

1 **CALIFORNIA PRIVACY PROTECTION AGENCY BOARD**

2
3 TRANSCRIPTION OF RECORDED PUBLIC MEETING

4
5 **FEBRUARY 3, 2023**

6 **SACRAMENTO, CALIFORNIA**

7
8 Present: JENNIFER URBAN, Chairperson
9 LYDIA DE LA TORRE, Board Member
10 VINHCENT LE, Board Member
11 ALASTAIR MACTAGGART, Board Member
12 CHRIS THOMPSON, former Board Member
13 ASHKAN SOLTANI, Executive Director
14 PHILIP LAIRD, General Counsel
15 LISA KIM, Senior Privacy Counsel and Advisor
16 KEVIN SABO, Moderator

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19 Transcribed by: JULIE HALL, Senior Legal Analyst
20 CALIFORNIA PRIVACY PROTECTION AGENCY
21 Sacramento, California
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1 **TRANSCRIBED RECORDED PUBLIC MEETING**

2 **February 3, 2023**

3 **MR. KEVIN SABO:** Alright. It looks like the participation
4 number is starting to level off.

5 **MS. JENNIFER URBAN:** Thank you very much, Mr. Sabo. In that
6 case: good morning, everyone. I'm very pleased to welcome all of
7 you to this meeting of the California Privacy Protection Agency
8 Board. It is February 3, 2023, at 10:04 am.

9 My name is Jennifer Urban, and I'm the chairperson of the
10 board. Before we get started with the substance of the meeting,
11 as usual, I have some logistical announcements and reminders for
12 everybody.

13 First, I would like to please ask everyone in the panel to
14 check that your microphone is muted when you're not speaking. For
15 everyone, please note that this meeting is being recorded and that
16 it will be run according to the Bagley-Keene Open Meeting Act, which
17 is required by law.

18 After each agenda item, there will be an opportunity for
19 questions and discussion by board members, and I will also ask for
20 public comment on each agenda item. Each speaker will be limited
21 to three minutes per agenda item. If you wish to speak on an item
22 and you're using the Zoom webinar, please use the 'raise your hand'
23 function, which is in the reaction feature at the bottom of your
24 Zoom screen. If you wish to speak on an item and you're joining by
25 phone, you can press *9 on your phone to show the moderator that
26 you are raising your hand. Our moderator will call your name when
27 it is your turn and request that you unmute yourself for comment at
28 that time.

1 Those using the webinar can use the unmute feature, and those
2 dialing in by phone can press *6 to unmute. When your comment is
3 completed, the moderator will mute you. Now, I mentioned that the
4 moderator would call you by name. It is helpful if you identify
5 yourself, but this is entirely voluntary, and you can input a
6 pseudonym when you log into the meeting.

7 The board welcomes public comments on all items on the agenda,
8 and it is the board's intent to ask for public comment prior to the
9 board voting on any agenda item. If, for some reason, I forget to
10 ask for public comment on any agenda item and you wish to speak on
11 the item, please let us know by using the 'raise your hand' functions,
12 and the moderator will recognize you. Once again, please do be aware
13 that each speaker will be limited to three minutes per agenda item
14 for public comments.

15 Relatedly, I would like to remind everyone of the rules of the
16 road under Bagley-Keene. Both board members and members of the
17 public may only discuss items on the agenda for today when those
18 items are up for discussion. So, if you were speaking on an agenda
19 item, both board members and members of the public must contain
20 their comments to that agenda item.

21 We will take breaks as needed. And if we take a break and you
22 have walked away from the webinar, you'll see that we've put up a
23 little sign to let you know that. And if we are able to predict,
24 we'll say when we'll be back.

25 My many thanks to all of the board members for their service
26 today, and to everyone working to make the meeting possible. I'd
27 especially like to thank the team supporting us today: Mr. Philip
28 Laird, the agency's general counsel, who is our meeting counsel,

1 and will be presenting on a couple of items today; Mr. Ashkan
2 Soltani, who is here in his capacity as our Executive Director; and
3 Ms. Lisa Kim, who's our brand-new senior privacy counsel and
4 advisor for the CPPA, and I'll say a little bit more about that
5 later. I would also like to thank and welcome our moderator, Mr.
6 Kevin Sabo, and ask him now to please conduct the roll call.

7 **MR. SABO:** Okay, Board Member de la Torre?

8 **MS. LYDIA DE LA TORRE:** Present.

9 **MR. SABO:** de la Torre, present. Board Member Le?

10 **MR. VINHCENT LE:** Present.

11 **MR. SABO:** Le, present. Board Member Mactaggart?

12 **MR. ALASTAIR MACTAGGART:** Here.

13 **MR. SABO:** Mactaggart, present. And Chair Urban?

14 **MS. URBAN:** Present.

15 **MR. SABO:** Urban, present. You have four present and no absences.

16 **MS. URBAN:** Thank you very much, Mr. Sabo. The board has
17 established a quorum.

18 I would like to let the board members know that we will be
19 taking a roll call vote on any action items. Now, for everyone's
20 ability to follow what we're doing today: if you look at your agenda,
21 we're going to take agenda item #3, consideration of a resolution to
22 recognize the service of our former board member Chris Thompson,
23 next. We'll circle back to agenda item #2 after that.

24 Mr. Thompson, it's wonderful to see you today, and we will now
25 move to agenda item #3, which is this resolution to recognize his
26 distinguished service, and that is in your meeting materials packet
27 today.

28 I just like to say briefly how fortunate we've been to have

1 Mr. Thompson's expertise on the board as one of the founding members
2 of the board who was with us until December. We've moved through some
3 startup development stages, and now we're in the building stage. And
4 I personally have especially valued Mr. Thompson's expertise in
5 organizations and his focus on building the agency with a strong
6 culture and a strong organizational foundation with special attention
7 to our values and how those are transmitted throughout the
8 organization.

9 As I said in December, but I'm just sort of bummed about it, I
10 was really looking forward to Mr. Thompson to your insight as we
11 move into our strategic planning. And oh well, it's too bad that we
12 won't get your insight, but I think that you've given us some very
13 good thought to work with as we move into that. And I've really
14 valued his even-handedness and his thoughtfulness in our rulemaking
15 and other work. So, as you go off and continue your work for Los
16 Angelenos as the chief of staff for Mayor Bass, my deepest thanks
17 to you on behalf of Californians and on the agency. And today I'm
18 pleased to present for the board's consideration a draft resolution
19 honoring and expressing our appreciation to Mr. Thompson for his
20 contributions.

21 If you will please turn your attention to the draft resolution
22 under agenda item #3, I will read it out so that we can deliberate,
23 resolution in recognition and appreciation of distinguished service
24 by J. Christopher Thompson. Whereas Mr. J. Christopher Thompson, as
25 a founding member of the California Privacy Protection Agency Board,
26 played a key role in creating the first agency vested with full
27 administrative authority to implement and enforce the California
28 Consumer Privacy Act; and

1 Whereas Mr. Thompson's work to establish the California
2 Privacy Protection Agency with a strong organizational foundation
3 has helped ensure the agency will be proactive, nimble, and
4 steadfast in protecting Californians' consumer privacy rights for
5 many years to come; and

6 Whereas Mr. Thompson provided invaluable strategic assistance
7 guidance to fellow board members and agency staff, as the agency
8 entered its first rulemaking process to implement California's
9 flagship consumer privacy law; and

10 Whereas Mr. Thompson helped lead the agency's initial work to
11 promote public awareness and understanding of the risks, rules,
12 responsibilities, safeguards, and rights in relation to the
13 collection, use, sale, and disclosure of personal information; and

14 Whereas Mr. Thompson's colleagues have deeply appreciated his
15 informed and measured approach, his strategic mind, his strong work
16 ethic, and the humor and professionalism he demonstrated as a
17 member of the agency board; and

18 Whereas Mr. Thompson recently departed the agency board to
19 dedicate himself fully to his new role as chief of staff for Los
20 Angeles Mayor Karen Bass; and

21 Whereas Mr. Thompson's colleagues on the agency board are
22 confident that Mr. Thompson will continue to benefit California
23 through his commitment to public service and to the state.

24 Therefore, be it resolved that we, his colleagues on the agency
25 board, extend our deepest appreciation for Mr. J. Christopher
26 Thompson's service to the state and to the protection of
27 Californians' consumer privacy. We look forward to continuing to work
28 with Mr. Thompson and benefiting from his insight and guidance for

1 years to come.

2 So, thank you, Chris, and are there any questions or comments
3 from Board members? Ms. de la Torre and then Mr. Le.

4 **MS. DE LA TORRE:** I just want to quickly echo the words of
5 the Chairperson Urban. The humor, professionalism, experience that
6 Mr. Thompson brought to his role with the agency. We're deeply
7 appreciated by everybody, especially by me. I had the opportunity to
8 serve with him in a subcommittee and get to know him a little better.
9 And I have many, many opportunities to learn, really learn, from his
10 deep experience in government. So, we very much appreciate what you
11 have done for Californians, and I personally very much appreciate
12 how I have been able to learn from my interactions with you. I wish
13 you the best on your new role. Thank you.

14 **MS. URBAN:** Thank you, Ms. de la Torre. Mr. Le?

15 **MR. LE:** Yeah, I'd like to echo what Ms. de la Torre said. I've
16 learned quite a bit from you, Mr. Thompson. Appreciate your counsel
17 and your guidance as part of our outreach campaigns, your strategic
18 insights, and how we responded to different challenges at the agency.
19 Thank you most of all, for the humor that you brought to our
20 conversations. And yeah, I wish you the best of luck in your new
21 role. Los Angeles is lucky to have you.

22 **MS. URBAN:** Thanks so much, Mr. Le. Mr. Mactaggart?

23 **MR. MACTAGGART:** Thank you. You know you and I had limited
24 interactions because I joined the board recently. But I just want to
25 say again how a grateful I am for your service to the people of
26 California, not just in this role, but in your next role. How lucky
27 the people of Los Angeles are and, as I said before, I'm personally
28 excited because I think you will bring to the highest levels of the

1 government of what is, by all intent, a city-state effectively, the
2 importance of privacy, and I look forward to having that entity
3 allied with this cause as well. So, thank you for your work.

4 **MS. URBAN:** Thank you so much, Mr. Mactaggart. Mr. Thompson, we
5 really appreciate all your service. Is there anything you'd like to
6 say before we take public comment?

7 **MR. CHRIS THOMPSON:** I just want to say thank you. I'm really
8 honored and humbled that you all are doing this. It was an honor to
9 serve with you all. The opportunity to start up this agency was
10 pretty unique and had challenges, but I feel like we collectively
11 rose to the occasion to move this agency forward and get it
12 established and promulgate rules while building the culture and
13 directions and strategic direction of the agency.

14 I love public service. I've worked in government for a long
15 time, obviously working in government again. And working with these
16 people on this board and the incredibly dedicated staff renews my
17 faith in in public service. For people to understand how much
18 dedication and hard work is put into this effort by unpaid board
19 members and the public servants on the staff who are dedicated to
20 this mission... I wish people could see what we saw of the work that
21 went into the work and care and diligence of that has gone into
22 standing up this agency and starting to implement the statute through
23 these regulations. It really is an encouraging piece of public
24 service by dedicated public servants. So, thank you.

25 **MS. URBAN:** Thank you so much, Mr. Thompson. With that
26 I'm going to ask for a motion on the table so the public knows what
27 we are thinking about when I ask them for public comment. May I have
28 a motion to adopt the resolution and recognition and appreciation of

1 distinguished service by J. Christopher Thompson?

2 **MS. DE LA TORRE:** I so move.

3 **MS. URBAN:** Thank you, Ms. de la Torre. May I have a second?

4 **MR. LE:** I second.

5 **MS. URBAN:** Thank you, Mr. Le. With that we have a motion on the
6 table. Mr. Sabo, could you please let us know if there's public
7 comment?

8 **MR. SABO:** Yes, we are on agenda #3, resolution to recognize
9 distinguished service by former board member J. Christopher Thompson.
10 If you would like to make a comment, please raise your hand using
11 Zoom's 'raise hand' feature or by pressing *9 if you're joining us
12 by phone today. Your name will be called when it's your turn, and
13 you'll be invited to unmute yourself. Those dialing in by phone can
14 press *6 to unmute. You will have three minutes to make your comment.
15 This is for agenda item 3, the resolution recognizing service by
16 former board member Thompson. Again, use your 'raise hand' feature
17 on Zoom or press *9 if you're joining by phone. Madam chair, I'm
18 not seeing any hands raised at this time.

19 **MS. URBAN:** All right. Thank you very much. In that case, Mr.
20 Sabo, will you please perform the roll call vote?

21 **MR. SABO:** Yes, the motion is to adopt the resolution as stated
22 by the chair. Board member de la Torre?

23 **MS. DE LA TORRE:** Aye.

24 **MR. SABO:** de la Torre, aye. Board member Le?

25 **MR. LE:** Aye.

26 **MR. SABO:** Le, aye. Board Member Mactaggart?

27 **MR. MACTAGGART:** Aye.

28 **MR. SABO:** Mactaggart, aye. Chair Urban?

1 **MS. URBAN:** Aye.

2 **MR. SABO:** Urban, aye. There are four ayes and no noes.

3 **MS. URBAN:** Thank you very much, members of the board. The
4 resolution is adopted unanimously. Mr. Thompson, that is basically
5 the compensation we can give you, and it is very heartfelt, I will
6 say that. Thank you very much for your service. We miss you. We will
7 continue to miss you, but we look forward to future interactions and
8 really appreciate everything that you've given to the board.

9 And with that, everyone, we will circle back to agenda item #2,
10 which is the chairperson's update.

11 So, once again, welcome everybody to this meeting. I have just
12 a couple of updates. First, as we always attendees who haven't
13 attended every meeting, I will briefly situate today's meeting within
14 the board's current work so that it's clear what our purpose is today
15 and what's coming up.

16 Our overall focus continues to have two main components: the
17 work necessary to build out the agency and completing our first
18 substantial rulemaking package. We've been spending the bulk of some
19 meetings on rulemaking and others on discussions of the
20 administrative and structural tasks. Today's meeting is closely
21 focused on the rulemaking. We've adopted a streamlined agenda for
22 today to facilitate our discussion of two key rulemaking issues:
23 considering for approval the rulemaking package the agency has been
24 developing with public input and considering a preliminary request
25 for comment in preparation for some additional rulemaking.

26 I anticipate that our next meeting will focus more on building
27 tasks, including some administrative policy and oversight matters
28 following from our discussions in our December public meeting and

1 previous meetings. So, for example, we will likely take up
2 discussions on the agency budget, strategic planning process, and
3 some processes and procedures for board and agency work.

4 So, I just have a couple of updates before we move into our
5 rulemaking discussion for today.

6 First, as I alluded to when I was opening the meeting, I am
7 thrilled to announce that Ms. Lisa Kim has joined the CPPA as our
8 senior privacy counsel and advisor. Ms. Kim comes to us from the
9 California Department of Justice, where she was a deputy attorney
10 general focused on consumer privacy. We have been very fortunate
11 already to have her service as one of the DOJ counsel who supported
12 the CPPA as we grow and especially fortunate for her work on the
13 rulemaking and we are discussing today. Now we are exceptionally
14 fortunate to have her join the legal team here at the CPPA. We welcome
15 you to the agency, Ms. Kim, and we are so happy to have you become
16 part of our team.

17 Secondly, I would also like to draw everyone's attention to a
18 couple of new job postings for senior staff. The agency this week
19 posted positions for an assistant chief counsel and for a deputy
20 director of enforcement. The deputy director of enforcement will lead
21 and manage enforcement activities and will oversee the enforcement
22 division of the agency. Please check out these positions and apply
23 or forward them to promising candidates. You can find the postings,
24 along with postings for other open positions, on our website under
25 career opportunities. So, if you go to www.cppa.ca.gov and look for
26 the career opportunities link, you can check out the career
27 opportunities page.

28 Finally, I will offer my periodic reminder to everyone about

1 our email lists. If you're interested in the board's and agency's
2 work, you can sign up to receive announcements of Board meetings.
3 You can also sign up specifically to receive communications about
4 the rulemaking process. So, to do that again, go to www.cppa.ca.gov
5 and you can click on 'join our mailing list' on the front page, which
6 will take you to a page with instructions and information about those
7 lists. Those are my updates. Any questions or comments from board
8 members? Great. Oh, sorry, Mr. Le?

9 **MR. LE:** I want to congratulate the agency for being able to hire
10 on Ms. Lisa Kim. I'm very happy to have her on staff and excited.

11 **MS. URBAN:** Agreed. Thank you, Mr. Le. All right. If there aren't
12 other board comments or questions at this time, Mr. Sabo, would you
13 mind letting us know if there's any public comments on this agenda
14 item. You're on mute, Mr. Sabo.

15 **MR. SABO:** Rookie mistake, I apologize. We are on agenda item 2,
16 chairperson's update. If you'd like to make a comment, please raise
17 your hand using Zoom's 'raise hand' feature or by pressing *9 on your
18 phone if you're joining us by phone this morning. Again, this is
19 agenda item 2, chairperson's update. If you'd like to make a comment,
20 please raise your hand using Zoom's 'raised hand' feature or by
21 pressing *9 on your phone. Madam Chair, I'm not seeing any hands
22 raised at this time.

23 **MS. URBAN:** Thank you very much, Mr. Sabo. Once again, delighted
24 to welcome you officially, Ms. Kim. And with that we will now move
25 to agenda item #4.

26 Agenda item #4 is titled "Discussion and Possible Action
27 Regarding Proposed Regulations, Sections 7000-7304, To Implement,
28 Interpret, and Make Specific the California Consumer Privacy Act of

1 2018, as Amended by the California Privacy Rights Act of 2020,
2 Including Possible Adoption or Modification of the Text.”

3 Today, the board will be discussing staff’s proposed final
4 rulemaking package for section 7000 to 7304, and we’ll be considering
5 finally approving the text for submission to the Office of
6 Administrative Law.

7 This is a potentially big day, and I’m quite excited. The
8 rulemaking process in California is robust, lengthy, and favors
9 public participation and transparency, especially when it’s
10 combined with the board’s involvement under the Bagley-Keene Open
11 Meeting Act. To locate today’s discussion in the board’s work in
12 previous meetings, I will remind everyone of how this works and the
13 steps taken in the rulemaking process up to this point.

14 Now, I know that some of you are familiar with this and have
15 heard it before. But for those of you who are already familiar with
16 it, please bear with me for those who are not as familiar because
17 the process does diverge from a lot of people’s common understanding
18 of rulemaking, and it can be confusing otherwise.

19 So, rulemaking in California agencies follows the California
20 Administrative Procedure Act and, for agencies run by boards like
21 ours, also the Bagley-Keene Open Meeting Act. And we follow this
22 basic process. So, I’ll just sketch out how we got here.

23 First, the board with counsel and staff as they were hired—and
24 thanks again to everyone who helped us out while we were mostly
25 just a board-created a structure for developing the regulations in
26 compliance with the Bagley-Keene Open Meeting Act.

27 The Regulations Subcommittee, which was Ms. de la Torre and
28 myself, prepared a preliminary initial invitation for comments to

1 gather information, to support our understanding in advance of the
2 rulemaking, and develop some rulemaking subcommittees, which we
3 proposed to the board and were accepted. These included the Updated
4 CCPA Rules Subcommittee, which I was a member of along with Ms.
5 Angela Sierra, who has since left the board, and the New CPRA Rules
6 Subcommittee, which is comprised of Ms. de la Torre and Mr. Le.

7 This allowed the board to work on substance more than a board
8 would normally need to do in order to make progress on the process
9 and gather information while we were building the staff. We also
10 had a rulemaking process subcommittee with Ms. de la Torre and Mr.
11 Thompson to advise on that.

12 So, we worked as the board with some counsel from OAG and
13 others as we hired staff, and we put out that preliminary request
14 for initial invitation for comments in October of 2021 and then
15 held informational sessions with experts and stakeholder sessions, a
16 total of five days of those in March and early April of 2022.

17 So, that gave us a strong background and understanding—those
18 preliminary activities—and with that background in place, the
19 agency put together an initial proposed rulemaking package. At this
20 point, the formal rulemaking process under California law began.

21 When an agency in California writes regulations to implement a
22 statute, it must follow the California APA, which requires a formal
23 process to ensure that the public has input. Once a rulemaking
24 package is ready, it is published with a Notice of Proposed Action
25 and some explanatory materials, most notably the Initial Statement
26 of Reasons, or ISOR, which gives background and the agency's
27 reasoning. This went out on July 8, 2022. Then there is a period of
28 at least 45 days during which the public can submit written

1 comments to the agency on the proposed rulemaking package. We
2 received written comments during the period ending August 23, 2022.
3 There's usually a hearing, which we did hold. We held hearings on
4 August 24 and 25.

5 The agency then considers all the comments and whether to make
6 modifications in response to those comments. If it makes any
7 substantial changes in response, then there will be another time
8 period for written comments of at least 15 days. In our case, staff
9 considered public comments and put together proposed modifications
10 to the regulations which the board considered on October 28 and 29
11 of 2022, and in that meeting, the board decided on some additional
12 changes, approved most of the staff's changes, and approved the
13 package for the 15-day comment period. Staff implemented the
14 additional changes and gathered further public comment in November.
15 Then staff considered all the comments, prepared the final
16 rulemaking package (including responses to each comment), and has
17 now published a lot of those materials or those materials for the
18 meeting today.

19 Should the board approve the package today, then it will go to
20 the Office of Administrative Law for review and approval. There is
21 a little bit of extra process because of how Bagley-Keene interacts
22 with the APA process. And I should say staff has prepared an FAQ on
23 our website under 'Regulations' to help everyone understand this if
24 they get confused. Compared to, for example, the federal rulemaking
25 process, which is often more familiar, many agencies in California
26 have this additional layer of process.

27 The California Privacy Protection Agency is governed by this
28 board. Under our implementing statute, the board holds the agency's

1 rulemaking authority. So, we must approve commencing the formal
2 rulemaking process, any suggested modifications, and the final
3 rules. The board, in turn, is governed by the Bagley-Keene Open
4 Meeting Act, which requires that all of our discussions are
5 considered in public meetings, noticed at least 10 calendar days in
6 advance, and that any materials distributed to the Board for the
7 meeting are also available to the public. In practice, that means
8 the public gets to see draft regulations, suggested modifications
9 and proposed final package, and as well gets to listen to, and
10 comment on, our discussions in advance of those steps being taken
11 under the APA.

12 So, this is different from what many regulatory advocates are
13 familiar with, especially for federal rulemaking, but also for
14 rulemaking in California by agencies not governed by boards. In
15 most situations, the first time the public sees rules or
16 modifications is when they're published to begin the formal
17 rulemaking process or to continue it. In our case, however, for
18 example, the initial package was ready in May of 2022, but it
19 couldn't be released for public comment until the board was able to
20 discuss and approve it in June. So, it was out for the public to be
21 able to look at in May and then the board had to discuss it in
22 public, and it was released in July. Same with the modifications:
23 the board had to first discuss any of those and approve them before
24 it could go through the next stage of the formal process.

25 Today, we are discussing agency staff counsel's
26 recommendations to the board to adopt the final rulemaking package
27 and approve it for submission to OAL. Again, all those materials
28 are available; they've been available on our website. So,

1 accordingly, when you put these two together—the APA and Bagley-
2 Keene—the process takes longer, but it provides additional
3 transparency and lots of opportunity for public input. So, that’s
4 where we are. That’s how it works.

5 And I believe that the plan is for Mr. Laird and Ms. Kim to
6 explain a little bit about the process going forward and introduce
7 the materials in the package. And then the board will discuss the
8 package, and we will discuss our proposed next step that we want to
9 take with regards to the package. So, with that, I will hand things
10 over to Mr. Laird and Ms. Kim. I’d really like to thank them and
11 their team for taking so much care to consider the comments and for
12 preparing these materials for the Board and the public.

13 They do support our discussion, of course, but they also provide
14 that extra measure of transparency and notice for the public,
15 and anyone who looks at them can see that it was an extraordinary
16 amount of care, thought, and work that went into it. So, thank you
17 very much for this, and I will hand it over to you.

18 **MR. PHILIP LAIRD:** Thank you, Chair Urban, and good morning to
19 the members of the board. Before I turn things over to Ms. Kim, I’d
20 like to take a moment to go over a few points about where we are
21 with this package and then the next steps that will occur. As Chair
22 Urban described in her summary, we are now at the point in the
23 rulemaking process where the board may vote to formally approve the
24 proposed regulations for submission to the Office of Administrative
25 Law, which I may refer to as OAL just to shorten that a little bit.
26 And staff is, in fact, recommending that the Board do so today.
27 The text of the rules is substantively unchanged from the version
28 the board reviewed during the October 28-29 meeting. As a reminder,

1 in that meeting, board members raised, and staff did note, some
2 additional topics and proposed guidance on future changes. As
3 discussed, staff intends to bring those proposals back before the
4 Board for consideration once the current package is finalized and
5 in effect. And I'll note that this really is common practice for
6 all state agencies since there are often some issues, particularly
7 in a complex rulemaking, that require additional analysis as well
8 as items that arise over time. And this really is the nature of
9 rulemaking if we, as regulators, are staying attentive and nimble
10 to an evolving industry, practices, and consumer protections. So,
11 in any event, we look forward to revisiting those topics at a
12 future meeting.

13 Now, in terms of next steps with this package, if the board
14 approves these proposed regulations today, staff will work quickly
15 to finalize and print all required documentation and anticipates
16 filing the final package with the Office of Administrative Law
17 within about two weeks. That would then kick off OAL's review
18 period, which is 30 business days, which—I say "business days,"—I
19 mean that it usually averages out to about 45 calendar days during
20 which they have to complete their review of the package. Towards
21 the end of their review, the Office of Administrative Law will
22 notify us if they intend to approve or disapprove the rulemaking
23 package for any reason.

24 While I know our team has done an outstanding job preparing a
25 rulemaking file that meets every requirement under the
26 Administrative Procedure Act, the truth is nearly all rulemaking
27 files, and especially those that are as large and complex as ours,
28 will have some issues that OAL identifies as needing revision.

1 Sometimes these issues arise in supporting documentation, such as
2 the Final Statement of Reasons, and can be revised by staff during
3 that 30-business day review window that OAL has. Other issues,
4 however, such as those existing in the text of the regulation can
5 only be revised with an additional notice of modified text and 15-
6 day public comment period, which, in our case, would also need to
7 be authorized and directed by the board members.

8 For these reasons, we request today that if making a motion to
9 approve the regulations, the board authorize staff to do the
10 following: to take all steps necessary to complete the rulemaking
11 process, including filing of the final package with OAL; to allow
12 staff to amend any documents within the rulemaking package, other
13 than the text, as necessary to ensure clarity and accuracy and to
14 address any issues that OAL might raise to our attention; also, we
15 would request that the executive director and staff be given the
16 authority to make any non-substantive changes, such as for grammar
17 or misspelled terms to the proposed regulations themselves; and
18 finally, we would ask that the board authorize staff to withdraw
19 the rulemaking file, in part or in whole, from consideration by OAL
20 if we determine the legal risks associated with disapproval by OAL
21 would warrant further consideration of the board.

22 Now, to be clear, under that final authorization I just
23 described, one possible scenario is that OAL could identify a
24 handful of regulations within the package requiring revision. And
25 in that case, OAL could permit us to withdraw only those
26 regulations while allowing the remainder of the package to proceed
27 to approval. So, given the board's interest in completing these
28 regulations as soon as possible, we think it is important for staff

1 to maintain that level of flexibility just so that we can maximize
2 our ability to complete the rulemaking quickly.

3 Now, I know I just covered a lot, so I'll be happy to answer
4 any questions from board members about the process I just described
5 in a moment. However, first, I would like to turn the floor to Ms.
6 Kim, who I'd like to kind of echo the sentiments shared earlier. I
7 am absolutely thrilled as part of our legal division team as well.
8 And I'll turn to Ms. Kim to summarize all that's occurred since our
9 October 2022 meeting and to explain the supporting materials that
10 were provided today in connection with this agenda item. So, Ms.
11 Kim?

12 **MS. LISA KIM:** Thank you, Mr. Laird, and I just also want to
13 say thank you for the warm welcome. I am very honored to be part of
14 the agency, and I look forward to working with the board as well as
15 the entire agency staff to make this the best agency out there. So,
16 as Mr. Laird stated, the final proposed regulations before the
17 board have not substantively changed since the board's meeting on
18 October 28 and 29 when the board approved the modifications for an
19 additional 15-day comment period.

20 During the 15-day comment period, we received around 50
21 comment letters comprising up around 450 pages, and staff carefully
22 considered all the comments received and determined that no further
23 changes to the proposed regulations were necessary at this time in
24 light of the board's previous direction. To note, many of the
25 comments reiterated previous comments that were submitted during
26 the 45-day comment period and/or they supported the regulations
27 themselves. Accordingly, we began preparing materials necessary for
28 OAL to review the package, and drafts of the substantive documents

1 were included in the meeting materials for today to assist the
2 board in making its final determination regarding the regulations
3 and to explain what has been included.

4 So, first, the Final Text of Regulations has been added to the
5 meeting and materials. Now, this is the text of the proposed
6 regulations that the board would be submitting to OAL if they so
7 approve today. They are compared to the current regulations
8 existing and in effect now. So, blue reflects additions, and red
9 reflects the strikeouts for deletions. Please note that it's only
10 two colors instead of the rainbow version that showed the different
11 changes made throughout the entire rulemaking process. This is the
12 one that just compares to what's existing and what we want the
13 final product to look like.

14 What we've also included was the draft Final Statement of
15 Reasons. Now, the Final Statement of Reasons—or we call it FSOR for
16 short—is the part of the rulemaking package that provides a
17 narrative explanation of any changes made from the original version
18 of the regulations that were submitted at the start of the
19 rulemaking process. It updates the Initial Statement of Reasons,
20 which explains the initial version of the regulations. So together,
21 the ISOR and the FSOR explain the purpose and benefit for each
22 regulation, including why the regulation is necessary.

23 Now, what was also included were the draft FSOR Appendices A
24 and C. Now, these are the draft summaries and responses to all the
25 comments that we received during the 45-day and the 15-day comment
26 period. The two appendices are pretty lengthy; together they
27 comprise about 500 pages. But this is reflective of the fact that
28 we received a total of around 150 comment letters comprising of

1 over 1,500 pages during the 45-day and 15-day comment periods
2 combined. As well, they include the two days of public hearings.
3 And so, you'll see in the 45-day chart, or Appendix A, that there
4 are notations identifying the specific comment as well as the
5 specific speaker during the public hearings. These charts summarize
6 and respond to all the substantive comments raised. We consolidated
7 the comments where possible, and, in accordance with the APA,
8 whenever we did not accept the comment, we explained why we did not
9 accept the comment in the response.

10 Finally, we also included the Form 399 and its addendum. This
11 is basically the economic analysis of the impact of the regulations.
12 Revisions were made to it because some of the proposed regulations
13 were deleted, and so the necessary changes had to have been made.
14 And these two documents were prepared by the economists that we had
15 hired to assist us in doing the economic analysis. So those were the
16 materials included, and, as Mr. Laird mentioned earlier, we are both
17 here and happy to answer any questions about these materials or next
18 steps in the process.

19 **MS. URBAN:** Thank you so much, Ms. Kim. I have some thoughts,
20 but I will wait to see if there are any comments or questions from
21 other members of the board. We could all be slightly glazed from
22 reviewing all of your amazing work. So, Ms. De La Torre?

23 **MS. DE LA TORRE:** I'm not sure if there was an explanation as
24 to the Form 399, and the find is in that form. Maybe there was, and
25 I missed it. Could we get a little bit of understanding of that
26 form, how it was prepared...?

27 **MS. URBAN:** I think the narrative is in the materials for
28 today. So, beyond the form, there's a narrative from the economists

1 explaining their reasoning for today.

2 **MS. DE LA TORRE:** No, no, I understand. I'm just saying a
3 reference to the fact that the document is there and why it's
4 there?

5 **MS. URBAN:** Oh, I see, sorry. Yep, Ms. Kim?

6 **MS. KIM:** Sure, the Form 399 is a required form that is
7 required by the APA and basically is an analysis of the economic
8 impact that the proposed regulations have. Our economists helped us
9 prepare that form. And we also included something called the
10 Addendum to the Form 399, and that just goes into a greater
11 explanation of the conclusions that were made and included in the
12 Form 399. They detail the specific different regulations that we
13 identified as having an economic impact.

14 And I wanted to just clarify because I think there's been some
15 confusion reflected, especially in the comments, regarding the
16 economic analysis. The requirement for us is to look at the
17 economic impact specifically of the regulation itself and not of
18 the law. So, there are many economic impacts that the CCPA or the
19 CPRA amendments to the CCPA had with regard to how it would
20 affect a business and how much it would cost. But that is not what
21 is required of us when we propose the regulations. What we are
22 looking at is what, in addition to the basic baseline, would be the
23 cost of the regulations.

24 And so that baseline is basically what is currently existing
25 in law is already a cost that we don't have to take into
26 consideration. What is required by statute is a cost that we do not
27 have to take into consideration with the regulation. What we do is
28 whatever is directly related to the cost that the regulation in

1 itself would have on businesses as well as consumers. That is what
2 the Form 399, as well as its addendum, explains. And so that seems
3 to be a little bit of a point of confusion among the public, but I
4 hope that especially our responses to the economic analysis
5 comments that we have included in the 45-day and the 15-day comment
6 charts or the appendices will help explain.

7 **MS. URBAN:** Thank you, Ms. Kim. And I thank you for that good
8 explanation and Ms. de la Torre for asking the question as well
9 because I do think, if one is just looking from the outside, it can
10 sometimes be a little bit difficult to tell. Another feature I
11 noticed in the comments when I was going through them is that
12 fairly regularly someone would express an argument for us to change
13 something that's actually in the statute, which, of course, we
14 cannot do. I say "of course" but that may not be necessarily
15 intuitive, and it's totally understandable. But just like we cannot
16 change the statute, we need to isolate the cost of the regulations
17 themselves away from the statute itself. So, I think it's just
18 really helpful to everyone to have a little bit of that explanation
19 set out.

20 Ms. de la Torre, does that answer your question? Was there more?

21 **MS. DE LA TORRE:** No, that's exactly what I was asking for.
22 Thank you so much, Ms. Kim.

23 **MS. URBAN:** Thank you, Ms. de la Torre. Mr. Mactaggart?

24 **MR. MACTAGGART:** Thanks. So, a couple of things. First of
25 all, I just want to congratulate the team on an extraordinary
26 amount of work. I mean, reading this thing I can just imagine late
27 nights getting this ready for this board meeting. And Ms. Kim, I'm
28 so personally gratified you joined the agency. You've been doing

1 these regulations since the beginning of CCPA. And so, it's
2 wonderful to have the continuity and to have your expertise and
3 wisdom as you go out and write these regulations for the first
4 time. It's quite something to see an agency do this because most
5 other agencies already have the regulations, and they're kind of
6 tweaking them here and there, and you guys are creating them from
7 scratch. It's an extraordinary amount of work, and I'm excited to
8 hopefully adopt these today and move on. And so, I just want to say
9 thank you for the work—all of you. I know it's been just a
10 mountain. Thank you.

11 **MS. URBAN:** Thank you, Mr. Mactaggart. Any further comments
12 from the board? Yes, Mr. Le?

13 **MR. LE:** Yeah, again, echo the thanks to staff. Reading
14 these 167 pages of comments on top of the actual comments themselves
15 must have taken quite a bit of time. Mr. Laird mentioned that we'd
16 be bringing up future items for rulemaking, and—I'm just curious—do
17 we as a board need to highlight any of those that we pulled out
18 from those comments, or is it already all in a list that you all
19 are tracking?

20 **MR. LAIRD:** Great question, Mr. Le. We did take careful notes
21 of all the board's suggestions and ideas and topics that they'd
22 like to bring up for future items. And so, we will be prepared to
23 discuss those when this rulemaking is complete.

24 **MR. LE:** Okay, and I meant also from the ones in the summaries
25 and responses to the 15-day comments and the 45-day comments. There
26 were other items that the board members didn't mention. I was just
27 curious if there is like a running list of whenever you said
28 "future analysis on this issue is required..." I meant there's a lot

1 of questions around like employee benefits and whether things are
2 disruptive screens or dark patterns. So, I was just curious: is that
3 also in the list, or is it just like the board-mentioned items?

4 **MR. LAIRD:** I think our plan was to certainly prioritize the
5 board-mentioned items, but I think we have cataloged all the
6 feedback we've received, and especially those items that we've
7 indicated will require sort of further analysis. Ms. Kim, if you
8 have anything to add on top of that, but I think it's fair to say
9 staff's taking quite careful note of all of those comments.

10 **MS. KIM:** Yes.

11 **MS. URBAN:** I would just say that items that we brought up in
12 the October meeting, I know were catalogued carefully, and we read
13 them back out so they're in the transcript and in the notes and
14 everything for staff to be able to easily pick those up.

15 **MS. KIM:** Yes, I just wanted to say we do have a running list,
16 and the two that you mentioned just now are already included in
17 that list. So, it's a long list. That being said, we will get back
18 to you all.

19 **MS. URBAN:** Thank you, Ms. Kim. Mr. Mactaggart?

20 **MR. MACTAGGART:** Thank you. Just on this topic, I'm just kind
21 of wondering as we evolve and move forward, is it appropriate,
22 Madam Chair, to have an agenda item just at every meeting—I guess
23 it could be with other business—where any board member or member of
24 the public could bring up a request to put another rule in the
25 queue to be examined or another issue to be examined? Because I
26 just think that the nature of this is that this is the first. This
27 is the major piece of it but inevitably they're going to be things
28 where we have different ways of thinking about it. So, I kind of

1 think this is going to be a long work in progress. So that's just
2 my question.

3 **MS. URBAN:** Great, thank you, Mr. Mactaggart. And I'll just
4 amplify what you were saying at the end about it being a work in
5 progress, which doesn't mean that these rules aren't completed
6 themselves. But the nature of rulemaking is to be responsive to the
7 public's needs and to businesses' needs, and our statute explicitly
8 exhorts us to do that. So, by the very nature of the agency's work
9 and our work as a board, we will be regularly considering items for
10 potential rulemaking or considering rulemaking so I really
11 appreciate that you highlighted that. That's another thing that's
12 just important for us to keep front of mind and for everybody to
13 understand as we're meeting.

14 In terms of your process question, with your indulgence, I
15 would like to discuss with Mr. Laird in between meetings what all
16 the different sort of possibilities just so I don't misspeak here
17 in the meeting and so we have time to think it through. Certainly,
18 board members can contact staff at any time and let them know that
19 something has occurred to them, that they're thinking of something
20 in terms of bringing up things in board meetings, as I think you
21 were alluding to Mr. Mactaggart, and why you were asking. Of
22 course, we have to stick to the properly-noticed public agenda so
23 that we are not bringing up some topic that is important to someone
24 in the public without the public knowing that that is what we were
25 going to discuss.

26 There is certainly the opportunity for agendas that have an
27 agenda item for collecting future agenda items, which is most
28 meetings. We don't have one today because we're very focused on the

1 rulemaking items. That would be is an opportunity to bring
2 something up for discussion in a future board meeting, for example,
3 and there may be other options, maybe something along the lines of
4 what you suggested. I just want to be sure that Mr. Laird and I can
5 fully talk about it so that I can give you the best answer when we
6 come back for our next meeting if that makes sense. And then, in
7 the interim, board members can always reach out to staff with
8 topics that have come up. Ms. de la Torre?

9 **MS. DE LA TORRE:** Thank you. I just wanted to take a moment to
10 remind everybody that we created a process subcommittee, and one of
11 the things that we asked from that subcommittee
12 was to identify and propose to the board ways to do rulemaking
13 moving forward. So, I think some of this conversation actually
14 should happen within the context of that subcommittee because it
15 was created for that purpose and is currently inactive. But I know
16 that we have it in our future agenda items the idea of appointing a
17 new member so that we can reactivate that subcommittee. So, so long
18 as the subcommittee is still standing, I think that is the right
19 forum for the conversation, and then this subcommittee should bring
20 proposals to the board on how to better do this moving forward. So,
21 that was one thing that I wanted to mention.

22 I also want to echo the words of Mr. Mactaggart, Mr. Le, and
23 Chair Urban in terms of just appreciating the work that the staff
24 has put into these regulations. I have been working in privacy
25 education for many years. Before I joined the board, I thought I
26 was familiar with the APA process, and lo and behold, that was not
27 the case. It's just amazing. And so, it's I think underappreciated
28 sometimes by outsiders, and we might be perceived as being slow,

1 but I do not believe that there is another agency in California—I
2 mean, I don't have the data here—but I will very much doubt that
3 there is another agency out there in California that has put the
4 package that we have put forward within the time limits that we
5 have done it and with the staff constraints that we had. So that
6 really goes to just highlight the professionalism and the
7 dedication of everybody in the staff that has dedicated time to
8 this.

9 That said, I wanted to remind the board that, in our prior
10 meeting, I talked about my preference in terms of approving this
11 package, which will have been to pull out one of the rules that has
12 received a lot of comments; that's 7002. I'm not going to go over
13 my prior comments on why that would be my preferred position. I
14 understand that there is no support from the rest of the board to
15 do so, and I'm ready to move this package forward as I see that
16 there's an advantage to get it approved, and we're talking about
17 the idea of bringing things back to the board to improve on or
18 adopt more to have a more robust conversation among ourselves. I
19 think we are prioritizing timing, and that that's the right thing
20 to prioritize right now. But I look forward to having that
21 conversation with the board.

22 There is a number of topics that might not have been in the
23 list—that maybe we will have in our minds or might come up, and we
24 should think about how we can better work with the agency to bring
25 those. As much as I appreciate the idea of bringing things
26 back, particularly, I have this one provision that I had more
27 comments around. I also have awareness of the work that goes into
28 implementing these rules for the organizations that have to

1 implement them. And when we touch it or we change the role, we
2 should be mindful of that work. So, I think that we have to balance
3 the discussions which might be something that we want to have
4 happened, as Mr. Mactaggart was mentioning, in every board meeting
5 we have to decide that and then the process of how that gets
6 enacted. How many packages are we going to put out? That's a burden
7 on our staff and that's a burden on the organizations that have to
8 implement and it is also potentially for consumers confusing if we
9 change our rules.

10 So, my final thought is that for 7002, the only thing that I
11 want to highlight here is we're setting up a secondary-use test.
12 That is a little different from other tests that have been enacted
13 in Colorado, in Europe, etc. I brought that to the prior meeting.
14 And I'm confident that we can rethink those in future meetings.
15 We're also bringing forward a secondary use—a rule or test—that
16 doesn't have carveouts, clear carveouts for journalistic research,
17 archiving, and statistical uses of data. All of those four users of
18 data tend to be secondary users of data. Europe has carveouts for
19 them. I don't think that we want to be more restrictive than
20 Europe. So that's something that I'm hoping that we will be able to
21 look into in the future, and in terms of enforcement we should
22 consider while the rules are the way they are proposed right now.
23 Research shouldn't be an afterthought when we think about
24 regulations. And there's a lot of different challenges that we are
25 facing from global warming to gun control to COVID that require
26 vast amounts of data to be used to solve for. And with California
27 being a state that prides itself in innovation, I hope that this
28 board—when we go back and reconsider the rules—has awareness and

1 considers those uses that are in the public interest and to ensure
2 that we continue to be the engine of innovation that we have always
3 been. Thank you.

4 **MS. URBAN:** Thank you very much, Ms. de la Torre. Any other
5 comments or questions from other board members? Okay.

6 In that case, I just had a few thoughts in line with what
7 other board members have said. I wanted to—before I suggest a
8 motion—to pause for a moment and somewhat formally acknowledge and
9 express gratitude for the tremendous work that has gone into this
10 rulemaking package by everyone involved.

11 Proposition 24 created the agency at the end of 2020. My
12 fellow board members and I were appointed in March of 2021 and
13 began our work with our first meeting in June of 2021. From the
14 very beginning, we had the benefit of guidance and support from a
15 number of other state agencies, for example Business, Consumer
16 Services, and Housing Agency; the Department of Consumer Affairs;
17 and the Office of the Attorney General. Mr. Laird, for example,
18 served as our first meeting counsel and provided crucial
19 information about board process and rulemaking before he joined us
20 from another agency. The tech team at the Department of Consumer
21 Affairs created our website and our mailing lists, which maybe
22 sounds quotidian, but it provided a way for us to release our
23 preliminary request for comment and to receive comments from the
24 public in return. And, of course, the expert attorneys at the
25 Office of the Attorney General, including Ms. Kim, providing the
26 counsel to put the package together.

27 Fortunately, in October of 2021, the board hired our executive
28 director, Ashkan Soltani, who has overseen the building of an

1 exceptional in-house legal team and support staff. And it's their
2 incredibly hard work, long hours, and thoughtful attention to our
3 statute and public comment that you can see partially—and I'm just
4 going to say partially—Mr. Mactaggart mentioned the long nights. I
5 don't know that all those nights actually ended—really
6 exceptionally, committed work on the part of the team. And this
7 sort of broader team and our growing internal legal team, they have
8 just been tireless in considering all the information we've
9 gathered, working with the board subcommittees, working with other
10 agency staff to carefully craft that draft regulatory text, and
11 then to carefully consider all the public comments on that text.
12 They're peerless in their expertise. They have experience with
13 consumer law, privacy law, and, specifically, the California
14 Consumer Privacy Act, and the existing regulations, as well as
15 California administrative law.

16 We've mentioned Ms. Kim's expertise, but it's worth mentioning
17 again also Supervising Deputy Attorney General Stacy Schesser at
18 the AG's office and the rest of the team there. Mr. Soltani; our
19 own agency counsel, including Mr. Laird; our Acting General Counsel
20 Brian Soublet; staff counsel, including Neelofer Shaikh, Kristen
21 Anderson, Nelson Richards, and others, so many others, and many
22 other people at the agency. This was really all hands. Mr. Sabo's
23 team and others helped produce all of these materials so that we
24 could be fully informed and fully transparent. They're exceptional,
25 and I want to thank them.

26 I'd also like to take a moment to thank my fellow board
27 members, including our prior colleagues on the board, Angela Sierra
28 and Chris Thompson. This board is both intrepid and dedicated. It's

1 not everyone—as Mr. Thompson suggested earlier—who would be willing
2 to volunteer to build an agency that was brand new and had
3 substantial and important responsibilities for the people of
4 California and for businesses who serve the people in California.
5 Without staff yet in place, the board still found a way to make
6 substantial progress on this rulemaking, to engage the public
7 actively, and to work in subcommittees to get started on and
8 support staff in developing the substance of what is a really
9 complex rulemaking package. This is well beyond the call of duty
10 for members of boards usually, and it is incredibly appreciated.

11 And last, but very much not least, I want to thank the public
12 for its attention to the board's work and its thoughtful and robust
13 participation in the rulemaking process. Those 1,500 pages of
14 comments were exceptionally important to the staff and the board's
15 understanding of the rules and how they might affect all different
16 affected parties and what people needed and what they were asking
17 for and, of course, just really critical to the endeavor and I know
18 a lot of work on the part of everyone who has participated so far.
19 So, I really want to thank everyone who has participated in our
20 meetings, who's written comments, who joined hearings, what have
21 you. Every comment has been valuable so thank you to everyone.

22 The board will next consider public comments. And as is
23 usually my practice, I will suggest a motion to put on the table so
24 everyone is informed as to what we're thinking of. If they would
25 like to take that into account in their public comment. I will ask
26 for a motion to approve and adopt the regulations as modified; to
27 direct staff to take all steps necessary to complete the rulemaking
28 process, including the filing of the final rulemaking package with

1 the Office of Administrative Law, the amendment of any documents
2 within the rulemaking package, other than the text of the rules, as
3 necessary to ensure clarity, accuracy, and compliance with the
4 Administrative Procedure Act; to authorize the executive director
5 to make any non-substantive changes to the proposed regulations,
6 and finally, as Mr. Laird explained earlier, to further authorize
7 staff to withdraw the rulemaking file, in whole or in part, from
8 consideration by the Office of Administrative Law at any time if,
9 in their opinion, the legal risks associated with disapproval of
10 these regulations would warrant further consideration from the
11 board.

12 So, I believe those are the sort of components of what we need
13 to decide today. And with that I will ask Mr. Sabo to request
14 public comment.

15 **MR. SABO:** We are on agenda item 4 in relation to the
16 proposed regulations. If you'd like to make a comment at this time,
17 please raise your hand using Zoom's 'raise hand' feature or by
18 pressing *9 on your phone. Your name will be called when it's your
19 turn, and you'll be invited to unmute yourself. Those dialing in by
20 phone can press *6 to unmute. You will have three minutes to make
21 your comment, and I will let you know when your three minutes are
22 up. So, at this time, if you'd like to speak on agenda item 4 in
23 relation to the proposed regulations, again, please raise your hand
24 at this time using Zoom's 'raise hand' feature or pressing *9
25 on your phone.

26 First, we have Ray Kiddy. I'm going to unmute you at this
27 time.

28 **RAY KIDDY:** Thank you. I just wanted to say I would encourage

1 the agency and the board to consider ways in which their webpage
2 can be a more substantive aid for the public to figure out a lot of
3 these issues. As somebody who is not an owner of an information
4 company and not on the legal staff of such a company, I found it
5 difficult to add a substantive comment to the list. For example,
6 you all mentioned the running list of issues. Can this be on the
7 webpage for the public to view? Can there be a place for the public
8 to share concerns, those being, after some time and perhaps
9 redacted, shared with the public so that this can be a resource,
10 not just for the rulemaking process, but also a place where the
11 public can find out how their privacy concerns are being addressed?
12 And if it could be not quite a technically sophisticated
13 method/application that would be great. A lot of people with some
14 privacy concerns are not lawyers and aren't tied into this process
15 as well as they could be, and so I ask if the agency could think on
16 ways to provide information, provide help, and receive information
17 from the public at-large oriented to the public at-large. Thank you.

18 **MS. URBAN:** Thank you very much for the comment. Mr. Sabo, is
19 there further public comment?

20 **MR. SABO:** Yes, next we have Zach S. Zach S., whenever you're
21 ready you can go ahead and unmute yourself and begin your
22 three minutes.

23 **ZACH S.:** Hi, I was just wondering if it would be possible for
24 the CPPA staff to provide just a list of the non-material changes
25 that were made between the previous version of the proposed
26 regulations released in November and the text that is either
27 finalized here or as modified with the grammatical changes. Just
28 from a practitioner's standpoint, it would be useful to see

1 whatever changes are actually there. Because as released—when you
2 got rid of the rainbow, it made it really difficult for document
3 comparison.

4 **MR. LE:** Chair Urban, you're on mute.

5 **MS. URBAN:** Oh, I was thanking the commenter for the comment.
6 I'm fond of the rainbow myself. Is there further public comment?

7 **MR. SABO:** Again, we're on agenda item 4 with respect to the
8 proposed final regulations. If you'd like to make a comment, please
9 raise your hand using Zoom's 'raise hand' feature or by pressing *9
10 on your phone. This is for agenda item 4 with respect to the final
11 regulations.

12 Bruce Wick, I will unmute you at this time and again you have
13 three minutes. Please proceed when ready. Bruce Wick, you've been
14 unmuted if you'd like to speak at this time.

15 **BRUCE WICK:** Okay, can you hear me?

16 **MR. SABO:** Yes.

17 **BRUCE WICK:** Thank you. The regulations, as far as I understand
18 it, will apply to some of employers brand new this year. Those who,
19 for instance, contractors who work only with general contractors,
20 have no consumer information, but have employee information, and
21 these people are having to for the first time deal with the Privacy
22 Act and all the requirements. And I appreciate all the work you've
23 all done from the ground up on developing an agency and regulations.
24 Will there be, as this goes forward, a practical set of guidelines,
25 guidance, FAQs for those employers who are over \$25 million in
26 revenue, don't have consumer information, but now have to deal with
27 employee information that is not exempted going forward? That would
28 be really helpful to those employers if we could do something like

1 that. Thank you.

2 **MS. URBAN:** Thank you. Thank you very much for the comment,
3 Bruce Wick. Is there further public comment, Mr. Sabo?

4 **MR. SABO:** If you'd like to make a comment, please raise your
5 hand using Zoom's 'raise hand' feature or by pressing *9 on your
6 phone. This is in regard to agenda item 4 with respect to the
7 proposed final regulations. Again, please raise your hand using
8 Zoom's 'raise hand' feature or by pressing *9 on your phone. Madam
9 Chair, I'm not seeing further hands this time.

10 **MS. URBAN:** Thank you, Mr. Sabo, and thank you to all of the
11 folks who offered comments just now.

12 The board having considered public comments to the proposed
13 modifications that were noticed on November 3, 2022, may I now have
14 the following motion: to adopt and approve the regulations as
15 modified; to direct staff to take all steps necessary to complete
16 the rulemaking process, including the filing of the final
17 rulemaking package with the Office of Administrative Law, the
18 amendment of any documents within the rulemaking package, other
19 than the text of the rules, as necessary to ensure clarity,
20 accuracy, and compliance with the Administrative Procedure Act; to
21 authorize the executive director to make non-substantive changes to
22 the proposed regulations and to further authorize staff to withdraw
23 the rulemaking file, in whole or in part, from consideration by the
24 Office of Administrative Law at any time if, in their opinion, the
25 legal risks associated with disapproval of these regulations
26 warrant further consideration by the board?

27 **MR. LE:** I so move.

28 **MS. URBAN:** Thank you, Mr. Le. May I have a second?

1 **MR. MACTAGGART:** I second.

2 **MS. URBAN:** Thank you, Mr. Mactaggart. I have a motion and a
3 second. Mr. Sabo, would you please conduct the roll call vote?

4 **MR. SABO:** Yes, the motion is to approve as stated by the
5 chair. Board member de la Torre?

6 **MS. DE LA TORRE:** Aye.

7 **MR. SABO:** De la Torre, aye. Board member Le?

8 **MR. LE:** Aye.

9 **MR. SABO:** Le, aye. Board member Mactaggart?

10 **MR. MACTAGGART:** Aye.

11 **MR. SABO:** Mactaggart, aye. Chair Urban?

12 **MS. URBAN:** Aye.

13 **MR. SABO:** Urban, aye. Madam Chair, you have four ayes and no
14 noes.

15 **MS. URBAN:** Thank you very much, Mr. Sabo, and thank you very
16 much to the board members, staff, and the public for everything
17 that they've put into this rulemaking package. I'm very much
18 looking forward to seeing it proceed through the Office of
19 Administrative Law and appreciate that we have had a unanimous
20 vote, and the motion is adopted. Mr. Laird, please follow the
21 procedures necessary to implement the direction of the board today.

22 Very excited to reach this milestone in the Board's work and
23 in the agency's work on behalf of California, and so thank you to
24 everybody.

25 I want to use my little celebration icon on Zoom, but I'm just
26 not sure it won't translate to the transcript so I'll speak my
27 celebration instead, and we'll move now to agenda item #5 if everyone
28 is all right to continue. But I do want to take a quick check to see

1 if anybody needs a break. Nope, okay. Not seeing any for a break,
2 let's move to agenda item #5. Agenda item #5 is titled "Preliminary
3 Rulemaking Activities for New Rules on Risk Assessments,
4 Cybersecurity Audits, and Automated Decision-making."

5 At its December 16, 2022 meeting, the board heard a
6 presentation from the new CPRA Rules Advisory Subcommittee on its
7 advice to begin preliminary information gathering on the set of
8 potential rulemaking topics named in the agenda item today.

9 These topics are new to the California Consumer Privacy Act with
10 amendments from the California Privacy
11 Rights Act of 2020, the ballot initiative.

12 The New CPRA subcommittee is Ms. de la Torre and Mr.
13 Le. They advise putting out a preliminary invitation for comment to
14 gather information on these topics in advance of the potential
15 rulemaking on them. The board agreed with the subcommittee's
16 advice, and staff have now prepared a draft preliminary invitation
17 for comment for the board to consider. This is in your materials
18 under agenda item #5. If you would please turn your attention to
19 that, I believe Mr. Laird is going to present it today. I will hand
20 it over to Ms. de la Torre, Mr. Le, or whoever it should be. And
21 before I do that though, I'd like to offer my many thanks again to
22 Mr. Le and Ms. de la Torre for their work on this and to the staff
23 for putting together the proposed preliminary invitation for comment.
24 So, I believe it's Mr. Laird?

25 **MR. LAIRD:** Yes, thank you, Chair, Urban. So, I'd like to
26 take a moment. I know we've been doing a lot of gratitude, but I
27 would like to take a moment to also thank the folks on our legal
28 team, especially Ms. Neelofer Shaikh and Kristen Anderson for the

1 tremendous work they've done to support this invitation for
2 preliminary comments and to support the subcommittee. As Chair Urban
3 described, the document that has been provided as part of today's
4 meeting materials is an update to the draft questions presented by
5 the New Rules Subcommittee at last December's meeting and
6 incorporates a handful of revisions and additions suggested by board
7 members since that meeting.

8 Additionally, the draft invitation generally frames the
9 request for comments in a manner that is consistent with the
10 agency's first invitation for preliminary comments that was
11 referred to earlier back in 2021.

12 At this point, staff is recommending that the board approved
13 this draft invitation to be released to the public to open it
14 up for comments. And but as a reminder though, I want to just
15 note that this will not actually commence a formal rulemaking
16 process under the APA but instead will serve as an opportunity for
17 preliminary stakeholder input and information-gathering to help
18 inform the agency's development of draft regulations specifically
19 on the subjects of cybersecurity audits, risk assessments, and
20 automated decision-making

21 So generally at this point, I'm happy to answer any questions
22 you may have about this draft of the document that's been prepared
23 for today's meeting, but otherwise I'm happy to just turn it over
24 to the board for any discussion you have about this but would
25 recommend we proceed with the preliminary rulemaking.

26 **MS. URBAN:** Thank you, Mr. Laird. I think this is a wonderfully
27 comprehensive and carefully put-together set of questions, and I
28 really appreciate staff's additional work once they picked it up from

1 the subcommittee in December and the framing that staff about it.
2 So, I think this is a very helpful next step and support it. Any
3 other comments from board members. Yes, Mr. Le?

4 **MR. LE:** Yeah, I also want to thank staff for preparing this this
5 list of questions. For the public and those listening, I think these
6 questions reflect the seriousness with which we're approaching this
7 issue of automated decision-making, risk assessments, and
8 cybersecurity audits, and, in particular, there's just so many
9 different contexts in which these automated decision systems, for
10 example, are used, and the board and our subcommittee really would
11 like to understand how regulations should be shaped by these
12 different contexts and different impacts. So we really appreciate
13 and thank you in advance, to the public, for submitting comment.
14 It'll be very helpful for us and in refining and into creating
15 regulations that can work throughout different contexts and uses of
16 these tools.

17 **MS. URBAN:** Thank you, Mr. Le. Ms. de la Torre?

18 **MS. DE LA TORRE:** I just want to echo the words of Mr. Le. The
19 comments from the public are extremely helpful in this process of
20 rulemaking, and they are going to be particularly helpful for the
21 section of the rules that deals with automatic decision-making,
22 audits, adaptation impact assessments because we do not currently
23 have those in any form in our rules, and they are not delineated in
24 the statute. So, I encourage anybody that has an interest in this
25 subject to bring their comments early to us and take advantage of
26 this opportunity to share with us their thoughts about how we should
27 ensure that Californians are adequately protected in the context of
28 all of these regulations that we are considering. Thank you.

1 **MS. URBAN:** Thank you, Ms. de la Torre. Further comments or
2 questions from board members? Mr. Sabo, would you please ask if there
3 is any public comment?

4 **MR. SABO:** Yes, members of the public, this is in regards to
5 agenda item 5, the preliminary rulemaking item. If you would like to
6 speak on this item, please use Zoom's 'raise hand' feature or press
7 *9 if you are joining us by phone today.

8 **MS. URBAN:** And thank you, Mr. Sabo, and I will ask the
9 members of the public please do raise your hand if you think you
10 might like to comment, but I realized that I didn't put together a
11 potential motion just so everyone has the same information in case
12 anyone wanted to react to it. So, the motion that I will request
13 would be to direct Staff to release to the public an invitation for
14 preliminary comments that's in substantially the form of the draft
15 document reviewed today in connection with this agenda item and
16 invite the public to respond basically. So, I just wanted to be sure
17 that I had that out there, and we'll look forward to any public
18 comment.

19 **MR. SABO:** So again, this is in regards to agenda item 5,
20 preliminary rulemaking item. If you'd like to make a comment, please
21 raise your hand using Zoom's 'raise hand' feature or by pressing *9
22 if you're joining by phone. Madam Chair, I am not seeing any hands
23 raised at this time.

24 **MS. URBAN:** All right, thank you very much, Mr. Sabo. In
25 that case, may I have a motion to direct staff to release to the
26 public an invitation for preliminary comments that is substantially
27 in the form of the draft document reviewed today in connection with
28 this agenda item and inviting the public to respond with

1 written comments within a 45-day period as soon as is
2 technically feasible.

3 **MS. DE LA TORRE:** I so move.

4 **MS. URBAN:** Thank you, Ms. de la Torre. I have a motion. Do I
5 have a second?

6 **MR. MACTAGGART:** Seconded.

7 **MS. URBAN:** Thank you, Mr. Mactaggart. Mr. Sabo, I have a motion
8 and a second on this motion. Would you please conduct the roll call
9 vote?

10 **MR. SABO:** Yes, the motion is that which was stated by the chair
11 with regards to the preliminary rulemaking item. Board member de la
12 Torre?

13 **MS. DE LA TORRE:** Aye.

14 **MR. SABO:** de la Torre, aye. Board member Le?

15 **MR. LE:** Aye.

16 **MR. SABO:** Le, aye. Board member Mactaggart?

17 **MR. MACTAGGART:** Aye.

18 **MR. SABO:** Mactaggart, aye. Chair Urban?

19 **MS. URBAN:** Aye.

20 **MR. SABO:** Urban, aye. Madam Chair, you have four aye votes and
21 no no votes.

22 **MS. URBAN:** Thank you very much. The motion passes with a
23 vote of 4 to 0. Thank you very much again to the subcommittee, to
24 the staff, and to the board, and I think we will all look
25 forward to public input through this process. Our final agenda item
26 today is #6, adjournment. Before we move to that, I believe that our
27 executive director would like to say a word of thanks.

28 **MR. ASHKAN SOLTANI:** Thank you, Chair Urban. And indeed, I just

1 want to thank the board for their careful consideration and support
2 of these draft rules, and I also want to express my sincere
3 gratitude for the tremendous effort that staff have put into getting
4 this package ready for the board's consideration.

5 I know we've joked about long nights and overnights, but in
6 reality staff have consistently gone above and beyond to get these
7 materials available to the board with enough time to review. And if
8 you recall a year ago around this time, the agency had perhaps a
9 handful of people and was entirely reliant on outside help to
10 support our rulemaking and even these meetings. And so, I'm
11 incredibly proud of the progress we've made and the service we've
12 been able to provide, really, thank you all and thank
13 the board and staff for getting us to this important milestone.

14 **MS. URBAN:** Thank you, Mr. Soltani. I can't think of a
15 better way to finish off and move to our final item on the agenda,
16 which is adjournment. Once again, thanks to everyone, board members,
17 staff, and members of the public, for all of your contributions to
18 the meeting today and to all the board's work. May I have a motion
19 to adjourn the meeting?

20 **MR. LE:** I so move.

21 **MS. URBAN:** Thank you, Mr. Le. Is there a second?

22 **MS. DE LA TORRE:** I second.

23 **MS. URBAN:** Thank you, Ms. de la Torre. Mr. Sabo, we have a
24 motion and a second, and the board should now vote. Would you please
25 perform the roll call vote?

26 **MR. SABO:** Yes, the motion is to adjourn. Board member de la
27 Torre?

28 **MS. DE LA TORRE:** Aye.

1 **MR. SABO:** De la Torre, aye. Board member Le?

2 **MR. LE:** Aye.

3 **MR. SABO:** Le, aye. Board member Mactaggart?

4 **MR. MACTAGGART:** Aye.

5 **MR. SABO:** Mactaggart aye, Chair Urban?

6 **MS. URBAN:** Aye.

7 **MR. SABO:** Urban, aye. Chair Urban, you have four aye votes and
8 no no votes.

9 **MS. URBAN:** Thank you very much. The motion has been approved by
10 a vote of 4 to 0, and with that, this meeting of the California
11 Privacy Protection Agency board stands adjourned. Thank you very
12 much everyone.

13 (End of recording)

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