

# January 2020: Survey of the Restaurant Industry's Privacy Practices

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## Introduction

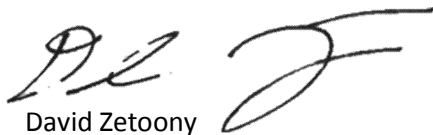
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With the enactment of the European General Data Protection Regulation (“GDPR”) and the California Consumer Privacy Act (“CCPA”), the restaurant and food service industry has been forced to cope with a shifting privacy landscape that impacts the data collected online and offline from customers, visitors, and employees. In the context of the CCPA, poor drafting, combined with a lack of practical regulatory guidance and the prospect of imminent judicial challenges, make it a particularly difficult statute for compliance.

At BCLP we have the honor to represent a wide cross-section of retailers and retail brands that encompass over 35,000 brick-and-mortar locations. Many of these companies operate in the food service industry. Given our unique position in the market, we believe that we have an obligation to provide our clients – and the restaurant sector as a whole – with accurate benchmarking to help them make the most informed compliance decisions possible.

To help identify trends, BCLP examined the top grossing casual dining restaurant chains. The metrics in this report reflect public disclosures of privacy practices with a specific focus on CCPA requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'DZ' followed by a stylized flourish.

David Zetoony  
Co-Chair Global Data Privacy and Security Team  
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## Executive Summary

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To help identify trends, BCLP examined the top grossing casual dining restaurant chains. The metrics in this report reflect public disclosures of privacy practices with a specific focus on CCPA requirements.

The data shows that there is no one strategy for disclosing privacy practices to consumers, or for complying with the federal and state laws (including the CCPA) that govern data privacy. The following summarizes current trends within the restaurant industry:

- Restaurants are behind the Fortune 500 in updating their privacy notices.
- The vast majority of restaurants have updated their privacy notices for the CCPA.
- Over half of restaurants have decided not to disclose their collection, sale, and transferring practices by “enumerated category.”
- Despite the CCPA, most restaurants are still silent or ambiguous about whether they “sell” personal information; the majority that do explain their practices are taking the position that they do not sell.
- While the majority of restaurants do not offer a “Do Not Sell” option, the percentage is still greater than the Fortune 500.
- Those restaurants that are disclosing the sale of information are complying with the CCPA’s requirement to provide a “Do Not Sell” option.
- Most restaurants are utilizing a data subject request form to process a “Do Not Sell” request; that form may have no impact on whether the restaurant continues to engage in third party behavioral advertising.
- All restaurants now offer access and deletion rights (at least to Californians).
- Restaurants deploy, on average, 9 behavioral advertising cookies on their homepages.
- Most restaurants do not provide a cookie notice.

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| Full Analysis and Report Details Available to BCLP Clients |
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## Methodology

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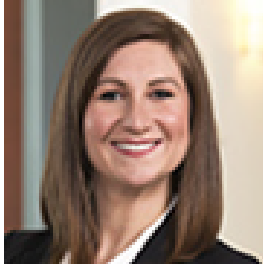
In January of 2020, BCLP identified the top 15 restaurant chains, ranked by total sales volume, in the casual dining industry subsector (the “Sample Population”). Clients of BCLP’s Data Privacy and Security practice accounted for 6.7% of the Sample Population. The privacy notices and homepages of the Sample Population were examined between January 8, 2020 and January 15, 2020. Cookies were identified using Chrome for iOS Version 79.0.3945.88 (official build) (64 bit) and classified using Ghostery for Chrome Version 8.4.4. All websites were visited from an IP address physically associated with Los Angeles, California. Any comparisons to other industries refers to statistics identified in the January 2020 edition of BCLP’s Survey of Fortune 500 Companies’ Privacy Representations.

In situations in which a company had more than one privacy notice, the “online” privacy notice (if one was so described) was reviewed. If a California-specific privacy notice was provided, both the California-specific notice and the general notice were reviewed. If a privacy notice indicated that it was updated in a month and a year (but no day was provided) the first day of the month was recorded as the “updated” date unless a more precise date could be inferred.

Note that while this report identifies patterns and trends, it does not indicate what percentage of companies are in compliance with the CCPA. Strategies for compliance with the CCPA are fact intensive and require an examination of multiple factors in order to determine whether the Act applies to a company and, if so, what a company is required to do pursuant to the Act.

## About the Authors

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**Karin E. Ross**  
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Ms. Ross is an associate in the Boulder, Colorado, office of Bryan Cave Leighton Paisner, LLP, an international law firm. Ms. Ross is a member of the firm's Technology & Commercial Practice Group and advises clients on data privacy and security issues as well as technology and commercial contracts. Ms. Ross assists companies of various size and industry sectors with their data protection and compliance programs, including advising on the California Consumer Privacy Act and the European Union's GDPR and ePrivacy Directive.

Prior to joining the firm, Ms. Ross was corporate counsel at a Fortune 500 healthcare company. In this role, she advised her client on a variety of highly complex contracts, privacy issues, and healthcare regulatory matters. Ms. Ross' experience in-house enables her to align legal and business objectives to better assist her clients meet their goals efficiently and effectively.

Ms. Ross graduated *magna cum laude* from the University of Pennsylvania in Philadelphia, Pennsylvania, and received her juris doctorate from the University of Colorado School of Law in Boulder, Colorado. She is a member of the International Association of Privacy Professionals.

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Mr. Zetoony is a partner in the Boulder, Colorado, office of Bryan Cave Leighton Paisner, LLP, an international law firm. Mr. Zetoony co-leads the firm's global data privacy and security practice and represents companies around the world on data privacy and security issues. He has helped hundreds of companies design their strategy for CCPA and GDPR compliance.

Mr. Zetoony graduated *cum laude* with a dual degree in history and policy studies from Rice University in Houston, Texas and received his juris doctorate from the University of Virginia School of Law in Charlottesville, Virginia. He has served in various leadership roles within the privacy and data security community including as a co-chair for the Colorado chapter of the International Association of Privacy Professionals.

Mr. Zetoony frequently speaks and writes on issues of domestic and international data privacy and security law. He received a JD Supra Readers' Choice Award in 2017, 2018, and 2019, and has been repeatedly named as the top "thought leader" in data privacy by Lexology. He was named a Cybersecurity & Data Privacy Trailblazer by the National Law Journal in 2016. In addition to his data privacy and security practice, he has received several awards for his *pro bono* contributions including the Pro Bono Partner of the Year Award from the Catholic Charities of the Archdiocese of Washington, D.C., and the Commitment to Justice Award from the Central American Resource Center

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