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www.directhitmarketing.com · (303) 666-0798

What Organizers Need to Know About CCPA

By

John M. Coe, VP Business Development

CCPA is not GDPR

Don't you just love acronyms? They're usually only three initials, but apparently we now have graduated to advanced acronyms! For those who need definitions – CCPA is the California Consumer Protection Act, and GDPR is General Data Protection Regulations for the EU.

You're likely familiar with GDPR, as it's now been in effect for over a year, and all organizers with European attendees have adjusted to this regulation. The CCPA is not yet in force and is scheduled to go into effect January 1, 2020. There will likely be changes in the regulation as now written. Here's a summary of the high (or low) points as currently written.

Major elements in the current regulation as written:

- **The regulation will almost certainly be modified** before going into effect, since the act was written and passed very quickly. It was hastily drawn up in direct response to the Cambridge Analytical/Facebook data scandal. Already at least 19 amendments are proposed and are currently up for debate. Stay tuned!
- **In addition to the CCPA (AB-375)** a separate bill is also under consideration - California AB-2546 - that strengthens anti-spam laws. This act moves California from the opt-out CAN-SPAM permission standard to align with the international anti-spam laws. This separate act has flown a bit under the radar due to CCPA grabbing the headlines. The net result, when and if passed, is that it will move all marketers to this new standard due to the size and importance of California. Stay tuned to this one as well!
- **The major elements of CCPA** are that it gives "consumers" the right to ("consumers" is defined as anyone who lives in CA, and that applies to business consumers as well).
 - Know what personal information is collected about them.
 - Know if their personal information is sold or disclosed and to whom.
 - Say "no" to this sale.
 - Access their personal information upon request.
- **Companies need to abide by CCPA if they:**
 - Have a gross revenue of \$25 million or more.
 - Are data brokers or other businesses that buy, sell or share consumer's personal information of 50,000 records or more.



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- Receive the majority of their yearly revenue from selling consumer’s personal information. (It is not clear if the companies that have revenue of less than \$25 million need to conform to CCPA.)
- **Penalties for violation**
 - Any California citizen (defined as the “consumer”) has the right to file civil action against any company who violates the law by unlawfully disclosing their personal information. CCPA stipulates monetary damages of \$100 and \$750 or higher if more damage to the consumer is proven.
 - The state of California also can charge a company with violations directly, and fine it \$7,500 for each proven violation not rectified within 30 days.
 - These penalties are far less than GDPR, but as such might well have the potential to be filed more often, as to contest the violation is probably not worth the legal cost. Therefore, this might give rise to many lawsuits as consumers and their lawyers will capitalize on this easy settlement potential. It is unclear to us if lawyers can file class action lawsuits, which would certainly increase the fines.
- **Further Complications**

While all the attention has been focused on California and CCPA, be aware that 12 other states are considering similar legislation. They are:

Hawaii	New Jersey
Maine	New Mexico
Maryland	New York
Massachusetts	North Dakota
Mississippi	Rhode Island
Nevada	Washington

Obviously, if we assume that in 2020 some or all of these states pass their unique privacy laws, total confusion may well reign not unlike the local tax collection problem.

One solution to the upcoming mess is for a federal regulation to supersede the state laws, but at this time hope for a national privacy and a new anti-spam law is very unlikely due to both the short time frame to CCPA implementation and the divisions in Congress.

Impact on Organizers

While it might be tempting to segment all records based on California addresses and treat them differently, this is short sighted. It is far better to abide by the strictest regulation for all records and processes, and remain flexible, as more states or even federal regulations become law. In other words, all marketers and database administrators now have another important item on their ever growing “to do” list!



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Here are some of the more obvious impacts:

- **Reconsider using third-party data**
CCPA gives consumers the right to know the sources from which their data is collected. While using third party data is not illegal, any CCPA request will uncover this fact, and may not be something you want known. In addition, the vendor of this data must comply with CCPA so this needs to be checked as well. For organizers this includes list trades and usage of exhibitor data as well.
- **Reevaluate registration forms and the data collected**
Clearly, registration data falls under the current definition of personal information, and a statement that information collected falls under CCPA compliance is appropriate. In fact, since many registrants will not know of this new regulation let alone the acronym, it would be wise to define it on the form and/or have a longer description easily available to all registrants in a link.

Think through what data you ask on the registration form, as this data will become increasingly important if third party data and lists are no longer available.

In addition, if other outside data sources are used to enhance the registration file, and you still want to collect and use it, ask the registrant for this data even though this will make the form longer.

- **Develop a process that can delete consumer's data**
There are several rationales on what data you can retain for legal, business and compliance reasons, but a process needs to be in place to delete all other consumer personal information upon request.
- **Think twice before selling registration data**
Few organizers offer their attendance lists for sale, but some do for extra revenue. While this is not prohibited under CCPA, it does require you keep a record of all sales for 12 months. In addition, if you sell registration data, you must provide a "clear and conspicuous" link on the registration form to opt-out. This may well cause some concerns and issues with attendees and even reduce registration.
- **Direct mail is an option**
Both GDPR and CCPA specifically call out email and telemarketing as media that are covered. But, as with GDPR, the regulations in CCPA allow for the use of direct mail as an option to communicate to individuals, so long as, in the judgement of the sender, that the communication has legitimate interest to the recipient. The corollary good news is that the DMA has documented a 43% response rate increase for direct mail. Hopefully this freedom to communicate is retained in the final CCPA regulations.



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To Sum Up

This is a dynamic and yet settled area of concern and attention for all marketers including trade show and event organizers. We feel the privacy and data trends will continue on this privacy and transparently path and being agile will be imperative. On the other hand, internal good quality and accurate data will become increasingly important, as outside data is less available. It is yet to be determined how data and list compilers will respond to CCPA and other forthcoming regulations, but one thing is certain – it will be a changed data world.

John M. Coe

John has partnered with Direct Hit Marketing and is responsible for adding new trade show clients and thought leadership. John is also Co-Founder and Partner of B2BMarketing.com. His background includes experience in both sales and marketing. On the sales side, John was a field salesman, national sales manager and executive in charge of both sales and marketing for three major B2B firms. On the marketing side, he was president of a B2B direct marketing agency for 10 years, was National Campaign Manager at IBM, Sr. VP of B2B at Rapp Collins Worldwide and President of Protocol B2B. John is also the author of *The Fundamentals of Business-to-Business Sales & Marketing*, published by McGraw-Hill. John's next book co-authored with Steve Juedes, President of DHM is titled *Data-Driven Trade Show Marketing & Sales for Organizers and Exhibitors* is due for publication in late 2019. He can be reached at johncoe@directhitmarketing.com or by phone at 602-402-6588.

Direct Hit Marketing

Direct Hit Marketing (DHM) based in Lafayette, CO has been providing data analytics to the trade show industry for 28 years with its 360 Registration Data Analytics Program™. This data service starts with the show's registration data and combines it with the targeted mail, email and phone communications that were used to drive registration, and returns to the organizer up to 35 reports of what worked and what did not. The cost savings in mailings alone typically more than offsets the data analytic fee and provides insight in how to improve future marketing programs as well. For more information visit www.DirectHitMarketing.com or contact Steven Juedes, Jr at stevenj@directhitmarketing.com or (303) 666-0798.