

Public Comment to CPPA about Implementation of CCPA/CPRA
By Roger McNamee

I spent 34 years as an investor in Silicon Valley tech companies. I have spent the past five years a full time activist for reform of the technology industry. My book, *Zucked: Waking Up to the Facebook Catastrophe*, was a New York Times Bestseller in 2019.

I believe that the lack of privacy laws and enforcement in the United States has played a huge role in undermining democracy, public health, and the right to self-determination of all Americans. CCPA and CPRA are important steps forward, but will only serve the public interest with aggressive rule making and enforcement.

One of the core elements of CCPA and CPRA – “Opt Out” – is suboptimal because it places the burden on consumers to protect their own privacy. There are four basic problems with opt out:

1. Consumers do not understand the ways they can be harmed by today’s data economy.
2. Consumers do not know who holds their data.
3. Corporations have huge incentives to make opting out difficult.
4. Opt out is incredibly costly and inefficient for data holders. It only works for them if the vast majority of consumers do not act to protect their rights.

Any system created to implement opt out should address all four issues. To do so, I recommend that the agency prioritize the following:

- Campaign to make consumers aware of their rights and to encourage action to protect them.
- Disclose to consumers every entity that holds data about them, including data brokers and corporations, as well as internet platforms. This data index should indicate what types of data each organization holds (e.g., PII, location, health, financial, applications usage, web browsing, etc.).
- Provide a simple form for opting out for individual data holders and one button for “opt out all”.

My understanding is that the cost for a corporation to comply with an individual opt out request may range between \$300 and several thousand dollars. Given that hundreds of entities may hold data on up to forty million Californians, the cost of processing requests individually will be enormous

even at opt out percentages in the low single digits. Imagine that 10% of Californians choose to opt out from a single data holder whose cost is \$300 per transaction. The cost would be \$1.2 billion. This math does not scale. Data holders are counting on only a handful of Californians exercising their rights under CCPA/CPRA. Keep in mind that 10% is tiny in comparison to the percentage of iPhone users that chose not to share data with internet platforms when Apple offered Application Tracking Transparency.

To make opt out work cost effectively at the scale of California, it would make sense to require that every company that holds data provide the agency with an index of every type of data it holds for each individual. This would have three benefits:

1. Simplify disclosure to consumers (compliance benefit and enforcement benefit)
2. Simplify the process of opting out for consumers (consumer benefit)
3. Enable batch processing, which would save data holders a huge amount of money (data holder benefit)

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