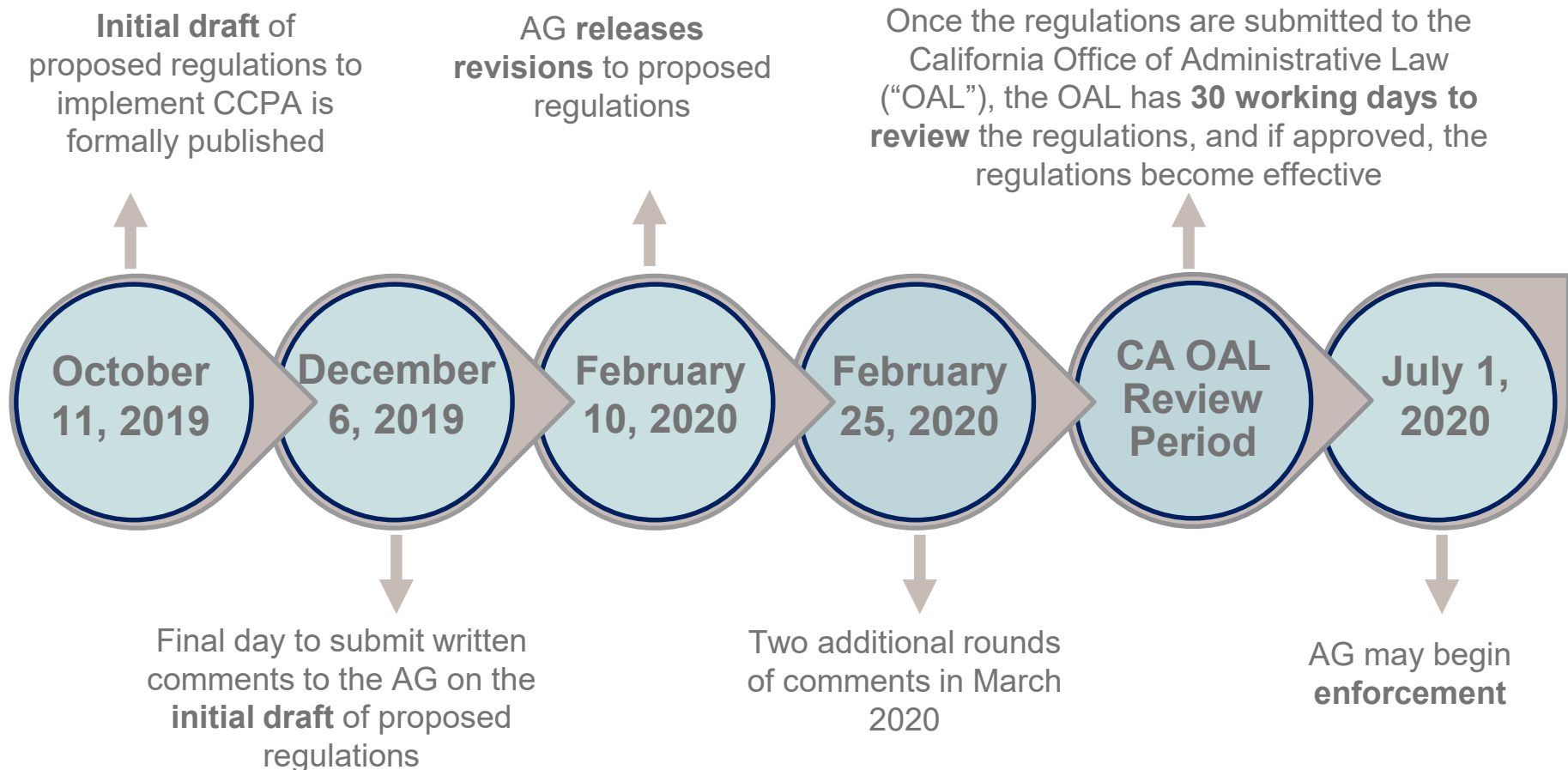


**June 28, 2018**  
– Governor  
Brown signs  
the CCPA into  
law.





# CCPA Regulatory Timeline



# Request for Delay

“Right now, we’re committed to enforcing the law upon finalizing the rules or July 1, whichever comes first,” Sarah Lovenheim, a spokeswoman for Mr. Becerra, said in an email. “We’re all mindful of the new reality created by Covid-19 and the heightened value of protecting consumers’ privacy online that comes with it.”

Trade Groups Ask California to Delay Privacy Law Because of Coronavirus, The Wall Street Journal – David Uberti – March 20, 2020



Dear Attorney General Becerra:

The undersigned trade associations, companies, and organizations collectively represent a broad cross-section of the United States business community spanning various industries including advertising and marketing, magazine publishing, Internet and online services, financial services, package delivery, cable and telecommunications, transportation, retail, utilities, real estate, insurance, entertainment, auto, technology, and others. Together, we include thousands of companies that do business in California, employ millions of residents in the state, and deliver goods and services that benefit and provide substantial value to the economy and consumers across California and the country.

We strongly support the underlying purpose and goals of the California Consumer Privacy Act (“CCPA”). We believe consumer privacy is an important value that deserves meaningful protections in the marketplace. However, we are concerned that given current events and the presently unfinished status of the regulations implementing the CCPA, businesses will not have the operational capacity or time to bring their systems into compliance with the final regulatory requirements by July 1, 2020.<sup>1</sup> We therefore respectfully request that you forebear from enforcing the CCPA until January 2, 2021 so businesses are able to build processes that are in line with the final regulations before they may be subject to enforcement actions for allegedly violating the law’s terms.

## I. The Current Health Crisis Hinders Businesses’ Attempts to Develop Processes for CCPA Compliance

# Scope of CCPA

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Any company that does business in California and meets one or more of these standards:

Annual gross revenue over \$25 million

Collects or shares personal information annually from 50,000 consumers, households, or devices

Derives at least 50% of annual revenue from sale of personal information

Obligations and limitations extend to all **personal information** maintained about **consumers**.

Consumer = any natural person who is a California resident

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



# Service Providers and Third Parties

**Service Provider** = a legal entity that is organized or operated for the profit or financial benefit of its owners, that processes information on behalf of a business and to which the business discloses a consumer's PI for a business purpose pursuant to a written contract, provided that the contract prohibits the entity receiving the information from retaining, using, or disclosing the PI for any purpose other than for the specific purpose of performing the services specified in the contract.

## **Service Provider** = Proposed Regulation

For internal use to build or improve the quality of services, provided that the use does not include building or modifying household or consumer profiles to use in providing services to another business, or correcting or augmenting data acquired from another source

**Third party** = a person who is not (1) the business that collects PI from consumers; (2) a person to whom the business discloses PI for a business purpose pursuant to a written contract, provided that the contract:

- Prohibits the person receiving the PI from selling it;
- Prohibits the person receiving the PI from retaining, using, or disclosing it for any purpose other than for the specific purpose of performing the services specified in the contract;
- Prohibits the person receiving the PI from retaining, using, or disclosing it outside of the direct business relationship between the company and the business; and
- Includes a certification that the person receiving the PI understands these restrictions.



# Information Covered

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## Functional Definition of Personal Information

- Information that:
  - Identifies, relates to, describes,
  - Is reasonably capable of being associated with, or
  - Could reasonably be linked, directly or indirectly,
  - **With a particular consumer or household.**

## Selected Examples (that are personal information if they meet the functional definition)

- Identifiers including name, postal address, online identifier, IP address
- Unique, persistent identifier to recognize a device linked to a consumer or family, over time and across services, including cookies, customer number, unique pseudonym, and other persistent or probabilistic identifiers
- Geolocation data
- Internet and other network activity information, including browsing, search, and usage data



# Exemptions

## Deidentified Information

- Technical safeguards and business processes prohibit reidentification
- Business processes prevent inadvertent release of deidentified information
- Business makes no attempt to reidentify the information

## Aggregate Information

- Information related to a group or category of consumers
- Individual consumer identities removed
- Not linked or reasonably linkable to consumer/household, including via device

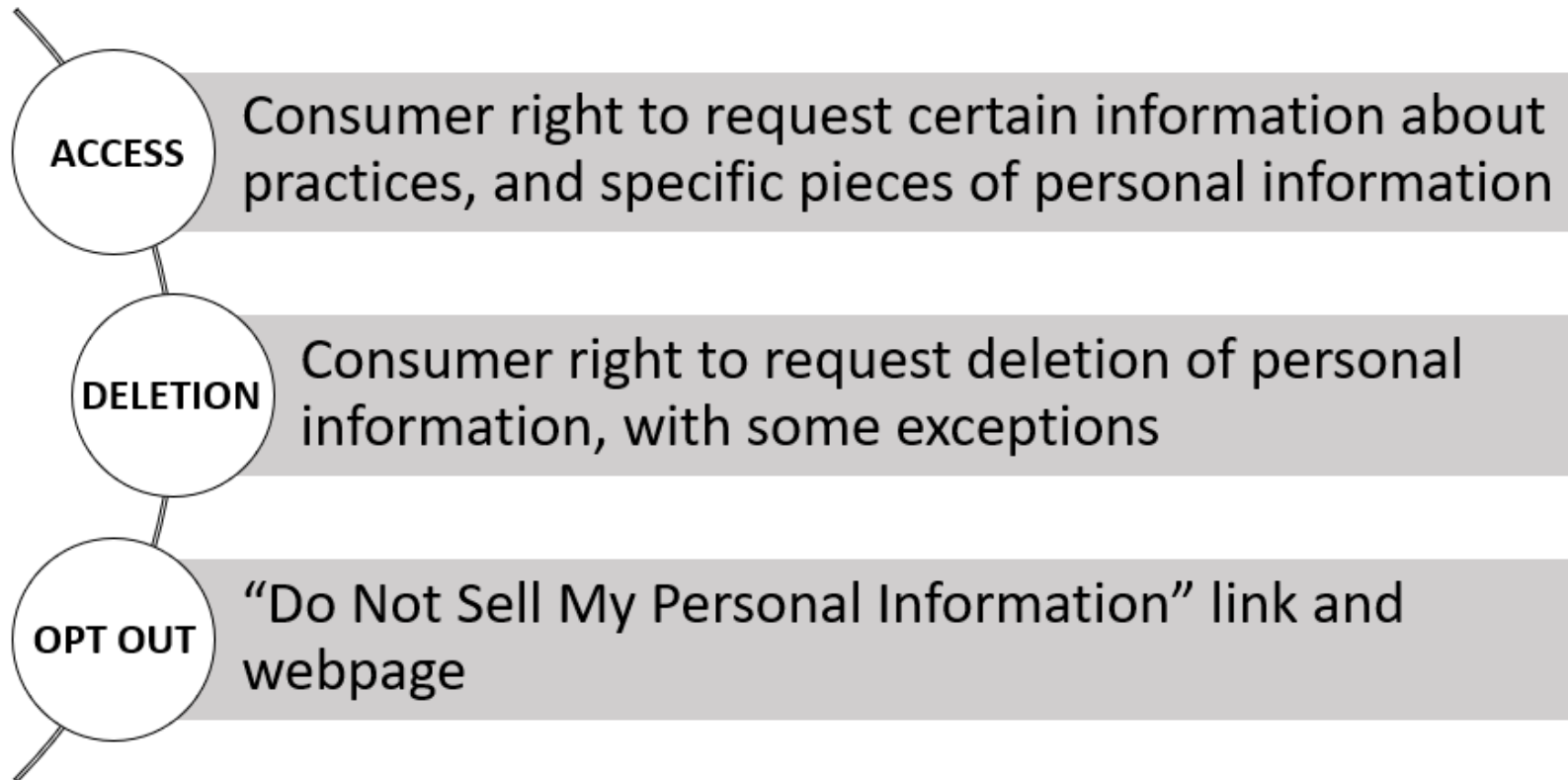
## Publicly Available

- Personal Information does not include publicly available information
- Publicly available information means information that is lawfully made available from federal, state, or local government records, if any conditions associated with such information



# Key CCPA Rights

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# Right to Know

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## Request for Information – Collection

Categories of PI collected about the consumer

Categories of sources of PI

Business purposes for collecting or selling PI

Categories of third-party recipients of PI

Specific PI collected about a consumer

## Request for Information – Sale or Business Disclosure

Categories of PI collected

Categories of PI "sold"

Categories of third-party recipients of PI

Categories of PI disclosed for a business purpose

If PI has not been sold or disclosed for a business purpose, disclosure of that fact



# Right to Delete

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## Deletion Requests

**Generally applies to all PI collected from the consumer**

**Company must direct service providers to delete the PI as well**

**Recognizes numerous exceptions**

## Considerations:

- Third-party requests
- Security
- Verification
- Exceptions
- Consumer regret

# Right to Opt Out

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## Opt-Out Right

**Consumer (or authorized representative) has right to opt out of the "sale" of PI**

**Must wait 12 months before requesting that consumer re-authorize sale of PI**

**Must use the information from the opt-out request only to comply with the request**

**Sale** = selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic means, a consumer's PI by the business to another business or a third party for monetary or other valuable consideration.

### **Considerations:**

- Broad definition of sale
- Narrow exceptions, contract updates may be needed
- Consumer fraud

# Enforcement

## California Attorney General Enforcement

- The California Attorney General may bring suit against a business to enjoin any conduct that violates a provision of the CCPA or obtain **civil penalties of \$2,500 per violation or \$7,500 for each intentional violation.**
- **30-day cure period applies.**

## Private Right of Action

- Any consumer whose nonencrypted **[and]** nonredacted PI is subject to unauthorized access, exfiltration, theft, or disclosure as a result of the business's violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the PI may institute a civil action for:
  - Injunctive relief, any other relief the court deems proper; and/or the **greater** of damages in the amount of **\$100 - \$750 per consumer per incident or actual damages.**
  - **30-day cure period applies.**

# Compliance Steps to Consider

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- Update your privacy policy
- Review your contracts
- Engage in a data mapping exercise
- Build forms and stock responses for consumer requests
- Create a flexible approach that can adapt to conflicting requirements that may develop in other states
- Consider leveraging processes built for GDPR



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# Understanding Privacy & Postal Data

Matt Field

Learn more at [www.GrayHairSoftware.com](http://www.GrayHairSoftware.com)

# Privacy & Postal Data

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- What Type of Data?
- CCPA Implications
- Compliance Considerations

# Postal Data

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- **National Change of Address Database (NCOA®)**
  - Change of Address Information
  - Name, Address
- **Address Correction Service (ACS™)**
  - Change of Address Information
  - Undeliverable-As-Addressed (UAA) Codes
- **Third Party / Client Data**

# Key CCPA Questions

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- **Is it Personal Information?**

- “Any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.”
- Specifically includes real name, postal address, and unique personal identifiers
- Nixies

- **But is it Publicly Available?**

- “Lawfully made available from government records”
- Need not be directly acquired from government source



# Application to Postal Data

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- **COA, Names and Address**
  - Government sourced = publicly available
  - NCOA® and ACS™ are USPS sourced
  - USPS is the government
- **UAA codes**
  - USPS Sourced
  - USPS is the government
- **Names, Addresses, and move information outside NCOA / ACS**
  - Government source?
  - Purchased lists?

# Permanent Status

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- **Data Maintains its Status**
  - Combining publicly available information and personal information does not change the nature of either
  - Publicly available information remains publicly available information, even when it is transferred through private parties

# Bottom Line

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- Data provided by USPS is “publicly available”
- Companies collecting and using only publicly available data are not “businesses” subject to CCPA
- Similar—or even the same—data provided by private sources may be “personal information” unless data originally comes from a public source
- Companies collecting or using this “personal information” may have CCPA compliance requirements



- Processes Personal Information on Behalf of a Business
- Contract Prohibits Use or Disclosure for Purposes Outside Contract

# Service Providers



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# Data Security, Postal Regulations & the Future

Angelo Anagnostopoulos

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# Security Best Practices

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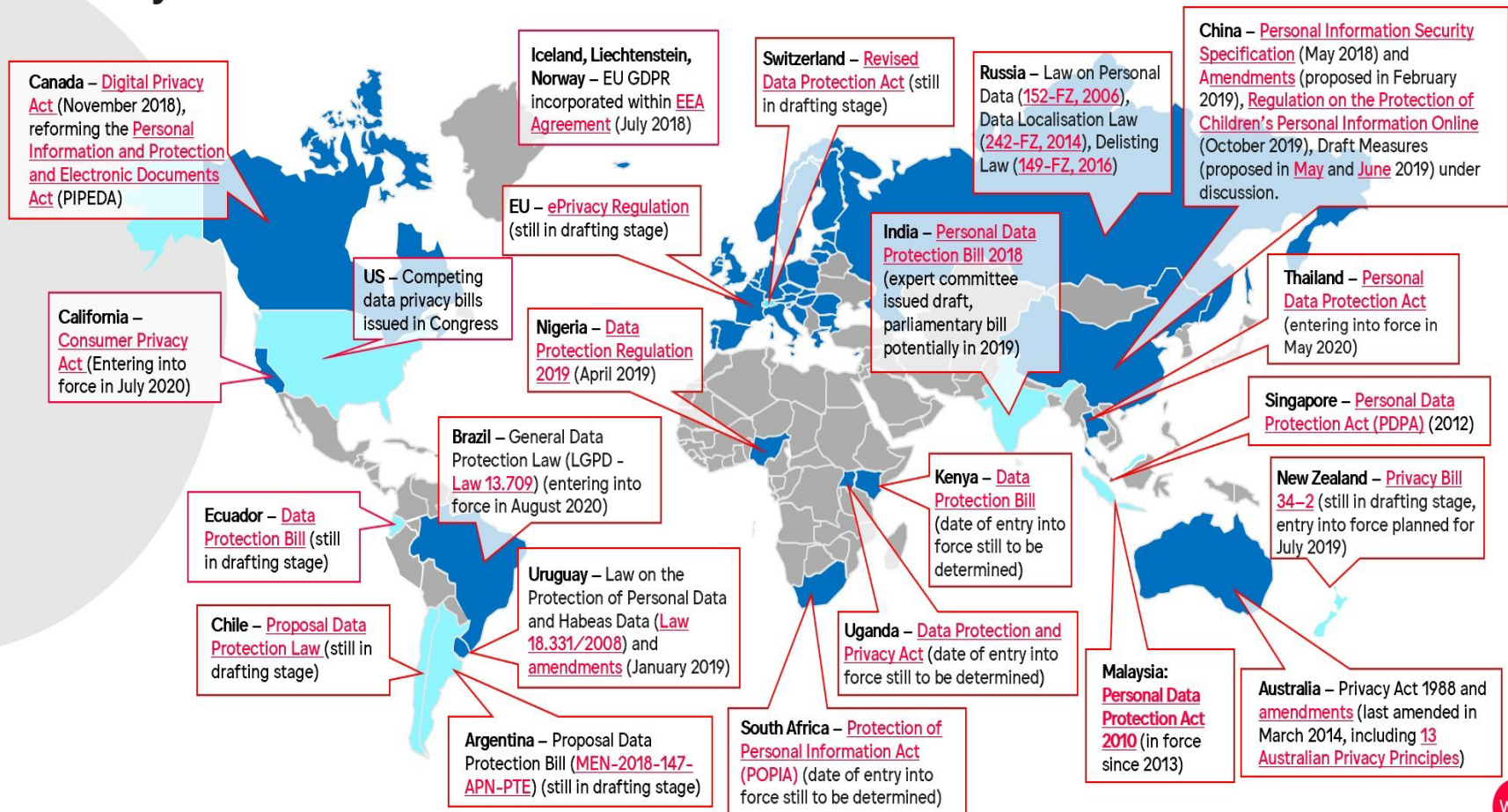
- SOC2 with HITRUST Mapping
- PCI
- HIPPA
- Security Awareness Training
- HR Security Policy
- Annual Intrusion Detection
- Encrypted Data at Rest



# Worldwide Developments

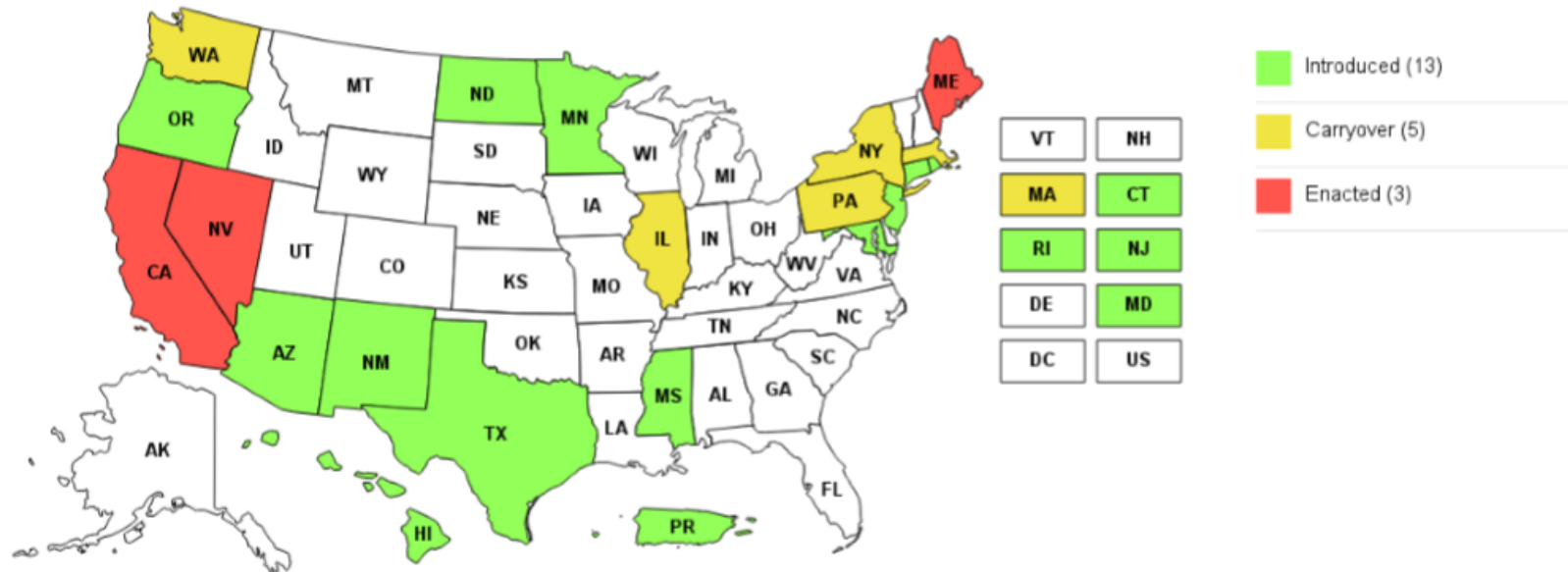
## Most Recent Legislative Developments in key markets\*

Regulation in place / due to come into force  
Regulation under discussion



\* Focus only on certain key markets for global advertisers – this is not an exhaustive list of all legislative developments in all countries in the world. For information about any country which is not represented on this map, please contact Max Schmidt (m.schmidt@wfanet.org)

# 2019 Privacy Legislation



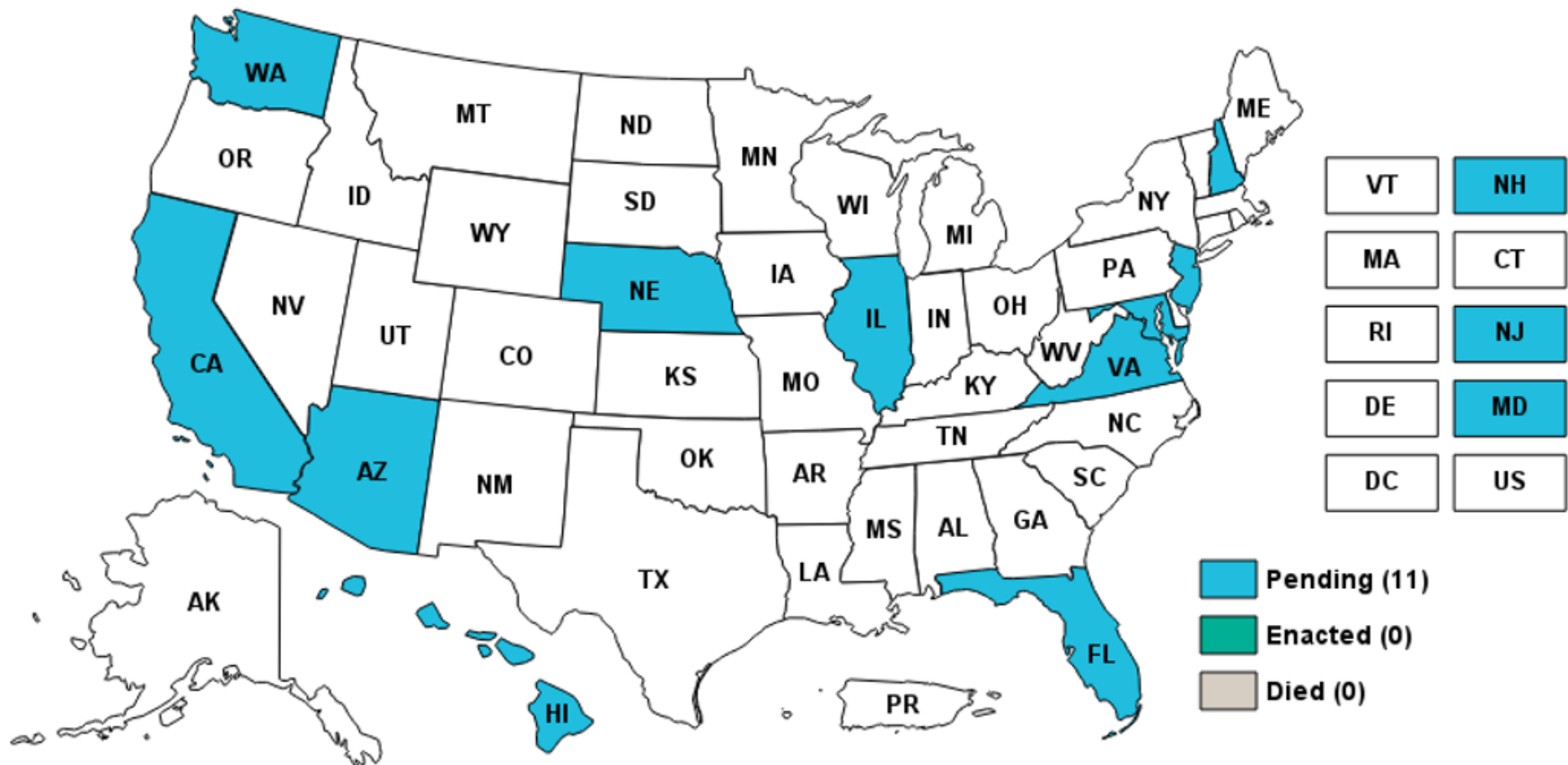
**Nevada** – enacted a "CCPA light" bill

**Maine** – enacted legislation requiring ISPs to get consent from consumers before sharing their data.

**New Jersey** – Has a major privacy bill with a broad private right of action



# Legislation Expected In 2020



# Two Key CCPA Amendments

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- AB 874 – De-identified, aggregate and publicly available data exemption
- AB 1202 – Data broker annual registration
  - Also required in VT

# USPS Impacts

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- USPS has remained mostly silent on this issue
  - Leaving industry to fend for themselves
- Mailing lists could start to become scarce
- Luckily USPS products and services not currently affected
- Some mailers have stopped mailing to states with Privacy Legislation and this trend will continue
- What about Seamless Acceptance?

# Other Considerations

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- Will Federal Legislation preempt State Laws
  - Some provisions in current proposals good and bad
- Things like email addresses considered private data
  - Will affect digital marketing
- Need to allow for opt-out on websites
- Need to revise database retention strategy
- Need to track usage and access of PII
- The future will create new opportunities

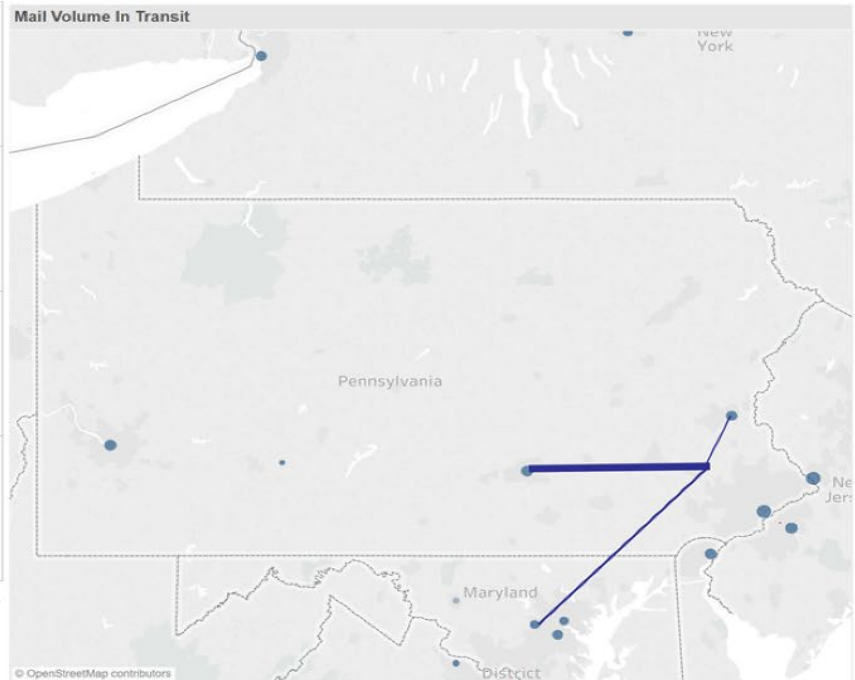
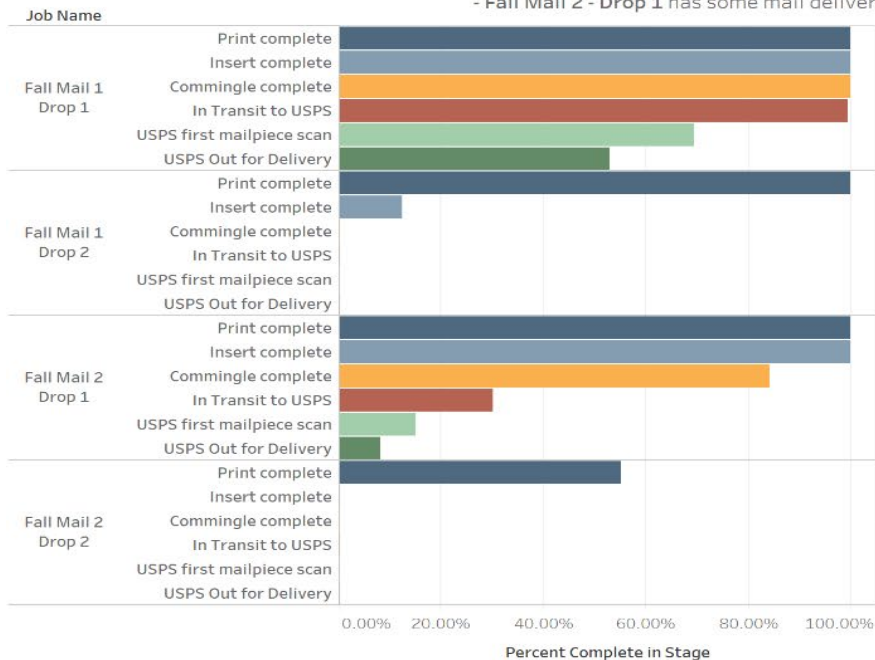
# Chain of Custody

Campaign/Job	Mail Service Provider	Job Qty	Print Complete	Insert Complete	Pieces Sent to Commingle	Commingle Complete	In Transit to USPS	USPS First Mailpiece Scan	USPS Out for Delivery
(All)	(All)								
Version/Package	Mail Class								
(All)	(All)								
Mail Start	Mail End								
10/1/2017	5/31/2018								

## ALERTS

## Process Stages

- Fall Mail 1 - Drop 1 has 663 pieces unprinted.
- Fall Mail 2 - Drop 1 has some mail delivered, but not all has shipped from print facility.





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## Questions?

**Reminder:** Please submit your questions via the chat window

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