

October 28, 2020

The Honorable Xavier Becerra  
California Department of Justice  
ATTN: Lisa B. Kim, Privacy Regulations Coordinator  
300 South Spring Street, First Floor  
Los Angeles, CA 90013

*Submitted via email to PrivacyRegulations@doj.ca.gov*

**RE: Comments from MPA – the Association of Magazine Media on the Third Set of Proposed Modifications to Text of Regulations Implementing the California Consumer Privacy Act (CCPA) OAL File No. 2019-1001-05**

Dear Attorney General Becerra:

MPA – the Association of Magazine Media represents over 500 magazine media brands that deliver compelling and engaging content across online, mobile, video and print media. MPA represents the interests of all types of magazine media companies, from the largest global companies to the smallest independent journal, and their news, business and finance, lifestyle, and enthusiast brands that appeal to a broad set of interests. Members of our industry connect with more than 90 percent of all U.S. adults through the digital and print magazine titles readers value most.

Having testified and provided previous rounds of comments on modified language proposed by the Office of the Attorney General (“OAG”), we appreciate the opportunity to offer additional comments on the third set of proposed modifications to the regulations implementing the California Consumer Privacy Act (“CCPA”).

Almost a full year into implementation of the CCPA, it is extremely important that the third set of proposed modifications not undermine the extensive efforts undertaken and procedures implemented by magazine media companies and others based on previous versions of the rulemaking. Further, consumers have now developed expectations regarding CCPA processes that should not be upended. In the sections below, MPA makes recommendations with respect to the OAG’s proposed modifications to requirements for offline notices, number of allowable steps for opt-out, and requests made through authorized agents. Please note that MPA’s suggested additions are indicated in ***bold italicized underline***.

**I. The OAG should clarify in its modifications to Section 999.306(b)(3) that in instances where personal information is collected through a printed form that is to be mailed back to the company, the offline notice may include a web address that the customer can access to opt-out of the sale of their personal information**

In addition to collecting personal information online and at brick-and-mortar locations, the magazine media industry, as with other industries, may collect personal information that consumers complete through a printed form and then submit by mail.

To facilitate that common, expected consumer practice and enhance compliance with the aims of the CCPA, the OAG should confirm that in order to provide notice at the point of collection of personal information, it is sufficient for a business to direct a customer to a web address where the consumer may choose to instruct the business that sells personal information to stop selling their personal information.

MPA recommends that the OAG modify the proposed regulatory text in section 999.306(b)(3) to include an additional illustrative example:

**(c) A business that collects personal information from consumers through printed forms by mail may provide notice by including on the paper forms that collect the personal information a web address directing consumers to where the consumer may choose to opt-out of the sale of their personal information.**

This additional clarification – that the provision of a web address on printed material is an offline notice – would aid in compliance where consumer information is collected from a printed paper form that is then mailed by the consumer. This illustrative example for printed materials sent through the mail is consistent with existing regulation 999.305(b)(3) that offline notices may direct consumers to where the “Do Not Sell My Personal Information” webpage can be found online, and is analogous to the proposed illustrative example for brick-and-mortar stores (which may post signage).

This method of notice also enhances data privacy and security by minimizing the amount of data a business must collect in printed form in order to validate and execute a consumer’s request, allowing businesses to standardize operations, including the ability to have a single, centralized location where opt-out information is maintained.

## **II. The OAG should further clarify in 999.315 on requests to opt-out that two expected, common practices that enhance the consumer experience while promoting the minimal number of steps to opt-out are permitted.**

MPA agrees that the steps for submitting a request to opt-out should be minimal and should not subvert consumer intent. However, MPA is concerned that requiring parity in the number of steps to opt-out and to opt-in could incentivize businesses to add additional steps to both the opt-in and opt-out process that do not enhance the consumer experience or privacy protections but merely ensure technical compliance with the CCPA, or present obstacles for businesses to employ standard identity verification processes that enhance consumer data security.

MPA recommends that the OAG make the following additional modification to the proposed modifications to text in Section 999.315(h)(1):

- (1) **The business’s process for submitting a request to opt-out shall not require more steps than that business’ process for a consumer to opt-in to the sale of personal information after having previously opted out. A business’ process to validate a user’s identity shall not count in the number of steps to opt-in or opt-out. The number of steps for submitting a request to opt-out is measured from when the consumer clicks on the “Do Not Sell My Personal Information” link to completion of the request. The number of steps for submitting a request to opt-in to the sale of personal information is measured from the first indication by the consumer to the business of their interest to opt-in to completion of the request, not including identity verification.**

Magazine media consumers often benefit from renewal offers that reduce the price of a subscription. Posting notice of an offer of a discounted subscription without creating an additional required step or friction for the consumer provides value to the consumer without impairing a consumer’s ability to execute their request to opt-out. The CCPA regulations should explicitly permit businesses to present a notice of benefits for the consumer should they elect to remain opted-in.

Consumers may also benefit from electing to opt-out of certain services or offerings while not opting-out entirely. Businesses should be permitted to enhance the consumer experience and better serve consumer intent by providing an easy opt-out process that allows the consumer to indicate his or her desired preferences. Businesses should be allowed to display an interface that enables the consumer to indicate a full or partial opt-out or select/de-select from a listing where multiple offerings exist as long as one of the de-selection options is inclusive of all of the business’ use of consumer data.

MPA urges the OAG to add the following clarification to Section 999.315(h)(3):

- (3) **Except as permitted by these regulations, a business shall not require consumers to click through or listen to reasons why they should not submit a request to opt-out before confirming their request. A business may display information that provides context to enable a consumer to reconsider their interest in opt-out or to elect a partial opt-out provided that display does not require additional steps or subvert or impair a consumer’s choice to opt-out. A display that provides an offer of additional goods or services shall not count in the number of steps to opt-out if the consumer is not required to take an action if they do not wish to take advantage of the offer.**

**III. The OAG should strike its proposed modified language in Section 999.326(a) on authorized agents and continue to permit a business to exercise direct consumer engagement to effectively make good-faith efforts to respond to suspected threats to consumers’ data security.**

The current CCPA text allows businesses to authenticate right to know and data deletion requests filed by either consumers directly or authorized agents, and to do so by presenting the same interface online for either method. For example, businesses currently commonly utilize a consumer’s email address to map to an account and process a request.

Since the effective date of the CCPA, many businesses have identified practices by authorized agents that undermine consumers' data privacy and security. Therefore, MPA is concerned that the proposed language in Section 999.326(a) could impede the necessary steps that businesses would take to effectively respond to instances of suspected consumer fraud by purported authorized agents.

Reducing the avenues available for a business to obtain verification, particularly in instances of suspected fraud, both undermines consumer data security and is counter to the CCPA's authentication requirements found outside the section on authorized agents.

To maximize the protection of consumer data, a business must continue to have the ability to both directly verify identity with the person to whom the request is related, and to confirm that the consumer provided the authorization to the agent submitting the request.

MPA urges the OAG to restore the enacted text that allows businesses to exercise both verification methods:

**(a) When a consumer uses an authorized agent to submit a request to know or a request to delete, the business may require that the consumer:**

**(1) Provide the authorized agent signed permission to do so.**

**(2) Verify their own identity directly with the business.**

**(3) Directly confirm with the business that they provided the authorized agent permission to submit the request.**

MPA again notes the important role that direct first-party engagement with consumers can have in enhancing data security, protecting privacy, and preventing fraudulent activity.

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MPA believes that adopting the additional clarifications proposed above will enhance the ability of businesses, including the magazine media industry, to operationalize consistent privacy-protective practices that comply with the law, enhance reader trust, and preserve the viability of the magazine media brands that consumers enjoy.

MPA and our members appreciate the opportunity to provide our views for your consideration.

Respectfully submitted,

Brigitte Schmidt Gwyn  
President and Chief Executive Officer

Rita Cohen  
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