

Getting to know the CCPA

The California Consumer Privacy Act 2018 (“CCPA”) creates new privacy and consumer protections for California residents. It broadly gives Californians enhanced rights to opt out of data collection and to know what is being collected from them. The regulations implementing the CCPA are still being finalised. Currently:

- For anyone operating in the youth market, it extends COPPA-style protections to teenagers between 13 and 15.
- Publishers or advertisers engaging with that audience may no longer ‘sell’ their personal data - including technical identifiers such as IP address (where this is or could reasonably be linked with a particular household or consumer), device ID or geolocation - unless they have the user’s explicit, **opt-in** consent. Note that the definition of ‘sell’ very likely includes sharing that type of data with partners who are helping you monetise your content, or deliver your ad campaign.

How might it apply to me?

Assuming you are a for-profit organisation, you will need to comply with the CCPA if you have users based in California from whom you collect personal information, and you either:

- earn \$25 million or more in annual revenue;
- buy, receive, or sell personal information (PII) of at least 50,000 Californian consumers, households or devices per year; or
- obtain at least half of your revenue from selling California residents’ personal data.

What’s at risk?

You can be fined **\$2,500** per violation, or **\$7,500** per intentional violation after receiving notice of a breach and having been given a 30-day opportunity to cure the violation

How might it affect how I handle personal information from my users?

- Prior to collecting PII from Californians, you will need to notify them what will be collected, and why. They have a right to access the PII, and to find out with whom it is shared. They also have rights of deletion and to not be subject to discriminatory treatment by exercising their rights. Your existing privacy notice may already set out such information and rights, but there are a number of CCPA-specific disclosures which may require you to update your notice, e.g. if no PII is sold then your notice must state so expressly and you need to provide a company contact for more information.
- Note that the definition of “sell” is very broad and includes “renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating” the data, and money does not have to exchange hands for there to be a “sale”- other “valuable consideration” will be enough.
- In practice, if you allow third parties (analytics providers or ad networks, for example) to collect geolocation or persistent identifiers such as device ID, or Ad ID, for example to display targeted advertising for revenue, then this would likely be considered “selling” under the CCPA.

What about personal information from young people?

- CCPA requires you to get consent if you sell personal information of Californian youth under the age of 16: **opt-in** consent from those who are 13, 14 or 15, and parental consent (as required under COPPA) for those under 13.
- You must also take steps to determine the age of users if your service “might attract those under the age of 16”, so you can’t just claim ignorance or that may be considered “**willful disregard.**”
- Opt-in consent requires positive action, such as ticking a box, and must include a notice of what PII you want to collect and sell, why and to whom, with a link to your privacy policy. You must also provide the user with a means to revoke that consent at any time.



I have many tween and teenage users. What should I do?

- Given how broadly “PII”, “selling” and “actual knowledge” are defined, if you are collecting information on Californian youth under the age of 16 and sharing it with third parties, you should seek consent of the user, or parental consent for those under 13 as the law requires.
- If your content appeals to both children and adults, an age-gate will help you funnel visitors under 16 to a version of your service that doesn’t collect PII, or which applies the appropriate consent flows (opt-in for teens, parental consent for under-13s) to collect the PII lawfully.

SuperAwesome – leading the youth’ digital ecosystem

- The largest youth digital media platform in the world, we reach over 500M young people globally on mobile, desktop, video, virtual world and social
- Our technology ensures youth-safe advertising, safe-social engagement, influencer marketing, family authentication and data privacy compliance, including consent management, for hundreds of brands and agencies around the world
- Our technology is designed to meet the data privacy requirements of the youth’ digital ecosystem: COPPA (US), CCPA (US) and GDPR (EU).



The information contained in this note is not intended as legal advice. Please seek your own legal advice before acting on the information it contains.

