

The California Consumer Privacy Act (CCPA) will significantly impact many companies doing business in California. It requires new notices to consumers, creates new consumer rights, allows consumers to opt out of some disclosures of their information and creates a new data breach cause of action with statutory damages of \$100-\$750 per consumer per incident. Compliance will require careful evaluation of a business's data practices and could involve substantial changes to business operations for companies that buy, sell or trade personal data.

The Ropes & Gray team of industry-leading attorneys can help clients prepare for the CCPA. Although every project is different, our team typically conducts CCPA compliance projects in three stages. At every stage, we will work closely with our clients to determine the most effective and efficient path forward for their specific needs.

## PHASE 1: Discovery and Planning

### Evaluate Current State

#### *Determine Scope of Impact*

As a first step to CCPA compliance, companies need to understand whether and how the CCPA applies to their operations and then decide what data or practices are in scope for CCPA compliance. Many companies wish to use a uniform global compliance standard, even if not required, in order to create training and interoperability efficiencies, implement best practices throughout the organization, and put themselves ahead of the curve with developing privacy laws. Ropes & Gray will help organizations evaluate the scope of the CCPA and how best to structure a CCPA compliance program.

#### *Conduct Gap Analysis*

Organizations that have pre-existing privacy programs, including those required to comply with the General Data Protection Regulation (GDPR), will likely be able to leverage and expand on those programs to achieve CCPA compli-

ance. Drawing on our extensive experience building global compliance programs, Ropes & Gray can help evaluate pre-existing programs, identify gaps and propose next steps for CCPA compliance. For a comparison between the CCPA and GDPR, click [here](#).

### Establish Governance Structure

Effective CCPA compliance requires support from across the company. Prior to embarking on any compliance project, it is important to have the right governance structure in place, with defined roles, appropriate representation from across the organization, and necessary support and engagement from management. Ropes & Gray can leverage its experience to explain the costs and benefits of different governance structures and design a structure that is tailored to the company.

#### **Ropes & Gray will:**

- Advise on scope of CCPA impact
- Conduct gap analysis
- Recommend governance structure
- Conduct data discovery
  - Provide questionnaires and other forms for data discovery
  - Conduct interviews to better understand how data is used
  - Provide tools and assistance in completing data inventory

### Conduct Data Discovery

Core to data governance is understanding what personal data is collected, how it is used internally and to where it is disclosed. One way to complete this exercise is by creating a data map or data inventory. Ropes & Gray can help clients understand their data uses by providing data discovery questionnaires, conducting interviews with stakeholders, and supplying clients with the tools and expertise necessary to complete their data inventory. Our approach to data discovery is flexible; we do not push a one-size-fits-all software solution. We work with our clients to understand the most efficient way to capture material data flows without boiling the ocean.

## Address Key Questions and Draft Project Plan

The hallmark of our approach is that we listen to our clients' questions and provide practical and timely guidance. How can organizations effectively provide notices about their privacy practices at or before the point the data is collected? Can organizations retain some data after a consumer requests deletion? What transfers of data may constitute "sales"? Companies operating across business sectors and jurisdictions will face many challenging questions in addressing CCPA compliance. Ropes & Gray's global team will help evaluate those questions and the related risks. Once discovery is complete, we will draft and present a compliance plan.

*At the end of Phase 1, Ropes & Gray will prepare a detailed compliance plan outlining the disclosures, documents and other implementation steps required for compliance.*

## PHASE 2: Implementation

### Document Privacy Program

To comply with the CCPA, companies must provide privacy notices and have appropriate policies and procedures in place. Ropes & Gray will help clients develop the documents required for compliance, tailored to their unique circumstances. Our diverse and experienced group of attorneys can also review contracts, insurance and data security policies to identify any potential gaps.

### Ropes & Gray will:

- Prepare key documents including:
  - online privacy notices and other required privacy disclosures
  - internal privacy policies addressing CCPA requirements
  - data subject rights response procedures and playbooks
- Review contracts, insurance and data security policies
- Assist with implementation, including through training of key stakeholders

## Implement CCPA Program Throughout Organization

Beyond documentation, a successful program requires implementation throughout the organization. How can consumers successfully opt out of data sales? Does the CCPA's nondiscrimination provision require changes to business processes? Is new technology or coding required? Ropes & Gray will assist in implementing the project plan and can provide training to key stakeholders.

*At the end of Phase 2, the organization should be prepared to comply with the CCPA.*

## PHASE 3: Ongoing Compliance, Litigation & Breach Response

Ropes & Gray will continue to provide advice on regulatory and other developments after the close of the first two project phases. In particular, our team will provide advice regarding breach response and can handle any related litigation or enforcement, with the benefit of the knowledge and experience gained through our detailed review of the client's data environment.