

California Attorney General Issues CCPA FAQs

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With the [California Consumer Privacy Act \(CCPA\)](#) now in effect (January 1, 2020) and enforceable by California's Attorney General ("AG") (July 1, 2020), the AG has published [Frequently Asked Questions \(FAQs\)](#). Designed to aid consumers in exercising their rights under the CCPA, the FAQs also contain helpful reminders for [businesses and service providers](#) regarding their obligations under the law.

The FAQs cover several main topics for consumers: general information, "Do Not Sell" requests, "Right to Know" requests, required notices, "Right to Delete" requests, right to nondiscrimination, and information about data brokers. As noted, FAQ responses include information businesses and service providers may want to review.

For example, businesses still not sure if they are covered by the CCPA can review Question 5 under General Information, "What businesses does the CCPA apply to?":

The CCPA applies to for-profit businesses that do business in California and meet any of the following:

- ***Have a gross annual revenue of over \$25 million;***
- ***Buy, receive, or sell the personal information of 50,000 or more California residents, households, or devices; or***
- ***Derive 50% or more of their annual revenue from selling California residents' personal information.***

[There is more to this analysis](#), but the response provides a good starting point. One question many businesses have is whether the \$25 million gross annual revenue threshold refers only to revenue generated in California. The AG did not answer this question in the regulations or these FAQs, and the statute itself is silent. However, the [AG's responses to comments](#) submitted concerning the regulations can be instructive:

Civil Code § 1798.140(c)(1)(A) does not limit the revenue threshold to revenue generated in California or from California residents. Any proposed change to limit the threshold to revenue generated only in California or from California residents would be inconsistent with the CCPA.

The FAQs help to confirm the role of service providers and explain to consumers why a business might refuse to act on a consumer's request, such as a request to exercise the right to delete. In that case, under Question 6 of Requests to Delete Personal Information, the AG explains that "service providers" do not have the same obligations under the CCPA that "businesses" do. Requests must be submitted to the business, not its service providers. Of course, a business may require service providers to act on approved and verified requests the business receives from its consumers, such as requests to delete consumer personal information.

The FAQs also inform consumers about what to do if they think a business violated the CCPA. Notably, Question 7 of the General Information section makes clear that consumer "cannot sue businesses for most CCPA violations." In most cases, only the Attorney General can file an action against a business. The FAQ goes on to explain:

Consumers can only sue a business under the CCPA if there is a data breach, and even then, only under limited circumstances. You can sue a business if your nonencrypted and nonredacted personal information was stolen in a data breach as a result of the business's failure to maintain reasonable security procedures and practices to protect it. If this happens, you can sue for the amount of monetary damages you actually suffered from the breach or "statutory damages" of up to \$750 per incident. If you want to sue for statutory damages, you must give the business written notice of which CCPA sections it violated and give it 30 days to give you a written statement that it has cured the violations in your notice and that no further violations will occur. You cannot sue for statutory damages for a CCPA violation if the business is able to cure the violation and gives you its written statement that it has done so, unless the business continues to violate the CCPA contrary to its statement.

In addition to maintaining "[reasonable safeguards](#)," businesses need to be prepared, following a breach of nonencrypted and nonredacted personal information, to promptly respond to written statements from consumers concerning alleged violations.

Consumers, businesses, and service providers are encouraged to review the FAQs. As the AG notes, the FAQs "are not legal advice, regulatory guidance, or an opinion of the Attorney General." So, while the FAQs can provide helpful general explanations of certain CCPA requirements, businesses and service providers, in particular, will want to obtain a more complete understanding of the statute and regulations with experienced counsel.

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