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A California Version of GDPR May Be Coming - What You Need to Know About the California Consumer Privacy Act of 2018

By Anne Kelley

People in the U.S. are becoming increasingly aware that their personal data is being shared in ways they never imagined as companies like Facebook, Uber, Safeway and Target are tracking and selling their personal information on a regular basis. Many people feel helpless in stopping companies from sharing their data. A coalition located in Oakland, California, right in Silicon Valley's backyard, believes it is high time for people to have more control over their own personal data. The coalition has authored a proposed California ballot initiative expected to be on the ballot in November of 2018, the California Consumer Privacy Act of 2018. Some are comparing the proposed initiative to the European Union's General Data Protection Regulation, or GDPR, as the initiative's goals are to protect individuals' private information and to give users greater control over how companies use their personal data.

The backlash against the sharing and sale of personal data is increasing due to recent Facebook revelations. In March, Facebook admitted that data on as many as 87 million users was passed to third parties, including British political consulting firm, Cambridge Analytica. Very recently, Facebook confirmed even more data sharing when it acknowledged that it entered into data-sharing partnerships over the last decade with at least 60 device-makers, giving them access to users' data. These agreements included a Chinese company Huawei, which U.S. intelligence officials view as a national security threat. The big problem: neither Facebook users nor the U.S. government had any idea the users' data was being shared so broadly.

On May 25, 2018, Europe's sweeping GDPR went into effect which gives heightened protection to data being gathered on EU citizens. Data protection laws are being proposed in the United States, including legislation in Congress (CONSENT—Consumer Online Notification for Stopping Edge-Provider Network Transgressions) and the California Consumer Privacy Act of 2018.

The California Consumer Privacy Act of 2018 has three central components and gives consumers the right to: (1) "opt out" of data sharing by demanding companies not share or sell their personal data for business purposes; (2) ask companies to disclose what data they have collected and to whom they are disclosing or selling it; and (3) sue or fine companies that are in violation. The initiative also holds businesses accountable if they experience a security breach that discloses consumers' personal information. Google, Facebook and other internet companies have already

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come out against the initiative.

If voters approve the California Consumer Privacy Act of 2018, it will apply to anyone who goes on the internet in California. Certain companies will be required have a "clear and conspicuous link" on their website's homepage titled "Do Not Share My Personal Data" that would allow users to opt

out of having their data sold or shared. Upon request, businesses would also be required to disclose the categories of information they have collected on users and to whom they have sold that data. Companies will also be required to "implement and maintain reasonable security procedures and practices" to ensure that consumers' private information is not exposed in a security breach.

In an age of ever-expanding internet use, security breaches, and increasing questions about data collection and sharing, the California Consumer Privacy Act of 2018 may just be the tip of the iceberg when it comes to regulating how companies collect, store and use individuals' personal data.



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