

The Honorable Gavin Newsom
Governor
1303 10th Street, Suite 1174
Sacramento, CA 95814

The Honorable Xavier Becerra
Attorney General
1300 I Street
Sacramento, CA 95814

The Honorable Anthony Rendon
Speaker of the Assembly
State Capitol
Room 219
Sacramento, CA 95814

The Honorable Toni Atkins
President Pro Tempore
State Capitol
Room 205
Sacramento, CA 95814

Dear Governor Newsom, Attorney General Becerra, Speaker Rendon and President Pro Tempore Atkins:

We the undersigned organizations representing every sector of the American economy that uses data to improve the goods and services we provide—including small, medium, and large businesses—believe consumers deserve strong privacy protections and we share your interest in recognizing the importance of protecting consumer privacy.

In order for California’s new privacy law to be effective it must instill certainty and trust. This requires that both consumers and industry alike have adequate opportunities to know what the requirements of a privacy law will be prior to implementing robust compliance programs. We urge you to protect consumers by extending the effective date of the California Consumer Privacy Act (“CCPA”) to January 1, 2022 and provide sufficient time to resolve ambiguities in the CCPA and help businesses implement systems to meaningfully protect consumers’ privacy, provide rights offered by CCPA, and meet consumers’ expectations.

Estimates are that CCPA will affect at least 500,000 companies throughout the United States, “the vast majority of which are small- to medium-sized enterprises (SME).”¹ In addition to CCPA’s broad reach, many companies (including SMEs) in sectors such as retail, manufacturing, transportation and insurance with presences outside the state of California are also determining how the law will affect them. In addition to small business, institutions like nonprofits—while excluded by CCPA from a direct impact—will be vulnerable to costs associated with data regulation, especially if there is little time for regulated entities to comply.²

There are two other complicating factors. First, there are still a number of pending and material proposed amendments to the CCPA that may not be finally addressed until September. Second is the Attorney General of California is currently conducting a rulemaking that is expected to add new compliance obligations which is not anticipated to conclude until fall 2019 at the earliest, just before CCPA is scheduled to go into effect on January 1, 2020. This would require covered businesses, particularly SMEs, to scramble to implement compliance programs based on either of the legislative modifications and/or the new rules with limited time and during the final weeks of the critical holiday season—for some companies, the busiest time of the year that will determine whether the business makes sufficient revenue to pay its employees and continue operations into the new year. Many SMEs will have to rely on technological solutions to be developed and become available many months before the new law’s effective date in order to implement the CCPA’s new requirements. As we saw in Europe, a robust market for solutions to new privacy regulations takes time to develop and can only get started once the implementing regulations are in final form.

¹ Rita Heimes and Sam Pfeifle “New California privacy law to affect more than half a million US companies,” IAPP (July 2, 2018) available at <https://iapp.org/news/a/new-california-privacy-law-to-affect-more-than-half-a-million-us-companies/> (abbreviation added).

² Californians represent as much as 20% of the fundraising support to national organizations.

For a benchmark for a reasonable time for compliance, the State of California should look to the European Union’s General Data Protection Regulation (“GDPR”)—whose final regulations were adopted in April 2016 with a two-year implementation period before it took effect in May 2018. The GDPR gave regulated entities two full years to review the final regulations and develop or purchase compliance systems to implement into their daily business operations before those regulations took effect. Comparing the CCPA to Europe’s approach, the CCPA’s deadline for the Attorney General’s rulemaking is July 1, 2020³ which is six months *after* the law becomes effective on January 1.

In fact, as currently written, it is possible that the Attorney General could begin state enforcement of CCPA on July 1, 2020—*the same day that final rules could be published*—leaving companies *no time* to comply with the final rules. Extending the effective date of the CCPA to January 1, 2022 would give companies 18 months to comply, which is still less than GDPR’s two years. We believe this is a sensible and balanced approach, especially since the GDPR was also predicated on a similar, well-established 1995 Data Protection Directive that EU Member States and businesses had long understood and complied with for many years, whereas the CCPA is an entirely new law with substantial new obligations for companies to undertake for the very first time.

Californians deserve to have their privacy protected in ways that are both strong and responsibly implemented. We strongly urge you to amend the CCPA to give consumers and companies adequate time to understand the yet-to-be published regulations and appropriately comply. Extending the implementation timeline until January 1, 2022 is responsible because it protects consumers from rushed and potentially incomplete compliance programs, and maximizes the ability of businesses to provide consumers with their privacy rights. Consumers benefit when they can trust that companies have built well-planned compliance and accountability programs to protect their statutory privacy rights.

Sincerely,

Advamed
American Escrow Association
American Financial Services Association
American Hotel and Lodging Association
American Transaction Processors Coalition
Association of Clinical Research Organizations
American Land Title Association
American Property Casualty Insurance Association
America’s Pizza Community
Arizona State Escrow Association
Association of National Advertisers
Association of Test Publishers
Community Mortgage Lenders of America
Computer & Communications Industry Association
Consumer Data Industry Association
Council for Responsible Nutrition
Edison Electric Institute
Escrow Association of Washington
Florida Land Title Association
Home Furnishings Association
Illinois Chamber of Commerce
Indiana Land Title Association
Insights Association

³ See CAL. CIV. CODE § 1798.185(a).

Innovative Lending Platform Association
Interactive Advertising Bureau
International Franchise Association
Land Title Association of Arizona
Land Title Association of Colorado
Managed Funds Association
Minnesota Land Title Association
National Association of Convenience Stores
National Association of Federally Insured Credit Unions
National Association of Manufacturers
National Association of REALTORS
National Business Coalition on E-Commerce and Privacy
National Grocers Association
National Restaurant Association
National Retail Federation
NATSO
Netchoice
Nevada Land Title Association
News Media Alliance
North Dakota Chamber of Commerce
Pennsylvania Land Title Association
Petroleum Marketers Association of America
Professional Association for Customer Engagement
Real Estate Service Providers Council
Retail Industry Leaders Association
Security Industry Association
Self-Storage Association
Society of Independent Gasoline Marketers of America
SIFMA
Texas Land Title Association
The Nonprofit Alliance
U.S. Chamber of Commerce
Utah Land Title Association
Washington Land Title Association

cc: The Honorable Ed Chau, The Honorable Robert Hertzberg