

1 CALIFORNIA PRIVACY PROTECTION AGENCY BOARD
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3 SESSION
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5 TUESDAY, JANUARY 14, 2025

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1 TUESDAY, JANUARY 14, 2024

2 2:00 P.M.

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4 MR. LAIRD: Good afternoon and welcome to
5 the California Privacy Protection Agency Public
6 comment session on the proposed CCPA update,
7 cybersecurity audit, risk assessment, automated
8 decision-making technology and insurance regulations.
9 My name is Philip Laird and I serve as the Agency's
10 general counsel. Today is Tuesday, January 14th,
11 2024, at approximately 2:00 p.m.

12 I'm located right now at California
13 Cannabis Appeals Panel Hearing Room on 400 R Street
14 in Sacramento, California. The hearing is also being
15 broadcast online to allow for virtual participation.
16 Here with me today is Tamara Colson, assistant chief
17 counsel for the Agency's legal division, and Serena
18 Marzion with our public affairs division.

19 Now, before we get started, I want to
20 remind everyone that last Friday we announced in
21 light of the devastating wildfires that continue to
22 burn in Southern California, that the Agency has
23 extended the public comment period for these proposed
24 regulations until Wednesday, February 19th.

25 In addition, we'll be holding a second

1 public comment hearing on that same day, February
2 19th from 2:00 to 6:00 p.m. So much like today, that
3 hearing will be conducted in-person in this very room
4 and virtually via Zoom as well. Now, a few quick
5 housekeeping matters before we start.

6 During this hearing, we will listen to
7 and record the comments from members of the public
8 about the proposed regulations. You may also submit
9 written public comments to staff here physically by
10 e-mailing them to regulations@coppa.ca.gov or by
11 mailing them to the Agency Sacramento office. All
12 comments must be received by February 19th.

13 Please note that the oral and written
14 comments are treated equally so you're only required
15 to submit your comment by one method for it to be
16 considered and responded to. Also, I mentioned
17 earlier there will be a second public comment
18 hearing, but you are not required to make your
19 comments at both hearings, so making your comment at
20 today's hearing or on the 19th will be sufficient to
21 have your comment recorded and responded to in the
22 final rulemaking record.

23 Now, given the number of participants in
24 attendance today, we will begin by limiting comments
25 to three minutes per speaker. Once all participants

1 have had an opportunity to make a three-minute
2 comment, we will allow speakers to make additional
3 comments if they're unable to complete their remarks
4 during the first round. We will also take breaks
5 from time to time as needed.

6 Now in terms of how to participate
7 in-person, if you are attending here and with us
8 in-person today and wish to speak, please wait for me
9 to call for public comment, then move toward the
10 podium and form a line. It is helpful for you to
11 identify yourself when you begin speaking, but this
12 is entirely voluntary, and you are free to refer to
13 yourself with a pseudonym or not give a name. We'll
14 first take comments from those in-person and then
15 move to those who are joining us virtually.

16 Now, if you are here in-person, please
17 hold the microphone very close to your mouth and
18 speak directly into the mic so everyone participating
19 remotely can hear you. And so your remarks can be
20 recorded in the meeting record. It's a very
21 sensitive mic, unlike mine, which is booming. This
22 one can be very quiet, so do try to stay close to the
23 mic.

24 If you're attending via Zoom and you wish
25 to speak, please use the raise your hand feature,

1 which is the reaction feature at the bottom of the
2 Zoom screen. If you are joining by phone, please
3 press star nine on your phone to show the moderator
4 that you're raising your hand. Our moderator will
5 call your name when it is your turn and request that
6 you unmute yourself to make your comment. When your
7 comment is completed, the moderator will mute you.

8 As is the case with in-person
9 participation, it is helpful for you to identify
10 yourself, but this is entirely voluntary. If you're
11 attending remotely and experience an issue with the
12 remote meeting, for example, the audio dropping,
13 please e-mail info@coppa.ca.gov, that's I-N-F-O
14 @coppa.ca.gov and this will be monitored throughout
15 the meeting.

16 If there is an issue that affects the
17 remote meeting, we will pause the meeting to let our
18 technical staff work on fixing the issue. We'll not
19 be responding to the public comments or discussing
20 the requirements in the proposed regulations during
21 today's hearing. But in accordance with the
22 Administrative Procedures Act all public comments
23 submitted during the public comment period, including
24 the oral comments from today's hearing, will be
25 responded to in the Agency's final statement of

1 reasons later in the rulemaking process.

2 After considering the public comments,
3 the Agency may propose amendments to the original
4 proposed text to the regulations. If the Agency
5 proposes such amendments, each person who has
6 provided a public comment will receive notice of the
7 proposed amendments to the text.

8 To receive this notice, you need to
9 provide us with an e-mail or mailing address as part
10 of your public comment. I just want to say in
11 advance, thank you so much for being here today.
12 We're really looking forward to hearing everybody's
13 feedback. And so, with that said, and no further
14 ado, I'm going to turn it over to Serena, who's
15 serving as our moderator today. Thank you, Serena.

16 MS. MARZION: Thank you so much, Phil.
17 We are now open for public comment. You'll have
18 three minutes to state your public comment and I'll
19 give you a 30 second warning. We'll first take
20 comments from attendees in the room. If you want to
21 comment, please form a line by the podium.

22 MR. TORRES: Awesome. Well, good
23 afternoon. My name is Alex Torres. I'm here with
24 Brownstein Hyatt Farber Schreck on behalf of the Bay
25 Area Council, representing over 320 employers in the

1 nine county Bay Area. Appreciate the opportunity to
2 provide comment.

3 We want to express some concerns with
4 these regulations. The Bay Area is the birthplace of
5 innovation. Its businesses and its residents are the
6 ones who are on the cutting edge of development, the
7 expansive scope of the current regulations and their
8 inclusion of decisions that result in access and
9 provision will have a dampening impact on innovation
10 and will ultimately hurt California consumers.

11 Companies will be less likely to launch
12 or test new algorithms due to the compliance costs
13 and potential regulatory scrutiny. For example, Bay
14 Area based companies are always testing new
15 algorithms to improve their products. The goal of
16 these improvements is to increase opportunities,
17 improve the resulting experience and lower costs for
18 the businesses and by extension the customers.

19 If these innovations cannot be tested
20 within the Bay Area, companies will -- it will result
21 in less companies testing them elsewhere. They'll
22 ultimately test them elsewhere. That's hurting
23 innovation and the Bay Area economy. The Bay Area is
24 also incredibly diverse, which will allow minority
25 entrepreneurs the opportunity to thrive.

1 Mandating opt out of first party ads with
2 no exceptions will eliminate the ability for
3 entrepreneurs to use often limited ad budgets to
4 target ads to consumers based on their prior
5 activities and interaction with the business' own
6 services, thus resulting in significant negative
7 impacts for consumers and for minority emerging
8 brands.

9 Lastly, this Agency has acknowledged
10 challenges with staff bandwidth and expertise to
11 implement these regulations. So we'll close with
12 that concern and urge caution advancing these
13 regulations. Thank you.

14 MR. CANETE: Good afternoon. Julian
15 Canete, President of the California Hispanic Chambers
16 of Commerce. We're made up of over 130. Hispanic
17 and diverse chambers throughout the state. On behalf
18 of membership, I'm here to offer our testimony on
19 automated decision-making technology, cyber audit --
20 cybersecurity audits, and risk assessment
21 regulations.

22 On November 8th, 2024, CPPA board members
23 voted to begin rulemaking on CPPA's proposal
24 regulations that will have consequential irreversible
25 economic impact on many small and diverse businesses

1 in California based on CPPA's own standard --
2 standardized regulatory impact assessment.

3 3.5 billion in direct implementation cost
4 to businesses, resulting in a much larger adverse
5 impact on investment. Ongoing costs of 1 billion
6 annually for the next 10 years, potential of 98,000
7 initial job losses in California, no readily
8 available data to quantify the number of businesses
9 impacted, but businesses are also likely to leave
10 California.

11 All three CPPA regulations are
12 inconsistent with Proposition 24. Proposition 24
13 required regulatory balance under Section 3(c)(1)
14 which states, the rights of consumers and the
15 responsibilities of businesses should be implemented
16 with the goal of strengthening consumer privacy while
17 giving attention to the impact on business and
18 innovation. The significant economic impact of the
19 proposed regulations on businesses is in conflict
20 with the regulatory balance sought in Proposition 24
21 and thus fails to satisfy the consistency standard
22 under government code 11349(b).

23 Consistency means being in harmony with
24 and not in conflict with or contradictory to existing
25 statutes, court decisions or other provisions of law.

1 We therefore request CPPA redraft the regulations in
2 its entirety to address a negative fiscal impact on
3 California businesses.

4 As I previously testified, nothing in
5 Proposition 24 authorizes regulation of AI by CPPA,
6 including AI in the ADMT is a regulatory overreached
7 by the CPPA. As drafted ADMT regulations fail to
8 satisfy the authority standard under government code
9 section 11349(b). Authority means to -- means the
10 provision of law, which permits or obligates the
11 Agency to adopt, amend or repeal a regulation. We
12 are asking CPPA to remove AI from the ADMT
13 regulations. It does not belong there, and AI is
14 coming back to the legislature in 2025. So getting
15 ahead of them is pointless and adds unnecessary costs
16 for businesses.

17 Finally, in theory, and as CPP interprets
18 its own regulations, the CPPA regulations do not
19 affect our members because they only affect big
20 companies. In real life this is not true. When
21 businesses impacted by this regulation leave
22 California, it will land on us, not on any of you.
23 Can California really afford to lose the potential of
24 98,000 job losses and more? The answer is no.

25 Respectfully, we request that CPPA

1 redraft the regulations in its entirety to address
2 the negative fiscal impact on California businesses
3 and collaborate with Governor Newsom and the
4 legislature on AI issues. Thank you.

5 MR. SINGLETON: Good afternoon. CPPA
6 board members and staff. My name is Robert Singleton
7 and I'm the Senior Director of Policy and Public
8 Affairs for California and the US West region at
9 Chamber of Progress, a tech industry association
10 supporting public policies to build a more inclusive
11 country in which all people benefit from
12 technological advances.

13 I'm here today to urge you to revise your
14 approach and set aside this well-intentioned, but
15 ultimately flawed proposal to regulate behavioral
16 advertising and automated decision-making tools,
17 which exceeds the legislator's directive for an
18 Agency charged with creating privacy rules and stands
19 to harm consumers and innovation alike.

20 A thriving advertising ecosystem is
21 essential to keeping prices low. The draft
22 regulations seek to regulate so-called behavioral
23 advertising by imposing among other things, risk
24 assessments and opt-out mechanisms for first party
25 advertising. These sweeping obligations stand to

1 further undermine the advertising support of business
2 model that allows technology companies to deliver
3 free or low-cost services to California consumers.

4 While inflation has come down, prices in
5 California are still too high and undercutting the
6 advertising supporting tech ecosystem will deny
7 companies the revenue they need to sustain
8 free-to-the-consumer services. As a consequence --
9 as a consequence, services will move to a
10 subscription model. This entire undertaking appears
11 directly at odds with the Agency's statutory mandate
12 to exclude from regulation, personal information
13 provided in connection with services in which
14 consumer intentionally interacts.

15 Lastly, I note regulating advertising at
16 all goes far beyond the CPPA's authority or mandate
17 to regulate privacy. The draft regulations are
18 unnecessary and would create unavoidable confusion,
19 especially as it relates to ADMT. The draft
20 regulations misunderstand the technology they seek to
21 regulate.

22 Specifically, there is no obvious reason
23 to place additional obligations on the training of
24 automated decision tools, which consumers do not
25 interact with, but there is no consumer impacting

1 algorithm decision in scope of the statute.

2 Subjecting training to rigorous impact assessments
3 goes well beyond what any other jurisdiction in the
4 country requires with no obvious consumer benefit.

5 We reiterate our call for the CPPA to
6 focus on its legislative mandate to regulate privacy
7 by promulgating that govern -- that govern use of
8 California's private information. The draft
9 regulations go far beyond legislative direction in
10 creating unnecessary and ill-conceived regulations of
11 advertising and the training of automated decision
12 making. These reasons we urge you to set aside these
13 regulations in the proposal.

14 MS. MARZION: As right now, we are taking
15 public comment from attendees in the room. If you'd
16 like to make a comment, please form a line by the
17 podium. Okay. We will now take public comments from
18 virtual attendees to make a public comment.

19 At this time, please raise your hand
20 using the raised hand feature or by pressing
21 star-nine. If you're joining us by phone, I'll call
22 your name and unmute you when it's your turn to
23 speak. Annette Bernhardt, I'm going to unmute you at
24 this time. You'll have three minutes to make your
25 comments. Please begin when you're ready.

1 MS. BERNHARDT: Good morning. My name is
2 Annette Bernhardt, and I direct a technology and work
3 program at the UC Berkeley Labor Center. With the
4 advent of big data and artificial intelligence,
5 employers in a wide range of industries are
6 increasingly capturing, buying and analyzing worker
7 data, electronically monitoring workers, and using
8 algorithmic management to make critical employment
9 related decisions.

10 And yet, California is the first and only
11 place in the US where workers are starting to gain
12 basic rights over their data and how employers use
13 that data to make critical decisions about them. And
14 that's why labor groups and other worker advocates
15 are paying such close attention to the CPPA
16 rulemaking process.

17 Last week, we joined a group of worker
18 advocates in submitting a formal comment letter to
19 the CPPA, providing detailed and empirically based
20 recommendations about how to best protect workers in
21 the Agency's rulemaking on ADMTs and risk
22 assessments.

23 These recommendations are grounded in the
24 principle that the scale and scope of data-driven
25 technologies in the workplace necessitate broad

1 protections for workers. For ADMTs the letter
2 identifies three main priorities with specific
3 suggestions under each. One, expand the definition
4 of automated decision-making technology to fully
5 reflect the significant variation in how and to what
6 extent employers rely on ADMTs.

7 Two, strengthen notice and access rates
8 for workers when an employer has used an ADMT to make
9 a decision about them, given the black box nature of
10 many algorithmic systems used in the workplace. And
11 three, restore meaningful right to workers and
12 consumers to opt out of consequential ADMT systems
13 consistent with the language and purpose of the CCPA.

14 For risk assessments the letter similarly
15 identifies three main priorities. One, strengthen
16 the required elements of risk assessments to ensure
17 that potential harms to workers are identified early
18 on and can be addressed prior to implementation of
19 the workplace technology.

20 Two, clarify the roles of workers and
21 unions in risk assessments because they are critical
22 stakeholders and sources of knowledge that should be
23 involved when their employers conduct assessments.
24 And three, strengthen the power of the CPPA to act on
25 risk assessments in order to prevent the most harmful

1 violations revealed by those assessments.

2 In closing, by covering workers in the
3 CCPA and adopting strong regulations, California has
4 a historic opportunity to lead the US in ensuring
5 that data-driven technologies benefit and do not harm
6 workers. I want to thank Executive Director Sultani
7 Agency staff and board members for your committed
8 work on these draft regulations. Thank you.

9 MS. MARZION: Thank you for your
10 comments.

11 Ivan Fernandez, I'm going to unmute you
12 at this time. You will have three minutes. Go ahead
13 and begin when you're ready.

14 MR. FERNANDEZ: Hello, my name is Ivan
15 Fernandez. I'm legislative advocate for the
16 California Labor Federation, the Federation of Labor
17 Unions, representing over 2.3 million California
18 workers. Here to speak in the importance of the CPPA
19 regulations with the advent of artificial
20 intelligence expanding across every single workplace
21 from the entertainment industry all the way to the
22 health space, it is very important to make sure that
23 we are passing true guardrails and protections for
24 workers.

25 Last week we submitted a formal comment

1 letter to the CPPA alongside other worker advocate
2 groups on how to best protect workers and the
3 Agency's rulemaking on ADMTs and risk assessments.
4 These recommendations are focused with the intent to
5 ensure that there are true workplace protections for
6 workers across the State of California.

7 For ADMTs, the letter identifies three
8 main priorities with specific suggestions under each.
9 The first being to expand the definition of automated
10 decision-making technology, the second to strengthen
11 notice and access rights for workers when an employer
12 has used an ADMT to make a decision about them. And
13 the third being to restore a meaningful right for
14 workers and consumers to opt out of consequential
15 ADMT systems, especially seeing that how widespread
16 their use is becoming.

17 For risk assessments, we also have three
18 main priorities there. The first being to strengthen
19 the required elements of risk assessments. Second
20 being to clarify the role of workers and unions in
21 risk assessments, and the third being to strengthen
22 the power of the CPPA to act on these risk
23 assessments.

24 Today, we are standing at a historic
25 junction point in California history where we can

1 make the rule-making processes truly work for workers
2 across California. We very much thank the board, the
3 executive chair, and all staff for the opportunity to
4 speak today and for the process throughout the
5 rule-making process. So thank you so much. And
6 that's all.

7 MS. MARZION: Thank you for your comment.

8 Edwin Lombard, I'm going to unmute you at
9 this time. You'll have three minutes. Go ahead and
10 speak when you're ready.

11 MR. LOMBARD: Yes, my name's Edwin
12 Lombard. Today I'm representing the California
13 African American Chamber of Commerce in a number of
14 local African American chambers throughout the state
15 of California. On behalf of our membership, I have a
16 couple of key points that I would like to highlight
17 for the CPPA.

18 Respectfully the cybersecurity risk
19 assessment proposed regulation should not move
20 forward. With the exception of Board Member
21 MacTaggart, each of you voted to move these
22 regulations forward knowing fully the significant
23 economic impact they will have on California based on
24 your own economic analysis.

25 I am not a lawyer, but Prop 24 is clear

1 about the regulatory balance that CPPA needs to
2 follow here. Proposition 24, Section 3(c)(1), which
3 reads as follows, "The rights of consumers and
4 responsibilities of businesses should be implemented
5 with the goal of strengthening consumer privacy while
6 giving attention to the impact on businesses and
7 innovation."

8 The definition of ADMT is overly broad
9 and is very complicated for anyone to understand who
10 needs to comply with them. We agree with Board
11 Member MacTaggart's previous comments that he made on
12 July of 2024 where he indicated that the ADMT
13 language is the proposed -- in the proposed
14 regulation is so broad that it would apply to the use
15 of any software used in business, and that it could
16 also significantly wipe out ads in the -- in the
17 internet.

18 In our view, the ADMT definition fails to
19 satisfy the clarity standard under government code
20 section 11349(c). Clarity means written or displayed
21 so that the meaning of regulations will be easily
22 understood by those persons directly affected by
23 them. CPPA needs to rewrite the entire definition so
24 that it will be easily understood by businesses for
25 compliance purposes.

1 We respectfully request that the CPPA
2 work with Governor Gavin Newsom and the legislature
3 on AI and stopped working in an isolation on this
4 issue. All AI provisions must be stricken from all
5 of the ADMT regulations. And let me close with this,
6 these regulations, you are pushing -- these
7 regulations you are pushing have real life economic
8 impact on many Californians.

9 If you overregulate California and these
10 companies take their jobs to Arizona, Texas, or other
11 states, is that truly victory for Californians?
12 There is still time to get this right. A reasonable
13 approach to redraft all these regulations will
14 address our concerns. Thank you.

15 MS. MARZION: Thank you.

16 Ben Golombeck, I'm going to unmute you at
17 this time. Go ahead and speak when you're ready.
18 You'll have three minutes.

19 MR. GOLOMBECK: Thank you on behalf of
20 the -- my name's Ben Golombeck, Executive Vice
21 President at the California Chamber of Commerce on
22 behalf of our 14,000 members. Just appreciate, the
23 time to address you today. Based on our comments
24 over the last 14 months, you're certainly aware of
25 our strong concerns over the ADMT and risk assessment

1 provisions.

2 So for today's purposes, I'll focus on
3 the concerns around the proposed cybersecurity audit
4 provisions. Based on board member comments at the
5 last meeting, expressing that these provisions were
6 fine In contrast to the ADMT and risk assessment
7 provisions, we fear there isn't sufficient
8 appreciation for industry concerns regarding the
9 cybersecurity audit requirements.

10 Generally speaking, we are seriously
11 concerned that there are significant issues that
12 could seriously detract from established security
13 frameworks and from security itself. First, it's
14 vital not to lose sight of the importance that
15 companies have to be proactively engaged in actually
16 protecting against cybersecurity threats and not
17 simply engaged in the act of conducting audits upon
18 audits across any number of jurisdictions.

19 Unfortunately, resources are simply not
20 unlimited. Regulations start to require the
21 dedication of more resources to conducting audits
22 than they do to protecting against threats, and
23 that's a concern that we should all share in an
24 outcome we should seek to avoid.

25 A major part of the issue is that the

1 scope of these audits are incredibly over broad,
2 being based only on company size, whereas established
3 frameworks prioritize high risk systems over a
4 business wide focus. We're also concerned that the
5 annual requirement, if interpreted in scope broadly
6 by the Agency, runs counter to global privacy
7 frameworks like ISO and NIST and will detract
8 resources from assessing and auditing high risk
9 systems.

10 And we note that while the Agency is
11 directed to adopt regulations regarding annual cyber
12 audits, it's also directed to address the scope of
13 those annual audits. There's nothing mandating that
14 the annual audits be of the same size and scope each
15 year.

16 Finally, for today, the board
17 certification requirement in the draft regulations
18 from our perspective misses the mark. Cybersecurity
19 audit issues should be reported to a company's --
20 excuse me, sorry, chief information security officer,
21 or their highest ranking executive responsible for
22 their cybersecurity program.

23 As far as imposing board of director
24 oversight and reporting on a broad scope of
25 processing activities, the draft regulations once

1 again depart significantly from other frameworks and
2 from the appropriate role of directors by having them
3 attest that they understand the specific findings of
4 an audit. Other frameworks do not include such
5 attestations for good reasons.

6 Again, our concerns are discussed in
7 greater depth in our letter, and we propose language
8 to address these concerns, strengthening our
9 cybersecurity postures and ensuring consistency with
10 other frameworks. Thank you.

11 MS. MARZION: Thank you. If you are now
12 joining us in-person and like to make a public
13 comment you can go ahead and to the podium. You'll
14 have three minutes.

15 MR. LEVINE: Appreciate that. Thank you,
16 so much good afternoon, Shane Levine.

17 MR. LAIRD: And I'm just going to have to
18 ask our mic is really sensitive. Do you mind just
19 directing it right towards your mouth and getting
20 kind of close to it? Thank you.

21 MR. LEVINE: Thank you. Good afternoon
22 and thank you for the opportunity. Shane Levine here
23 this afternoon on behalf of NetChoice to make a short
24 statement. NetChoice appreciates the opportunity to
25 raise concerns with the proposed changes to the CPRA,

1 the provisions attempting to expand the CCPA's
2 authority over automated decision-making technology
3 have no basis in statute.

4 Regardless, the policy implications of
5 regulating essentially all computational technology
6 as inherently "high risk" would be disastrous for
7 California's AI development. The provisions
8 restricting first party advertisements similarly go
9 beyond the Agency's legal authority and have major
10 First Amendment implications.

11 Attacking the ad enabled internet would
12 be cost borne by California businesses and consumers
13 at a point in time they simply can't afford to make.
14 This is all on top of the conservative \$3.4 billion
15 sticker price for these regulations hitting small
16 businesses. We respectfully ask that you reconsider
17 these changes. Thank you.

18 MS. MARZION: Thank you.

19 Snow Jake, online, I'm going to allow you
20 to speak. Go ahead. You'll have three minutes. I'm
21 unmuting you now. Again, that is Snow Jake, go ahead
22 and speak when you're ready.

23 MR. SNOW: Hi, can you hear me.

24 MS. MARZION: We can hear you now.

25 MR. SNOW: Thank you. Good afternoon and

1 thank you for the opportunity to speak. My name is
2 Jake Snow. I'm a senior staff attorney at the
3 American Civil Liberties Union of Northern
4 California. Technology can make life better for
5 Californians, but only if it is built carefully and
6 used thoughtfully to empower people and address
7 systemic challenges to access equity and justice that
8 have disproportionately harmed, marginalized
9 Californians in the past.

10 And technology broadly, and algorithmic
11 systems specifically can also magnify and expand
12 threats to rights, health, and safety if robust
13 protections are not properly put in place. For that
14 reason, we thank the Board and the Agency staff for
15 all their hard work on these regulations.

16 As algorithmic systems become
17 increasingly ubiquitous in the life of Californians,
18 those systems must meet a high standard of respecting
19 people's rights, ensuring that they can be used
20 safely without harming the people that are already
21 pushed to the margins of our society.

22 Article 1, Section 1 of the California
23 Constitution was enacted in 1972, and it was meant to
24 oppose -- to put in place effective restraints on the
25 accelerating encroachment on personal freedom and

1 security caused by increasing surveillance and data
2 collection activity in contemporary society.

3 And that fundamental right a part of
4 California law for over 50 years should inform the
5 proposed regulations, specifically the proposed
6 regulations provide people with a categorical opt-out
7 right against behavioral advertising. And you've
8 already heard calls this afternoon for privacy law to
9 exclude targeted advertising from its strongest
10 opt-out protections.

11 And this is actually simple. A privacy
12 law shouldn't have a behavioral advertising exception
13 for the same reason an environmental law shouldn't
14 have a coal mining exception. Behavioral advertising
15 drives an immense and invasive surveillance system
16 that puts people at risk.

17 And the opt-out is important because
18 right now, large consumer facing platforms like Meta,
19 Google, Microsoft and Amazon can arguably continue
20 serving behavioral advertising even when people don't
21 want them. A stronger opt-out rule is warranted
22 because as the California Privacy Right to Rights Act
23 states, rather than diluting privacy rights,
24 California should strengthen them over time.

25 And since voters passed the California

1 Privacy Rights Act in November of 2020, governments
2 and scholars and researchers, activists, companies
3 and the public have continued to gain an
4 understanding of how behavioral advertising affects
5 people's lives, and especially in negative ways, from
6 discriminatory targeting to targeting people with
7 lower price and higher quality ads to scams and ads
8 that target vulnerable people.

9 The Federal Trade Commission has gone so
10 far as to recommend that people opt-out of targeted
11 advertising to protect themselves from scammers, and
12 the FBI has similarly recommended the use of an ad
13 blocker.

14 MS. MARZION: Thank you for your comment.

15 Jesse Lieberfeld, I'm going to unmute you
16 at this time. You'll have three minutes to make your
17 comment. Jesse Lieberfeld, go ahead and speak.
18 You'll have three minutes.

19 MR. LIEBERFELD: Thank you for the
20 opportunity to speak today. My name's Jesse
21 Lieberfeld. I serve as policy counsel for the
22 Computer and Communications Industry Association.
23 We're a not-for-profit trade association that started
24 in California in 1972. Today, 1.6 million
25 Californians work in the digital economy.

1 CCIA supports appropriate regulation to
2 protect both consumers and businesses. We also
3 support greater consumer privacy protections and the
4 goals of CCPA. However, we do feel that some of the
5 drafts provisions go beyond CCPA's scope,
6 particularly the provisions that regulate companies
7 back-end systems before they ever interact with
8 consumers and those that regulate publicly available
9 information.

10 The section concerning automated
11 decision-making technology extends to decisions that
12 don't have any direct impact on California consumers.
13 For instance, training a businesses' internal model
14 doesn't intrinsically impact consumers unless the
15 model is used in making a significant decision
16 regarding them.

17 However, the proposed rules require risk
18 assessments when models are in development and
19 haven't yet been used in any significant decision
20 regarding consumers. The CCPA already lets consumers
21 control how their data is used for training. They
22 can opt out of sharing sensitive data and correct and
23 delete their data.

24 Requiring risk assessments for ADMT use
25 in back-end internal models by definition doesn't

1 meaningfully improve consumer privacy and merely
2 inhibits businesses' abilities to improve their
3 services through low-risk profiling and processing.

4 In terms of profiling all the other state
5 laws that define profiling do so in the context of
6 legally significant decisions about the individual
7 profiled, such as providing financial or lending
8 services, housing, insurance, criminal justice,
9 employment opportunities, et cetera.

10 California should require profiling
11 opt-outs only when a significant decision will be
12 made. Granting opt-outs for other types of profiling
13 again diminishes quality of services without
14 significantly improving consumer privacy.

15 The same goes for public profiling. The
16 CCPA explicitly exempts publicly available
17 information. Consumers in a given public space have
18 deliberately chosen not to shield themselves from
19 specific audiences and don't have a reasonable
20 expectation of privacy. The CCPA is clear that
21 requirements for businesses, processors and
22 contractors, including creating risk assessments
23 don't apply to publicly available information, which
24 includes information collected and processed from
25 observing public spaces. We have further suggestions

1 to improve the proposed rules in our written
2 comments. Thank you.

3 MS. MARZION: Thank you.

4 Luigi Mastria, I'm going to unmute you at
5 this time. You'll have three minutes. Begin when
6 you're ready.

7 MR. MASTRIA: Thank you. My name's Lu
8 Mastria. I'm the president and CEO of the Digital
9 Advertising Alliance. The DAA is an independent
10 nonprofit that sets and enforces privacy practice for
11 digital advertising, empowering millions of consumers
12 around the globe to control how data is used to
13 advertise to them.

14 Thank you for the opportunity to testify
15 on the CCPA's proposed regulations. I'd like to make
16 three comments. One, the CPPA's proposed regulations
17 on behavioral advertising exceed the scope of the
18 Agency's authority to regulate there.

19 Two, the proposed regulations would stand
20 up an expensive, unnecessary compliance apparatus
21 that would unfairly pick winners and losers in the
22 marketplace. And three, the proposed requirement for
23 entities to use -- that use programmatic advertising
24 to immediately effectuate opt-outs is impractical and
25 unnecessary. Let me start with number one.

1 The CCPA -- the CPPA's proposed
2 behavioral advertising exceeds its scope. The CCPA
3 includes a consumer right to opt-out of sales
4 transfers and personal information to third parties
5 for consideration. The law also includes a
6 consumer's right to opt-out of sharing of information
7 to third parties for cross context behavioral
8 advertising.

9 Finally, the law includes a right to
10 opt-out of businesses' internal processing of
11 sensitive information and limited context. However,
12 the law creates no explicit or implicit right to
13 limit a business' internal processing of data, in
14 particular for its own marketing and advertising
15 purposes. That is to say, to market to its own
16 consumers.

17 In fact, the CCPA explicitly recognizes
18 that advertising and marketing is a permissible
19 purpose for which a business may process personal
20 information and sets forth no right to limit this
21 processing activity. The Agency's proposed
22 regulations regarding behavioral advertising are
23 nothing more than an attempt to regulate, call it
24 what it is, first party advertising. An area that is
25 not authorized to regulate under the law.

1 The CCPA provides the Agency no authority
2 to create a -- this new limit for business' use of
3 data for their own customer base. By conflating
4 first party advertising with behavioral advertising,
5 the Agency appears to be attempting to accomplish by
6 rhetoric what it is not permitted to accomplish by
7 law.

8 The CCPA also proposed rules -- proposed
9 an unnecessary -- an unnecessary apparatus, which
10 would lead to some \$1.2 billion worth of additional
11 costs in the California economy. The proposed rules
12 would also create burdensome compliance requirements
13 that would significantly impede small mid-size
14 businesses.

15 By your own estimates, some tens of
16 thousands of small businesses would be impacted. In
17 particular, the proposed --

18 MS. MARZION: You have 30 seconds.

19 MR. MASTRIA: -- would require companies
20 to state that they honor opt-out signals clearly,
21 which are not clearly defined by the CPPA and do not
22 have the safeguards enumerated in the law. The law
23 rightly enshrined safeguards, prohibiting default
24 signals, signals at disadvantaged business models and
25 signals that are not clearly enabled by the

1 California consumer.

2 MS. MARZION: That is your time. Thank
3 you.

4 Kevin Harbour, I'm going to unmute you at
5 this time. You'll have three minutes. Go ahead and
6 speak when you're ready.

7 MR. HARBOUR: Thank you, and good
8 afternoon. My name is Kevin Harbour. I'm the
9 president of BizFed Institute and I'd like to address
10 CPPA in regards to one of the forums that we
11 convened. In October of last year, the future of
12 business technology and communications.

13 We gathered together telecommunications
14 and artificial intelligence industry experts,
15 businesses, local legislators and members of the
16 public gathered to discuss how to use AI as a
17 business technology asset to improve small businesses
18 and discuss closing the digital divide.

19 It is clear that California's businesses
20 are rapidly adopting AI tools and adapting to
21 technological advancements at an unprecedented pace.
22 Due to policy concerns, however, the BizFed Institute
23 is respectfully opposed to the CPPA's current draft
24 rules regarding ADMT, risk assessments and
25 cybersecurity audits.

1 Our flash poll findings in relation to
2 October's forum confirm that 96 percent of
3 respondents actively use AI in the workplace. Over
4 60 percent increasing their usage in just the past
5 year. Business leaders overwhelmingly support policy
6 initiatives that involve -- that evolve with
7 technology, amplify business support policy
8 initiatives that allow for smoother operations and
9 sustain California's position as a world capital of
10 innovation.

11 However, the CPPA's draft AI rules take a
12 restrictive approach that could hinder economic
13 growth and stifle technological progress. AI has
14 already revolutionized -- revolutionizing industries
15 from streamlining hiring processes to enhancing
16 broadband connectivity and expanding economic
17 opportunities in underserved communities.

18 We heard from restaurant owners that are
19 leveraging AI driven automation to save time, reduce
20 labor costs, and increase efficiency. While
21 broadband leaders are investing in infrastructure to
22 support the growing demand for AI powered tools.

23 Rather than imposing rigid regulatory
24 barriers, we urge the CPPA to collaborate with
25 industry leaders to craft flexible forward-thinking

1 policies that balance innovation with responsible AI
2 development. Our question that we would like
3 answered by the Agency is how does the CPPA plan to
4 ensure that its AI regulations protect consumer
5 privacy without creating unnecessary burdens to
6 stifle innovation and limit the ability of
7 businesses, especially small businesses, to leverage
8 AI for efficiency, economic growth, and equitable
9 access to technology.

10 MS. MARZION: You have 30 seconds.

11 MR. HARBOUR: Especially as we face very
12 concerning challenges in our state and local
13 community in Los Angeles, California, we must remain
14 competitive in the global AI economy by fostering an
15 environment that attracts investment, supports job
16 creation, and ensures equitable assets to emerging
17 technology.

18 We encourage the CPPA to engage directly
19 with businesses, technologists, and educators to
20 provide scalable adaptive frameworks that address AI
21 related concerns without stifling progress. Thank
22 you for your time. I urge the Board to reconsider
23 the current approach and favor policies that support
24 innovation, economic growth as (inaudible) see
25 through the rulemaking process.

1 MS. MARZION: Thank you. That is your
2 time.

3 Mark Jacobs, I'm going to unmute you at
4 this time. You'll have three minutes. Please speak
5 as soon as you're ready.

6 MR. JACOBS: Good afternoon, CPA board --
7 CPPA board members. My name is Mark Jacobs. I'm
8 director of a nonprofit Youth Explosion, LLC
9 progressive nonprofit organization that oversees and
10 works with in collaboration several black nonprofit
11 organizations. I want to make a couple of key points
12 for CPPA.

13 Respectfully, CPPA AI proposed
14 regulations should not move forward based on your
15 economic analysis except for Board member MacTaggart
16 each of you voted to move these regulations forward
17 knowing the significant impact it would have on
18 Californians.

19 To start off, 98,000 estimated initial
20 job losses in California and no readily available
21 data, the lack of data collection on the impacts that
22 it could potentially have, and also data to quantify
23 the numbers of businesses that would be impacted
24 leading to organizations leaving the State of
25 California, which is a plague that's going on.

1 CPPA must redraft the regulations to
2 address the negative fiscal impact on California
3 businesses. We all agree with Mr. MacTaggart in his
4 previous comments made last summer where he has
5 dedicated -- or indicated, my apologies, that ADMT
6 language in the proposed regulations is so broad that
7 it would apply to the use of any software used in
8 businesses and it also could substantially wipe out
9 ads in internets. Pretty much the loss of revenue
10 for businesses.

11 Artificial intelligence addressed
12 directly. Nobody of law authorizes CPPA to include
13 AI in the ADMT. Okay? So in addition to all the
14 conclusions of AI in the ADMT regulations also to
15 satisfy the authority standard under government code
16 section 11349, authority pretty much refers to the
17 provision of the law, which permits or obligates the
18 Agency to adopt, amend, or repeal a regulation.

19 I'd like to close in saying these
20 regulations are that you are pushing have a real-life
21 economic impact on Californians. If you overregulate
22 California, these companies will take their jobs to
23 Arizona, Texas, and other states that are more
24 friendly with regards to business and economy. Is
25 this truly what you want as the future of California?

1 MS. MARZION: You have 20 seconds.

2 MR. JACOBS: There is still time to get
3 this right. A reasonable approach to redraft the
4 three regulations addressed in our concerns would be
5 required and appreciated. Thank you for your time.

6 MS. MARZION: Thank you.

7 Stoney, I'm going to unmute you at this
8 time. You'll have three minutes to make your comment
9 begin as soon as you're ready.

10 MS. STONEY: Thank you for your time. My
11 name is Stoney. I'm an organizer and strategic
12 campaigner at Strippers United. We are a Los Angeles
13 based nonprofit working to help educate strippers
14 about their rights in the workplace, online and
15 in-person.

16 Business operators and regulators create
17 policies and laws that impact the material working
18 conditions of entertainers. Much of the time these
19 policies are shaped without meaningful discussion
20 with the workers. We are here today to have a seat
21 at the table.

22 Online entertainers commonly pay to work.
23 Companies retain five to 25 percent of every dollar
24 that we generate as a fee for using their platforms.
25 Given this economic and consumer relationship, we

1 urge regulators to adopt the following five
2 recommendations to ensure that California Consumer
3 Privacy Act protects workers.

4 We are asking for comprehensive risk
5 assessments. Platforms must conduct risk assessments
6 before deploying ADMT, addressing potential harms
7 such as economic losses, discrimination, and
8 psychological impacts that implement safeguards where
9 risks are identified.

10 We need transparency and access. Workers
11 must receive advanced notice of automated systems
12 used to make significant decisions and have access to
13 detailed explanations for adverse decisions like
14 account suspensions and terminations.

15 We also ask for opt-out rights. Workers
16 should have the right to opt-out of consequential
17 ADMT systems ensuring control over their professional
18 data, and we are asking -- we are asking for strength
19 in oversight. The California Privacy Protection
20 Agency must enforce robust risk assessments and
21 expand worker involvement and regulatory processes.

22 We are asking that the expansion of
23 definitions happens for the automated decision-making
24 technology and it must be broadened to protect
25 workers from emerging technologies that may not yet

1 fall under the current regulatory frameworks. Thank
2 you for your time and energy. Have a wonderful
3 afternoon.

4 MS. MARZION: Thank you.

5 Dylan Hoffman, I'm going to unmute you at
6 this time. You'll have three minutes. Begin when
7 you're ready.

8 MR. HOFFMAN: Thank you. My name's Dylan
9 Hoffman. On behalf of TechNet, I'm the executive
10 director and we represent about 90 companies in the
11 technology and innovation industry, and we represent
12 companies across the spectrum of the innovation
13 economy. I'm talking about companies who not only
14 develop this technology to many, many more who deploy
15 it for consumers or users or who are using ADMT in
16 some capacity to improve their business operations.

17 First, I want to thank the Board for
18 extending the comment submission period and note we
19 plan to submit our written comments shortly. But I
20 do want to touch on a couple of substantive issues
21 with the proposed regulations and again, note that
22 our written comments will go in a far greater detail
23 and provide suggested amendments or alternatives and
24 hopefully ameliorate some of these concerns.

25 As a threshold issue the definition of

1 automated decision-making technology is a concern
2 because of its continued overbroad inclusion of
3 numerous low risk forms of software. As has been
4 noted by board members during previous meetings the
5 definition as it is currently proposed would include
6 far more technologies and uses than intended. It
7 encompasses nearly every use of automated software
8 and technology, even when there is significant human
9 involvement in decisions.

10 As a result, the rules cover far more
11 than just automated decisions and would thus
12 implicate many consumer service decisions made by
13 businesses of all sizes every day. Broad definitions
14 of legal or similarly significant effects or
15 profiling also pull in far more technologies than
16 necessary and unnecessarily shifts the focus away
17 from high-risk uses of this technology.

18 TechNet members agree that the focus
19 should be on these high-risk use cases and high
20 leverage situations. But these proposed definitions
21 go far beyond high risk and have significant
22 consequences for the later provisions of the
23 regulations, including the risk assessment and
24 opt-out requirements.

25 As an example, the regulations propose

1 heightened opt-out requirements with several
2 presumptions that are far too strict to make it
3 harder for companies to provide reasonable avenues to
4 use ADMT to improve their own efficiency and for the
5 ability for workers and consumers to get the goods
6 and services that they want and expect.

7 Furthermore, by having an over-inclusive
8 definition of ADMT, the draft regulations will
9 require significantly more risk assessments be
10 completed and filed than necessary. This in turn
11 significantly increases cost for businesses of all
12 sizes and will have downstream impacts on the
13 services that consumers receive. Not to mention the
14 administrative burden on the Agency.

15 We remain extremely concerned that the
16 Agency is exceeding the authority granted to it by
17 the voters and beyond the realm of privacy
18 regulations. We believe that the Agency should focus
19 on the primary obligations as a privacy agency rather
20 than broadly attempting to regulate the use of
21 automated technology and AI.

22 We also remain concerned about the
23 interplay of these regulations efforts in the coming
24 year. The legislature is the best forum to consider
25 such impactful and complicated legislation.

1 Appreciate your time. Thank you.

2 MS. MARZION: Thank you.

3 Johnnise Foster-Downs, I'm going to
4 unmute you at this time. You have three minutes. Go
5 ahead and speak when you're ready.

6 MS. FOSTER-DOWNS: Good afternoon. I'm
7 Johnnise Foster-Downs with the CalAsian Chamber of
8 Commerce. Also combining our voice with the Hispanic
9 Chambers of Commerce and the African American
10 Chambers of Commerce, which you've already heard from
11 this afternoon. Together, we represent over 850,000
12 minority small owned businesses in the State of
13 California, and we want to express some key concerns
14 that we have regarding the draft regulations.

15 First, these regulations will place a
16 disproportionate burden on minority entrepreneurs.
17 As minority owned businesses, particularly those
18 relying on digital marketing tools will face
19 heightened challenges under these regulations.

20 Specifically, regulations like the
21 mandate for the consumer to opt out of first party
22 advertising with no exceptions will make it nearly
23 impossible for small businesses to effectively target
24 their limited advertising budgets. Without targeting
25 -- targeted advertising, our small emerging brands,

1 which are often led by minority entrepreneurs, will
2 struggle to compete against established corporations
3 that have massive advertising budgets.

4 And these regulations also undermine
5 efforts to foster diverse entrepreneurship essential
6 for addressing social equity and economic resilience
7 in our communities that are disproportionately
8 affected by systemic barriers.

9 Our second concern is the economic
10 burdens for small and diverse businesses. The
11 Agency's own economic impact assessment estimates
12 that these regulations will cost California
13 businesses more than 3.5 billion, which independent
14 analysis suggest may even be underestimated. And
15 already burdened by inflation and supply chain
16 challenges small businesses cannot absorb these
17 additional compliance costs.

18 Our third concern is the negative impact
19 on innovation. California is a global leader in
20 innovation. Our businesses and our residents are at
21 the forefront of developing cutting edge technologies
22 and the expansive and undefined scope of the proposed
23 regulations risk stifling innovation. For example,
24 the inclusion of decisions related to access and
25 provision introduces compliance costs and regulatory

1 uncertainty that will discourage companies from
2 launching or testing new algorithms in California.

3 And last, we have process -- concerns
4 with the process, the speed at which these
5 regulations are advancing risks sidelining critical
6 stakeholder input, and we feel the legislature should
7 lead these discussions to ensure robust deliberative
8 and inclusive decision-making.

9 We urge the CPPA to consider the
10 following. One, narrow the scope of the regulations
11 to align with the original intent of the California
12 Consumer Privacy Act.

13 MS. MARZION: 30 seconds.

14 MS. DOWNS: Two, conduct a comprehensive
15 economic impact analysis to better understand the
16 burdens on small and minority owned businesses.
17 Three, pause advancement of these regulations to
18 allow further stakeholder engagement. And four,
19 ensure that regulations foster rather hinder
20 innovation and entrepreneurship. Thank you for your
21 time and attention. We will follow these up in a
22 letter that expounds more on our concerns. Thank
23 you.

24 MS. MARZION: Thank you.

25 Lucine. Last name, initial C, Lucine C.

1 Go ahead and unmute yourself and you'll have three
2 minutes.

3 MS. CHINKEZIAN: Good afternoon. Can you
4 hear me.

5 MS. MARZION: Yes, we can hear you.

6 MS. CHINKEZIAN: Thank you. My name is
7 Lucy Chinkezian and I'm counsel at the Civil Justice
8 Association of California. We would like to thank
9 the Agency for the opportunity to comment on the
10 proposed regulations. CJAC plans to submit written
11 comments to this Agency in February, but we highlight
12 today some of our most pressing concerns.

13 Generally, CJAC members are concerned
14 that the regulations are overly broad and vague.
15 Some of the regulations also appear to exceed what
16 the legislation intended and has authorized. This
17 can lead to unnecessary and costly litigation for
18 both state -- for both the state and businesses.

19 A key issue with the rulemaking is the
20 creation of a consumer right to opt out of automated
21 decision-making tools used for consumer profiling,
22 which allows for businesses to engage in first party
23 advertising. This is directly at odds with the CCPA,
24 which expressly gives consumers the right to opt-out
25 of cross context behavioral advertising while

1 allowing businesses to engage in other types of
2 advertising, such as first party advertising.

3 Another major issue is the new consumer
4 right talk out of ADMT training data, which could
5 impact companies developing their own ADMT
6 applications internally. This too is outside the
7 scope of the CCPA. We, again, urge the Agency to be
8 measured in adopting these regulations.

9 It should continue to work with the --
10 work with industry to find ways to address agency
11 concerns, keeping in mind the steep costs associated
12 with implementation and taking care to ensure the
13 regulations are consistent with the statute and
14 provide reasonable time for implementation. Thank
15 you again for the opportunity to comment.

16 MS. MARZION: Thank you.

17 Olga Medina, I'm going to mute you at
18 this time. You'll have three minutes. Go ahead and
19 start when you're ready.

20 MS. MEDINA: Hi, can you hear me.

21 MS. MARZION: Yes, we can hear you.

22 MS. MEDINA: Hi, good afternoon. My name
23 is Olga Medina and I represent the Business Software
24 Alliance. BSA is the leading advocate for the global
25 software industry. Our members make the

1 business-to-business technologies used by companies
2 in every sector of the economy.

3 My comments focus on the proposed
4 regulations on cybersecurity audits and risk
5 assessments. Broadly, we recommend that the CPPA
6 harmonize these requirements with leading global and
7 state privacy laws. Our comments provide more
8 details, but I highlight our key recommendations
9 here. On cybersecurity audits I want to focus on two
10 recommendations.

11 First, the proposed regulations should
12 state that cybersecurity audits, certifications and
13 evaluations already performed by companies satisfy
14 the CCPA's requirements. Companies already perform a
15 host of audits to manage cyber risks, including
16 comprehensive ISO 27,001 audits and SOC 2 audits.
17 These audits and other assessments that are
18 reasonably similar should satisfy the CCPA's
19 requirements.

20 Second, cybersecurity audits should not
21 be reported -- required to be reported to the
22 business' board of directors. We agree that boards
23 play an important role in managing a business'
24 cybersecurity risk management. However, boards
25 already have significant visibility into the

1 cybersecurity risks facing their organizations.

2 They help establish a business' risk
3 tolerance and support the prioritization of cyber
4 risks across the enterprise. Additionally, board
5 members are not themselves risk management experts
6 and therefore should not be expected to perform this
7 function.

8 On risk assessment, I want to recognize
9 that BSA supports requiring businesses to conduct
10 assessments for high-risk processing activities.
11 However, as currently drafted, the proposed
12 regulations raise significant concerns. First, the
13 rules would require businesses to proactively submit
14 risk assessment materials to the CPPA. A requirement
15 that is at odds with leading global and state privacy
16 laws and would also result in a potentially enormous
17 quantity of assessments flowing into the CPPA.

18 It also creates significant privacy and
19 security concerns. We strongly recommend limiting
20 the types of information businesses will be required
21 to proactively submit and clarify that risk
22 assessment materials will be treated as confidential
23 exempt from open records laws and do not constitute a
24 waiver of attorney-client privilege or work product
25 protection.

1 Second, we're concerned about the
2 requirement that businesses perform risk assessments
3 when personal information is processed to train ADMT
4 or AI. This language is extremely broad and would
5 include processing involving generative AI models,
6 which are used for a range of common low risk uses,
7 such as summarizing business documents and generating
8 customer service FAQs. These are not the types of
9 processing activities that should trigger risk
10 assessment obligations and should be revised. Thank
11 you for your time.

12 SPEAKER 1: Thank you for your comment.

13 Cheryl, I'm going to unmute you at this
14 time. You'll have three minutes to make your
15 comment. Please begin as soon as you're ready.

16 MS. BROWNLEE: Hi. Good afternoon, CPPA
17 Board members. I'm Cheryl Brownlee representing CB
18 Communications and several local Black small
19 businesses. I have a couple of key points that I'd
20 like to highlight for CPPA. Respectfully, CPPA ADMT
21 cybersecurity and risk assessments proposed
22 regulations should not move forward. Except for
23 Board Member MacTaggart each of you voted to move
24 these regulations forward knowing fully the
25 significant economic impact they will have on

1 California.

2 Based on your economic analysis, 3.5
3 billion direct implementation cost to businesses
4 resulting in a much larger adverse impact on
5 investment. A negative 30 -- approximately a
6 negative 31 billion. Ongoing cost of 1.0 billion
7 annually for the next 10 years and 98,000 initial job
8 loss in California.

9 There's no readily available data to
10 quantify the number of business impacted, but it's
11 likely that businesses will be leaving California.
12 CPPA must redraft the regulations in its entirety to
13 address the negative fiscal impact on California
14 businesses. Thank you very much.

15 SPEAKER 1: Thank you for your comment.

16 Meghan Pensyl I'm going to unmute you at
17 this time. You'll have three minutes to make your
18 comment. Please begin as soon as you're ready.

19 MS. PENSYL: Good afternoon. My name is
20 Meghan Pensyl and I'm a policy director at the
21 Business Software Alliance, the leading advocate for
22 the enterprise software industry. We support
23 protecting consumers from risks of using AI to make
24 consequential decisions, and we are concerned several
25 aspects of the proposed regulations will create

1 significant practical challenges. In addition to the
2 issues raised by my colleague Olga Medina, our
3 comment filing raises five concerns with the proposed
4 regulations on ADMT.

5 First, the definition of ADMT should be
6 clarified. We're concerned the current definition
7 will include a broad range of software well beyond AI
8 systems is not aligned with the terms focus on
9 automated technologies and creates an unclear
10 threshold for the extent to which ADMT's must
11 influence human decision making to be in scope. Our
12 comments make civil recommendations to clarify this
13 definition.

14 Second, the definition of significant
15 decision should be clarified. We appreciate that the
16 definition focuses on decisions that result in the
17 provision or denial of important benefits and
18 services, which is a practical threshold. However,
19 the clarity of that threshold is undermined by
20 including decisions that result in access to
21 important benefits and services, a vague term that
22 may sweep in an unintentionally broad set of
23 activities. Our comments make specific
24 recommendations to clarify this definition.

25 Third, the provisions on training should

1 be reconsidered or at the very least narrowed. At
2 the outset the proposed regulations assume that
3 training ADMT or AI for certain purposes is
4 inherently problematic and should be constrained.
5 This assumption is misguided.

6 Thoroughly training AI systems on diverse
7 sets of data produces more accurate and more fair
8 outputs and can help produce risks of algorithmic
9 discrimination. Our comments raise several
10 additional concerns with the provisions on training,
11 and we ask again that this aspect of the proposed
12 regulations be reconsidered.

13 Fourth, practical implementation
14 challenges for previous notices, opt-outs of ADMT and
15 request to access ADMT should be addressed. We're
16 concerned these requirements will result in over
17 notification to consumers, implicate companies, trade
18 secrets and other confidential information, distort
19 the roles and responsibilities of different companies
20 along the AI value chain, and in some cases apply
21 more broadly than intended. Our comments make
22 several recommendations to address these concerns.

23 Finally, the proposed regulation should
24 be harmonized with other legislative and regulatory
25 efforts to create clarity for businesses and

1 consumers. As a CPPA addresses these issues, we
2 strongly encourage you to account for the global
3 context surrounding the draft regulations and for
4 other -- and for efforts by other policy makers in
5 California like the Civil Rights Council and the
6 legislature who are also working on these issues.
7 Thank you for the opportunity to provide BSA's
8 feedback.

9 SPEAKER 1: Thank you for your comment.

10 Nathan Lindfors, I'm going to unmute you
11 at this time. You'll have three minutes to make your
12 comment. Please begin as soon as you're ready.

13 MR. LINDFORS: Good afternoon. My name
14 is Nathan Lindfors and I'm policy director at Engine.
15 We're a nonprofit that works with government and a
16 community of thousands of high technology growth
17 oriented startups in California and across the nation
18 to support a policy environment conducive to
19 technology entrepreneurship. I appreciate the
20 opportunity to share some brief remarks on these
21 proposed regulations, especially relating to ADMT as
22 artificial intelligence is used, developed and
23 deployed by startups.

24 We'll elaborate on several problems with
25 the proposed regulations in our written comments

1 shared with the Agency, but in the interest of time,
2 I just want to briefly highlight that given the cost
3 to startups, the negative implications for the state
4 and broader national economy and foreseeable, but
5 likely unintended consequences of the proposed
6 regulations, we encourage the Agency not to move
7 forward with the regulations without first making
8 significant changes to mitigate those issues. Thank
9 you very much.

10 SPEAKER 1: Thank you.

11 Peter Leroe-Muñoz I'm going to unmute you
12 at this time. You'll have three minutes to make your
13 comment. Please begin as soon as you're ready.

14 MR. LEROE-MUNOZ: Good afternoon. My
15 name is Peter.

16 SPEAKER 1: I'm sorry. Go ahead Peter.

17 MR. LEROE-MUNOZ: Let me try it again.
18 Good afternoon. My name is Peter Leroe-Muñoz. I'm
19 with the Silicon Valley Leadership Group, a business
20 association representing global companies, research
21 institutions, and frontier startups in the innovation
22 economy.

23 The leadership group is helping to
24 co-lead a statewide coalition of other business
25 associations, local chambers of commerce and

1 employers in raising concerns that we collectively
2 share about the proposed regulations and the costs
3 that will be increased for both business owners and
4 consumers.

5 The scope of the proposed definition
6 includes technology that uses computation to
7 substantially facilitate human making decision-making
8 as it pertains to automated decision-making
9 technology. This is over broad and the definition of
10 the -- of the breadth of the definition is so
11 sprawling that it may be applied to any circumstance
12 in which humans use technology without regard to
13 actual risk of harm from that technology.

14 Further, managing proposed opt-outs
15 around ADMT will prove onerous. This is a standard
16 tool used by startups, entrepreneurs, educational
17 institutions, and companies large and small.
18 Centralizing opt-outs across multiple systems within
19 an organization may take considerable time to develop
20 and will no doubt require significant capital outlays
21 from small and local businesses that often lack the
22 resources and expertise for cost intensive projects
23 like those that would be required by the regulation.

24 In keeping with a theme of cost you've
25 heard several times today, but it bears repeating

1 that the standardized impact assessment prepared in
2 conjunction with proposed regulations reveal that
3 they will have an impact on nearly 52,000 California
4 businesses, large and small, and have a \$3.5 billion
5 drag on the state's overall economy.

6 More alarmingly, the CPA proposes to
7 usher in a regulation, a set of regulations that by
8 the assessment's own admission will result in
9 hundreds of thousands of California jobs lost. The
10 proposed regulations will clearly have an impact on
11 businesses and consumers on the golden state.

12 The rush to regulate here is imprudent.
13 A more thoughtful approach would be to allow the
14 legislature and governor's administration to publicly
15 consider, debate and receive public feedback on a
16 risk-based ground in a -- in terms of understanding
17 the actual opportunities and challenges presented by
18 rules for ADMT and artificial intelligence.

19 Innovation drives California's economy
20 and one look need -- one need not look any further
21 than our present budget situation. The governor's
22 administration recently recognized that the state
23 budget has improved dramatically from last year's
24 shortfall with a marginal amount of surplus, largely
25 based on the success of the state's technology

1 sector.

2 SPEAKER 1: You have 20 seconds.

3 MR. LEROE-MUNOZ: Overeager and ill
4 consider regulation on developing technology will
5 stymie this success. For these reasons we
6 respectfully ask of the state legislature and
7 administration and not this single agency devise
8 appropriate risk-based regulations for AI and ADMT.
9 Thank you.

10 SPEAKER 1: Thank you for your comment.

11 A. Van Seventer, I'm going to unmute you
12 at this time. You'll have three minutes to make your
13 comment. Please begin as soon as you're ready.

14 MR. VAN SEVENTER: Thank you. I
15 appreciate the time. My name is Anton van Seventer
16 and I'm counsel for privacy and data policy with a
17 software and information industry association whose
18 more than 380 members are committed to fostering the
19 free flow of information to enhance both business
20 opportunities and consumer experiences. Our greatest
21 concern with these draft regulations does lie with
22 the automated decision-making tools section.

23 At the same time, while our focus is on
24 ADMT, there are substantive issues being addressed in
25 the changes to the existing regs that we similarly

1 hope will not be ignored by the Agency and will be
2 reflected in our written feedback.

3 Regarding ADMT, for example, the draft
4 regulations would create a consumer right to opt-out
5 of ADMT used for consumer profiling. As written this
6 means the regulations would place a large burden on
7 businesses to actually entirely redesign their
8 services long used by customers.

9 So for example, a California resident may
10 purchase cleaning supplies at regular intervals in an
11 online marketplace, and today that marketplace could
12 suggest that the customer may need to order again.
13 Yet the current proposed rule will disrupt this
14 ability for businesses to do this basic first party
15 advertising to their own consumers.

16 This is all that is meant by behavioral
17 advertising, but is also and notably well beyond the
18 scope of the CCPA, where both negotiations with the
19 business community and its plain text specifically
20 conceded that businesses could continue to use data
21 from their own customers to improve their products
22 and to advertise to these customers.

23 Our second major concern regarding ADMT
24 and the draft regulations is that they do create a
25 customer right to opt-out of ADMT training data. So

1 we think this really would first unnecessarily
2 hamstring California startups developing their own
3 ADMT applications using products from larger tech
4 companies.

5 But furthermore, many large tech
6 companies, many of which have their home in the
7 state, will also find it more difficult, if not
8 impossible to maintain representative training data
9 that does not unintentionally discriminate against
10 groups whose representation in the dataset as a whole
11 is then skewed by these opt-outs. And this would be
12 the case even if the discriminated data subjects had
13 themselves refrained from opting out further adding
14 to the potential injustice here.

15 Lastly, we do want to highlight that we
16 believe the agency's process for conducting its
17 economic analysis of these regulations for several
18 reasons that we will highlight in a written response
19 vastly underestimates the cost of California
20 businesses by failing to look at the costs outside
21 the state and how that will actually affect the
22 businesses operating within the state.

23 If the Agency wants to effectively
24 regulate privacy and ensure business compliance, we
25 believe it first needs to fully understand the

1 realistic financial burdens of these draft
2 regulations. We do appreciate the complexities at
3 play here. But due to the overly broad and imprecise
4 elements of the draft, we strongly encourage the
5 Agency to fully incorporate these crucial elements of
6 stakeholder feedback. We very much appreciate your
7 consideration. Thank you.

8 SPEAKER 1: Thank you for your comment.

9 Swati Chintala, I'm going to unmute you
10 at this time. You'll have three minutes to make your
11 comment. Please begin as soon as you're ready.

12 MS. CHINTALA: Good afternoon. My name
13 is Swati Chintala and I'm sharing these comments on
14 behalf of Tech Equity. Our organization has
15 previously provided feedback on the CPPA's draft
16 regulations regarding ADMTs through public comments
17 in March, May and November of 2024, as well as
18 through letters to the board in February, March and
19 this month. And through letters coordinated by Dr.
20 Annetta Bernhardt from the UC Berkeley Labor Center.

21 As a California based nonprofit
22 organization focused on the tech industries impact on
23 labor and housing. We believe that AI and other
24 digital technologies represent one of the most
25 important issues that will shape the economic

1 opportunity of workers and renters for decades to
2 come.

3 Original research that we have conducted
4 and previously shared with the Board, demonstrates
5 how opaque technologies already shaped the lives of
6 California's workers and renters with profound equity
7 implications. In our workplaces these technologies
8 have the potential to affect workers wages and
9 working conditions, race and gender equity, job
10 security, health and safety, the right to organize
11 and autonomy and dignity.

12 And these technologies are also
13 determining access to and the conditions of housing
14 with the potential for increasing the vulnerability
15 of under protected renters, even as many are largely
16 unaware that the technology was used at all. We
17 believe that through this rule-making the CPPA can
18 enact a clear common-sense foundation for the use of
19 ADMT and to ensure that workers and renters have
20 critically needed information, rights and
21 protections.

22 Those protections should include the
23 fundamental right to opt-out of automated
24 decision-making systems. These reasonable provisions
25 give people meaningful control and information in

1 context in which ADMT could contribute to risks such
2 discrimination based on different protected classes,
3 lack of consumer control over their personal
4 information, economic harm and psychological and
5 reputational harm from invasive surveillance.

6 As noted in the CPPA's initial statement
7 of reasons, the Board is capable of facilitating
8 innovation in the tech sector while providing
9 protection to vulnerable communities from for
10 foreseeable harms. But it'll take the CPPA's
11 sustained attention to data-driven technologies in
12 the workplace and the housing sector to realize that
13 promise.

14 Privacy is not just about the individual
15 collection of a person's data, but also the use of
16 that data and the ability for people to control their
17 data. The CPPA is fulfilling its mandate when it
18 recognizes this dynamic and pursues rules such as
19 these that clarify our rights over the personal
20 information that businesses collect about us and how
21 we can exercise these rights.

22 As included in the initial statement of
23 reasons these regulations will promote fairness and
24 social equity while reducing discrimination on the
25 basis of protected classes that can result from the

1 use of ADMT. We have a historic opportunity to lead
2 the US in establishing workers and renters as key
3 stakeholders and decisions about how best to govern
4 artificial intelligence and related technologies.
5 Thank you to the CPPA director, staff and board for
6 your work on these important regulations and the
7 opportunity to provide comments today.

8 SPEAKER 1: Thank you for your comment.

9 Rin, I'm going to unmute you at this
10 time. You'll have three minutes to make your
11 comment. Please begin as soon as you're ready.

12 MS. ALAJAJI: Hello, can you hear me?

13 SPEAKER 1: Yes. We can hear you.

14 MS. ALAJAJI: Hi. Good afternoon, board
15 and staff. My name is Rin. I'm legislative activist
16 at the Electronic Frontier Foundation at Digital
17 Rights nonprofit based in California.

18 SPEAKER 1: Sounds like we just lost you.

19 MS. ALAJAJI: Is being -- can you hear me
20 now?

21 SPEAKER 1: Yes.

22 MS. ALAJAJI: Sorry. Californian's
23 personal data is being repurposed every day to train
24 automated decision-making technologies, and we
25 applaud the CPPA for applying its expertise and

1 leveraging its authority to provide Californians with
2 basic transparency and recourse via this rule making.
3 These reg --

4 SPEAKER 1: It appears that the caller
5 dropped, so we'll move on to the next participant.
6 But she can call back in and we will accept her
7 comment.

8 Caleb Williamson, I'm going to unmute you
9 at this time. You'll have three minutes to make your
10 comment. Please begin as soon as you're ready.

11 MR. WILLIAMSON: Good afternoon. Members
12 of the committee. My name is Caleb Williamson. I'm
13 State Public Policy Council at ACT, the App
14 Association. I like to say that we represent the
15 true backbone of innovation. So most of our members
16 are startups and small businesses. They're
17 independent developers, all of whom are leveraging
18 technology to turn our ordinary devices into smart
19 devices.

20 But on top of that, they're building
21 software solutions for larger companies, for smaller
22 companies and for local businesses as well. And we
23 have two main -- we have two main concerns with the
24 proposal and we will be following up with more robust
25 written testimony.

1 The first is we believe that the proposal
2 undermines some consumer expectations and the ways
3 that our members try to meet these consumer
4 expectations. So the proposed regulations would
5 require we feel unnecessary disclosures about ADMTs
6 for consumers who have already agreed to receive
7 products and services.

8 We believe this creates digital red tape
9 that puts a barrier between customers and the
10 services that they -- that they expect rather than
11 enhancing privacies. We believe this rule of --
12 creates frustrating opportunities for consumers and
13 damages their experience, which is critical to
14 maintaining trust, especially for small businesses.

15 We believe -- secondly, we believe that
16 there are some privacy might -- may be undermined.
17 These additional disclosures would lead to notice
18 fatigue as consumers would be bombarded with more and
19 more notices. We believe this interrupts their
20 experience while they -- when they least expect it,
21 and it erodes trust in privacy notices, which are the
22 foundation to any meaningful privacy dialogue. If
23 consumers lose confidence in the notices that they're
24 receiving, we believe privacy protections will be
25 undermined rather than strengthened.

1 Furthermore, the impact on small
2 businesses is significant. Small businesses are
3 already grappling with many challenges, especially in
4 regulatory environments that often don't consider
5 their unique needs. Not saying California is one of
6 them, but we're saying these proposals align
7 sometimes with other jurisdictions that don't even
8 create a seat at the table for small businesses.

9 But we believe these proposed regulations
10 would impose heavy compliance costs and
11 administrative burdens that could divert critical
12 resources away from innovation, job creation, and
13 consumer service. For many small businesses, these
14 added costs could be -- could be the difference
15 between growth and closure and even an exit.

16 Given these concerns, we urge the CPPA to
17 take the following actions first, withdraw these
18 regulations and address these requirements as part of
19 a broader privacy related regulation rather than
20 adding unnecessary complexity.

21 And secondly, we encourage you all --
22 what you all have done, and we applaud you for this,
23 engaging more closely with small businesses during
24 the regulatory drafting and process to ensure that
25 voices will continually be heard and that we are not

1 unfairly burdening small businesses by the rules that
2 are being proposed.

3 SPEAKER 1: Thank you for your comment
4 you are at time.

5 Rin, I'm going to unmute you at this
6 time. You'll have three minutes to make your
7 comment. Looks like the call dropped last time but
8 you'll have three minutes to speak.

9 MS. ALAJAJI: Thank you so much. I'm so
10 sorry for the technical difficulties. As I said last
11 time, my name is Rin. I'm legislative activist at
12 the Electronic Frontier Foundation, a digital rights
13 nonprofit based in California. Thank you for the
14 opportunity to speak on these proposed regulations
15 and for the Agency's work on them.

16 Californian's personal data is being
17 repurposed every day to train automated
18 decision-making technologies, and we applaud the CPPA
19 for applying its expertise and leveraging its
20 authority to provide Californians with basic
21 transparency as -- and recourse via this rulemaking.

22 These regulations are clearly within the
23 Agency's statutory authority, which extends to
24 fulfilling the purpose of the California Consumer
25 Privacy Act and the underlying constitutional privacy

1 framework on which it builds. We do, however, urge
2 the Agency to continue strengthening and clarifying
3 the ADMT regulations to ensure that people's rights
4 are protected against technology that could cause
5 them harm.

6 First, definitions in the -- in the draft
7 rules should ensure that covered businesses cannot
8 exploit ambiguity to avoid regulation. Specifically,
9 we urge the Agency to ensure that definitions of ADMT
10 adequately protect people and align with definitions
11 in other areas of state policy, and that the
12 definition of significant decision regarding a
13 consumer explains what threshold of significant is
14 with clear and specific examples.

15 Second, we appreciate the Agency's
16 recognition of the importance of opt-out rights for
17 ADMTs but believe that strong opt-out rights should
18 be preserved for the most harmful ADMT applications
19 and that the exceptions and the proposed regulations
20 that hamstring people's ability to opt out of ADMTs
21 and could control how their personal information is
22 used should be clarified, narrowed, or eliminated.

23 Lastly, the proposed regulations should
24 clearly ensure that the laws protection for trade
25 secrets does not undermine the public and the

1 Agency's ability to understand how businesses use
2 Californian's personal information.

3 As algorithmic decision-making continues
4 to expand the issues of trade secret law being used
5 to undermine the transparency necessary for the
6 public and the government will only increase. We
7 must ensure that trade secrecy only protects real
8 trade secrets and not whatever a company chooses to
9 label as a trade secret.

10 The US workplace is rapidly becoming a
11 site for the deployment of AI and other digital
12 technologies. A trend that will only escalate moving
13 forward. Full coverage of the CCPA is a critical
14 first step to ensure that California workers have the
15 tools necessary to advocate for their rights in the
16 21st century data-driven workplace.

17 These are difficult issues and we
18 recognize that California is leading the way in
19 crafting regulations to address them. Again, I would
20 like the -- to thank everyone involved in these draft
21 regulations for your work and the opportunity to
22 speak twice today. Thanks again.

23 SPEAKER 1: Thank you for your comment.

24 Evelina Ayrapetyan, I'm going to unmute
25 you at this time. You'll have three minutes to make

1 your comment. Please begin as soon as you're ready.

2 MS. AYRAPETYAN: Thank you. Hi, good
3 afternoon, members of the California Privacy
4 Protection Agency. Thank you for the opportunity to
5 speak today. My name is Evelina Ayrapetyan and I am
6 with the Center for AI and Digital Policy. We advise
7 national and state governments and international
8 organizations such as the OECD, Council of Europe,
9 EU, UNESCO on AI and digital policy. I'm here to
10 address the importance of integrating the following
11 measures and regulating ADMT. Our written
12 recommendations were submitted to the Agency today.

13 Before I offer our recommendations, I'd
14 like to reemphasize that the CPPA's regulatory scope
15 includes overseeing how businesses handle personal
16 information in the context of ADMT training data,
17 ensuring compliance with data privacy laws, and
18 protecting consumer rights even when consumers do not
19 directly interact with the technology. Now onto our
20 recommendations.

21 First, we strongly urge the CPPA to
22 enforce the purpose limitation principle,
23 specifically for the use of ADMT in making
24 significant decisions. The purpose limitation
25 principle ensures that data is collected for a

1 specific, explicit and legitimate purpose and is not
2 further processed in any -- in ways incompatible with
3 that purpose.

4 To align with this principle in the
5 context of ADMT, we recommend that the CCPA require
6 businesses to limit data collection to strictly what
7 is necessary for the stated purpose. Data
8 minimization standards could make compliance
9 requirements for businesses more straightforward
10 rather than monitoring a wide range of complex
11 regulatory obligations with excessive data
12 collection.

13 Second, we recommend the development of
14 standardized incident reporting mechanisms to
15 document failures and systemic risk in ADMT systems.
16 This would help identify reoccurring issues like
17 discriminatory lending algorithms or biased hiring
18 tools. Systemic incident reporting would allow the
19 CPPA to distinguish between isolated errors and
20 systemic vulnerabilities fostering accountability and
21 improving oversight.

22 Finally, we urge the CPPA to prohibit the
23 use of children's data in training ADMT systems.
24 Children are particularly vulnerable to profiling and
25 misuse of their information. The FTC's recent

1 proposal to bar Meta from monetizing children's data
2 underscores the authority and necessity for
3 regulatory action to protect children from harm. By
4 adopting similar protections, the CPPA can safeguard
5 children's privacy and prevent their data from being
6 exploited for high-risk applications.

7 SPEAKER 1: You have 30 seconds.

8 MS. AYRAPETYAN: California has the
9 opportunity to set a gold standard for privacy and
10 consumer protection, and I appreciate the opportunity
11 to offer our input. Thank you.

12 SPEAKER 1: Thank you for your comment.

13 Sarah Harris, I'm going to unmute you at
14 this time. You left three minutes to make your
15 comment. Please begin as soon as you're ready.

16 MS. HARRIS: Good afternoon. CPPA Board
17 members, I am Sarah Harris, representing the Black
18 Business Association and many local small businesses.
19 On behalf of our membership, I have a few remarks.
20 Respectfully, CPPA, ADMT proposed regulations should
21 not move forward. Board Member MacTaggart was the
22 only member who voted not to move these regulations
23 forward. There is no readily available data to
24 quantify the number of businesses impacted, but
25 businesses are likely to leave California.

1 Proposition 24 is clear about the
2 regulatory balance that CPPA needs to follow here --
3 excuse me. Proposition 24, Section 3(c)(1) which
4 reads as follows, "The rights of consumers and the
5 responsibilities of businesses should be implemented
6 to strengthen consumer privacy while giving attention
7 to the impact on business and innovation. "CPPA must
8 redraft the regulations to address the negative
9 fiscal impact on California businesses. CPPA needs
10 to rewrite the entire definition, so businesses will
11 easily understand it for compliance purposes.

12 Artificial intelligence, we respectfully
13 request that CPPA work with Governor Newsom and the
14 legislature on API and stop working in isolation on
15 this issue. Nobody of law authorizes CPPA to include
16 AI in the ADMT. All the provisions must be stricken
17 from all of the ADMT regulations.

18 Let me close with this. These
19 regulations are -- these regulations you are pushing
20 have a significant impact on many Californians.
21 There is still time to get this right. Please take a
22 responsible approach to redrafting all three
23 regulations. Thank you.

24 SPEAKER 1: Thank you for your comment.

25 P. Anthony Thomas, I'm going to unmute

1 you at this time. You'll have three minutes to make
2 your comment. Please begin as soon as you're ready.

3 MR. THOMAS: Thank you very much. Good
4 afternoon members and thank you for your indulgence
5 this afternoon. I know it's not easy to sit through
6 three-minute testimony all day long. I'll make my
7 remarks brief. I'll associate my remarks with Mr.
8 Harbour, Mr. Hoffman, Ms. Foster-Harris, and of
9 course, Mr. Brownlee. We all understand that AI
10 innovation has many advantages to all of us.

11 For small businesses, everything from the
12 small thing of auditing, be it expense management,
13 the whole nine yards. But again, if small businesses
14 to be our lifeblood or our backbone of our community
15 then it would make sense not to regulate our -- not
16 to regulate these entities out of the equation. CPPA
17 has an awesome responsibility, we understand that.

18 But our request certainly would be that
19 do not move forward with the current regs that has
20 been drafted until a thorough -- a thorough rewrite
21 has been completed and of course, reviewed and
22 embraced by California small business community.
23 Once again, I want to thank you. I'm P. Anthony
24 Thomas, managing partner the Thomas Advocacy Group.
25 Thank you very much, members.

1 SPEAKER 1: Thank you for your comment.

2 Nats Honey, I'm going to unmute you at
3 this time. You'll have three minutes to make your
4 comment. Please begin as soon as you're ready.

5 MS. HONEY: As President of Strippers
6 United, I represent a diverse community of strippers
7 and ally activists dedicated to advancing workers'
8 rights, equity, and dignity within our industry. Our
9 organization has achieved significant milestones
10 including unionizing Star Garden strippers, providing
11 free legal clinics, and fostering mutual aid and
12 education initiatives.

13 These accomplishments underscore our
14 commitment to addressing systematic inequities and
15 amplifying the voices of workers who are often
16 excluded from critical decision-making processes.
17 Our perspective on California Consumer Privacy Act,
18 Strippers United is deeply invested in the privacy
19 rights of workers, particularly as digital platforms
20 and automated systems increasingly influence our
21 industry.

22 Online platforms often take a
23 disproportionate share of our earnings, and yet
24 workers are excluded from decisions about automated
25 technologies that impact hiring, firing, compensation

1 and monitoring. These practices can have a profile,
2 economic, psychological, and discriminatory
3 consequences attached. We urge regulators to adopt
4 the following five recommendations to ensure the
5 California Consumer Privacy Act protects workers.

6 One, comprehensive risk assessments.
7 Two, transparency and access. Three, opt-out rights.
8 Four, strengthening oversight. Five, expanding
9 definitions so that automated decision-making
10 technology must be broadened to protect workers from
11 emerging technologies that may not yet fall under
12 regulatory frameworks.

13 These measures are critical for
14 protecting workers, economic and personal autonomy,
15 especially those in vulnerable industries. By
16 expanding worker protections under the California
17 Consumer Privacy Act, we can ensure that privacy laws
18 evolve alongside technological advancements and
19 safeguard the rights of all workers, especially those
20 most vulnerable to exploitation.

21 Strippers United -- Strippers United is
22 ready to collaborate with policymakers, industry
23 leaders, and community stakeholders to implement
24 these recommendations. Together we can create a fair
25 and more equitable landscape for all workers in

1 California and beyond. Thank you for your attendance
2 and time. Big thanks to the UCB Labor Center. Stay
3 safe -- stay sane. Nats Honey, President Strippers
4 United.

5 SPEAKER 1: Thank you for your comment.

6 Pat, I'm going to unmute you at this
7 time. You'll have three minutes to make your
8 comment. Please begin as soon as you're ready.

9 MR. UTZ: All right. Does everyone hear
10 me out? All right. Does everyone hear me all right?

11 SPEAKER 1: Yes, we can hear you now. Go
12 ahead. Thank you.

13 MR. UTZ: Okay, perfect. Good morning,
14 Chair Urban and board members. My name is Patrick
15 Utz and I am the co-founder and CEO of a San
16 Francisco based startup called The Abstract. And we
17 use AI to help our clients understand how regulatory
18 changes will impact their business and operations.
19 We employ 12 people and we're working hard to find
20 new clients and grow.

21 So thank you for giving me the chance to
22 speak today. I appreciate your efforts to protect
23 Californian's privacy, but I'm concerned that your
24 proposed data collection and ADMT opt-out mandates
25 can negatively impact California based tech startups

1 like ourselves.

2 Although Abstract doesn't yet meet the a
3 hundred thousand website, its threshold, we're going
4 to hit that very soon in the coming months here. So
5 we use data and ADMT powered advertising and sales
6 engagement tools to tell the right people about our
7 services. It's how we grow and our target clients
8 and large enterprises, including many here in
9 California.

10 So, to sell the -- to those enterprises
11 we first have to reach the appropriate decision
12 makers. If those people have opted out of receiving
13 data or ADMT powered communications which many may
14 do, simply out frustration with the proposed pop-ups,
15 we won't be able to tell them about our business.
16 That will make it very difficult for us to scale.

17 Similarly, if potential customers have to
18 navigate several confusing pop-up windows before
19 visiting our website, they may leave before they
20 actually find out what we do, which is also costing
21 us some vitally important new clients.

22 More broadly by mandating costly and
23 potentially damaging website redesigns for businesses
24 that successfully attract Californians to the sites,
25 these proposed regulations effectively penalize our

1 growth. And by making it harder for California based
2 businesses to find and be found by customers, the
3 regulations will, as your Agency's economic impact
4 statement notes, impact business' competitiveness
5 against out of state competitors.

6 Your Agency's economic impact statement
7 estimates it will cost a typical business over
8 \$20,000 a year for a decade to make its website
9 compliant with the new regulations. That's a ton of
10 money for a small business, especially a startup to
11 invest in making its business less capable of
12 growing.

13 Again, I applaud your efforts to protect
14 Californian's data but I urge you to consider the
15 proposed rules, broader implications. Californians
16 will be better served by more balanced regulations
17 that protect consumers and are less threatening to
18 our state's vibrant startup community. Thank you for
19 considering my comments.

20 MS. MARZION: Thank you. At this time,
21 we are accepting public comment from virtual
22 attendees. To make a public comment, please raise
23 your hand using the raised hand feature or by
24 pressing star nine. If you're joining us by phone,
25 I'll call your name and unmute you when it's your

1 turn to speak.

2 Gil Laura, I'm going to unmute you at
3 this time. You'll have three minutes.

4 MS. LAURA: Thank you very much. Yeah.
5 Hi. My name is Gilbert Laura, and I'm here on behalf
6 of Biocom, California, which represents over 1,800
7 life sciences organizations across the state. These
8 organizations include medical device companies,
9 biotech startups, and academic research institutions.

10 While we fully support your efforts to
11 strengthen privacy protections, we have concerns
12 about how some aspects of these proposed regulations
13 could impact our industry, particularly small
14 businesses and the innovative work they do.

15 Beginning with cybersecurity audits, life
16 science companies already conduct rigorous audits
17 under federal regulations like HIPAA and FDA
18 guidelines. These audits covered things like
19 encryption and access controls. Adding another layer
20 of requirements could cost businesses thousands of
21 dollars annually.

22 And for smaller companies, this could
23 mean redirecting resources away from critical
24 research. We urge the Agency to allow existing
25 frameworks like HIPAA to satisfy these new

1 requirements. It's a practical way to avoid
2 duplication without compromising security.

3 Finally, regarding ADMT and personalized
4 medicine, ADMT is used to analyze complex data and
5 recommend treatments. Transparent -- transparency is
6 important, but requiring businesses to disclose the
7 inner workings of these algorithms could expose
8 proprietary information and discourage investment in
9 these lifesaving innovations.

10 A better approach would be to require
11 high level summaries that explain how the technology
12 works without giving away sensitive details. In
13 short, we believe these regulations need adjustments
14 to avoid unintended consequences.

15 By leveraging existing frameworks and
16 refining definitions, the Agency can protect privacy
17 without stifling innovation or making it harder for
18 small companies to operate. Thank you for your time
19 and for considering our input.

20 MS. MARZION: Thank you for your
21 comments. If any other members of the public would
22 like to speak at this time, please go ahead and raise
23 your hand using Zoom's raised hand feature or by
24 pressing star nine.

25 MR. LAIRD: So seeing that there are no

1 new hands raised yet at this time, if anybody had
2 their initial comment cut off because of the
3 three-minute limit and would like to reraise their
4 hand to complete their remarks you're welcome to do
5 so at this time.

6 MS. MARZION: Luigi Mastria, I'm going to
7 unmute you at this time. You'll have three minutes.
8 If the last caller wanted to speak, go ahead and
9 raise your hand once again. Luigi Mastria, you'll
10 have three minutes.

11 MR. MASTRIA: Thank you. As I was
12 saying, the proposed opt-out preference signal rules
13 would require companies to state that they honor
14 signals from -- that the CPPA has clearly defined
15 which signals should meet the safeguards that are
16 enumerated in the law.

17 The law rightly enshrined safeguards, the
18 prohibit default signals, signals that disadvantaged
19 business models and signals that are not clearly
20 enabled. As drafted the proposed rules would
21 interfere with legitimate commerce by creating
22 barriers for entry for businesses and impose uneven
23 compliance requirements on different business models.
24 And by threatening data sets that businesses need to
25 function.

1 By creating additional gatekeepers via
2 browser controls and other settings based on opaque
3 technology that interferes with responsible commerce,
4 the Agency is exchanging consumer convenience,
5 competition, and well understood privacy controls for
6 vague marketing promises from entities wishing to use
7 the Agency's rulemakings as a way to gain advantage
8 against competitors to offer features that have
9 proven not to have consumer demand.

10 The legislature has time and again,
11 wisely chosen not to force such anti-competitive
12 protocols on Californians. The Agency should
13 critically assess the impact the proposed opt-out
14 preference signal rules would have on consumers and
15 the economy and should not advance them as they're
16 currently drafted.

17 Lastly, the proposed requirement for
18 entities to -- that use programmatic advertising to
19 immediately effectuate opt-out rights is impractical
20 and unnecessary. The requirement ignores common
21 realities associated with honoring opt-out rights.
22 For example, some vendors in the real time bidding
23 space update their suppression lists to account for
24 opted-out users on a weekly basis.

25 In addition, the current CCPA regulations

1 already require businesses to notify third parties
2 who receive personal information associated with the
3 consumer after the consumer makes an opt-out
4 selection with the business. The CPPA should update
5 the proposed regulations to require businesses to
6 comply with the opt-out requests as soon as feasibly
7 possible, but no longer than 15 days from the date
8 that they received the requests.

9 I want to thank you for the opportunity
10 to present this testimony today, and we at the DAA
11 look forward to continuing to work with you as you
12 take steps to update the proposed regulations to
13 align them with the text of the CCPA and the scope of
14 the Agency's regulatory authority. Thank you.

15 MS. MARZION: Thank you. If members of
16 the public who have already made a comment or would
17 like to speak again, you can go ahead and raise your
18 hand. We will take additional comments at this time.

19 MR. LAIRD: First off, I just want to
20 thank everybody who's participated so far in this
21 public hearing. The staff here are going to take a
22 15-minute break until 4:00 p.m. at which time will
23 we return. This hearing does run until 6:00 p.m.
24 this evening, so we will be here and eager to hear
25 any additional comments folks are willing to make.

1 But we'll be taking a 15-minute break now. Thanks.

2 (Recess).

3 MS. MARZION: From break and we will be
4 taking public comment until 6:00 p.m. today. So if
5 you'd like to make a public comment, please raise
6 your hand using the raised hand feature or by
7 pressing star nine if you are joining us by phone.

8 Anthony Licon, I'm going to unmute you at
9 this time. You have three minutes. Go ahead and
10 start when you're ready.

11 MR. LICON: Great. Thank you. Can you
12 hear me.

13 MS. MARZION: Yes, we can hear you.

14 MR. LICON: Excellent. Hi. So I'm a
15 chief strategy officer, partner down at a company
16 called Epic Reach down in Burbank. My company
17 actually works with a lot of different brands and
18 studios down here. So my comment is -- one, is -- a
19 couple of things is we work with them primarily on
20 contests and sweeps and smaller things like that.
21 We're a vendor.

22 A lot of our business comes from them and
23 a lot of the requirements that are actually being
24 considered right now actually put a cost on us a
25 large cost that doesn't allow us to be competitive.

1 And a lot of these are prohibitive, so they actually
2 would help other larger places get the business
3 rather than smaller places like us.

4 So, a couple things I like to kind of
5 bring up directly is -- so there's one mandate in
6 here about the privacy, some of the extra costs that
7 are going in here. So for us I believe it's within
8 the registration fees for data brokerage fees when
9 we're looking into it that we're making right now,
10 would take it up to about \$400 right now it's about
11 \$6,500. It's about a 1500 percent increase, which is
12 pretty high. That's actually a disproportion of
13 financial burden just for us as a small business.
14 Other larger places can handle that, but again, we're
15 a vendor and that's something that's actually
16 affecting us.

17 The other part too is there is a rule in
18 here about actually adding in more popups and more
19 disclosures. So right now the way the rules go is we
20 already -- the CCPA already requires us and companies
21 accommodate universal opt-outs. We also do -- we do
22 that right now, we respond to customer's requests
23 related to privacy. All the opt-outs are actually a
24 good method to go across the board and adding
25 additional opt-outs or other processes. It's a bit

1 -- it's a bit of unnecessary cost. It's for us, it's
2 adding a bit more.

3 And then the other thing too, like adding
4 additional notices and screens. A lot of people now
5 when they go through a process, they just hit yes,
6 yes, yes to everything because it's just, you're
7 saddled with everything. I think adding too many
8 pieces actually has a detrimental opposite view of
9 what you're trying to do. So for us, simplicity is
10 the number one way of -- to go -- to go about this,
11 what you're trying to do.

12 And then again, with a lot of the
13 registration fees, we think that's just -- that cost
14 is just a little bit too -- gone too far. So I do
15 thank you for listening to me I would ask you to
16 please engage more closely with smaller businesses
17 such as mine and others during this process. Make
18 sure our voices are heard and our challenges are
19 addressed. So that's everything for me.

20 MS. MARZION: Thank you for your comment.
21 Again, if you've already made a comment and would
22 like to make an additional comment, or if you
23 haven't, we would love to hear from you. So please
24 raise your hand using the raised hand feature or by
25 pressing star nine on your phone.

1 Rocio, I'm going to unmute you at this
2 time. You'll have three minutes. Go ahead and start
3 when you're ready.

4 MS. BAEZA: Hello. My name is Rocio
5 Baeza. I am a mom, a cybersecurity consultant. The
6 founder of a cybersecurity consultancy. We're based
7 in Chicago. Just wanted to thank the Agency for the
8 opportunity to be involved with the rulemaking
9 process and specifically provide the public with the
10 opportunity to comment. So just for context I've
11 been in the technology space, specifically in the
12 financial services sector for the last about 15 to 20
13 years.

14 About 12 of those years being in the
15 cybersecurity space with roles including consultant,
16 implementing -- helping organizations implement
17 information security and data security programs,
18 performing audits and working with different teams to
19 implement any changes that are necessary. So there's
20 congruency across what the privacy notice reads, what
21 the information security policy reads, and the actual
22 business processes and activity that is being
23 conducted by teams.

24 So my remarks are focused on the
25 cybersecurity audit piece. So I want to highlight a

1 fundamental concern with how this is currently
2 structured. So it reads that a cybersecurity audit
3 needs to be performed, and I'm just going to read
4 this first sentence here.

5 "The cybersecurity audit must assess and
6 document how the business' cybersecurity program
7 protects personal information. "And it goes on.
8 There is a fundamental difference between an audit
9 and an assessment. In an assessment we're doing
10 things like measuring the effectiveness of a process
11 or an activity.

12 In the case of an audit, we're measuring
13 compliance against a stated requirement for example,
14 that might be found in an information security policy
15 or privacy notice. So I just want to direct this
16 fundamental structural concern that I have with this
17 specific requirement and recommend that this be
18 properly delineated. If it's not, it's going to lead
19 in businesses and professionals engaging in activity
20 that will not be fulfilling the intent of the
21 requirement here.

22 Just in case I'm running up against a
23 three-minute mark I'm going to close these -- this
24 set of remarks here, and I'll raise my hand again to
25 further elaborate.

1 MS. MARZION: We don't have any other
2 people waiting, so you can go ahead.

3 MS. BAEZA: Awesome. Great. Okay,
4 great. Great, great. Thank you. So that's -- so if
5 I can elaborate a little bit more on this distinction
6 between a cybersecurity audit and assessment. So I
7 don't recall -- I don't recall what the original text
8 of CCPA or Proposition 24 were that are related to
9 this specific requirements. But I do just want to
10 share that when we're talking about a cybersecurity
11 assessment, I think though the -- a good way of
12 thinking about that is it's measuring the
13 effectiveness of a program.

14 So think the effectiveness of a set of
15 policies, procedures, and train -- the effectiveness
16 of policies, procedures, and training. So as an
17 example, if we're looking to assess controls for
18 critical systems that might be processing personal
19 information, we're going to be looking at assessing
20 the processes that, for example, help desk management
21 HR are engaged in to get to the point where personnel
22 that no longer requires access, their access be
23 deprovisioned in a timely fashion.

24 So that's an example of where an
25 assessment -- of an assessment where if we're

1 referring to an audit we're -- we should think about
2 this as measuring compliance against a stated
3 requirement. And it -- and this will typically be
4 requirements that are included as part of an
5 organization's information security or cybersecurity
6 or data security or data privacy policy.

7 MS. MARZION: You have -- you have one
8 minute.

9 MS. BAEZA: Thank you. Which should be
10 congruent with a privacy notice that is published and
11 is publicly facing. So, I just want to highlight
12 those two distinctions because I think at its core,
13 this needs to be better delineated or else the
14 activity that businesses and professionals will
15 engage in will likely not meet the spirit of the
16 intent here. Thank you.

17 MS. MARZION: Thank you so much, Rocio.

18 If any other members of the public would
19 like to speak at this time, please go ahead and raise
20 your hand using Zoom's raised hand feature or by
21 pressing star nine.

22 Rocio, I see your hand is raised. I'm
23 going to unmute you at this time. You'll have three
24 minutes. Go ahead and start when you're ready.

25 MS. BAEZA: Thank you. So just to

1 further elaborate on this distinction between -- or
2 this -- the distinction between the cybersecurity
3 audit and the cybersecurity assessment. So there's a
4 relationship that we can consider. The relationship
5 being that the requirement be -- that a cybersecurity
6 audit be performed and within the cybersecurity
7 requirements.

8 Or maybe a better descriptor would be a
9 component -- a component. So if we have the
10 cybersecurity audit as being the requirement, we can
11 have a component of the business' cybersecurity
12 program to include an information security or
13 cybersecurity risk assessment process. This is
14 something that exists in many of the overlapping laws
15 and frameworks.

16 So the idea here being that there's an
17 expectation for cybersecurity risk assessment to be
18 performed by the organization. One where risks are
19 identified, options for risk mitigating options are
20 presented and decision is made by management in terms
21 of priority and response activity.

22 And as an example the cybersecurity audit
23 requirements can point to the completion of that
24 exercise, just as an example. I do have another set
25 of comments specifically for another section of the

1 cybersecurity audit. So I will pause here in case
2 anyone else is in queue to comment.

3 MS. MARZION: Rocio at this time, we
4 don't have anyone else queued, so you can go ahead.

5 MS. BAEZA: Okay. Thank you. Let's see.
6 So I'm just -- so the next set of comments is again,
7 on the structure for the cybersecurity audit
8 requirements. So the way that this is -- that the
9 draft regulations are structured is a call for a
10 cybersecurity audit, a call for the audit to
11 specifically address specific areas including the
12 establishment, implementation and maintenance of the
13 program. And then specific components, for example,
14 authentication, for example, multi-factor
15 authentication, account management. And then it
16 transitions onto other areas for example, the
17 oversight of service providers, responses to security
18 incidents.

19 When we get to the portion where the
20 cybersecurity audit needs to be -- needs to include
21 specific areas, I'm going to recommend that the
22 cybersecurity audit requirement be restructured so
23 that there's the audit piece. And then separately
24 the organization has the opportunity to document the
25 business' plan to address any gaps or weaknesses that

1 were identified.

2 Related to my previous comment, I would
3 urge that this would be a cybersecurity audit, which
4 would be measuring compliance against a set of
5 requirements. So I'm not quite a -- I seek concern
6 with the reference to gaps and witnesses, but putting
7 that aside, so we would have the cybersecurity audit
8 be performed, and then as a -- as a separate and
9 subsequent step, it would be the business having an
10 opportunity to respond to identified areas of
11 non-compliance and plans to address that.

12 And then the identification of the
13 qualified individual that is responsible for the
14 cybersecurity program and also the date in which the
15 cybersecurity program and evaluations were presented
16 to the Board or governing body. By making this a
17 multi-step process, I think it'll educate to the
18 business community that may not have access to
19 cybersecurity expertise.

20 By breaking it out this way in steps that
21 are sequential in a specific order, I think that
22 provides the business and the Agency with a more
23 systematic thought process and response process as to
24 how businesses are making decisions in light of the
25 cybersecurity audits.

1 So, in short, I would urge that these
2 steps be pulled out of the cybersecurity audit
3 activity, but be identified as subsequent steps that
4 are related to the process here. Thank you very much
5 for this opportunity, and I look forward to the
6 finalization of the regulations here. Thank you.

7 MS. MARZION: Thank you for your
8 comments, Rocio.

9 If any other members of the public would
10 like to speak at this time, please go ahead and raise
11 your hand using Zoom's raised hand feature, or by
12 pressing star nine. We'll be taking public comment
13 until 6:00 p.m. today.

14 AUTOMATED VOICE: We're sorry, your
15 conference is ending now. Please hang up.

16 MS. MARZION: All right. Despite that
17 Zoom comment you heard, we will be here until 6:00
18 today taking public comment. So please raise your
19 hand using the Zoom's raised hand feature or dial
20 star nine if you're joining us by phone to make a
21 comment. We will be here until 6:00 today.

22 MR. LAIRD: Thank you to everybody who's
23 attended today's session. We are here still till
24 6:00 p.m. So another 10 minutes. But thank you
25 again to all the commenters who have provided public

1 comment today. And as a reminder, we will be holding
2 an additional public comment hearing on these
3 proposed regulations on February 19th from 2:00 to
4 6:00 p.m. In this same building physically and also
5 via Zoom as well.

6 But again, if there's anybody else still
7 watching or attending that would like to make a
8 public comment before we close at 6:00 p.m. Please
9 raise your hand now using the raise hand feature.
10 Once again, I want to thank everybody who
11 participated in today's public comment hearing. We
12 really, really do appreciate your feedback and taking
13 the time to bring it to our attention.

14 Again, there'll be one more hearing on
15 this proposed regulations on February 19th from 2:00
16 to 6:00 p.m. in this same building here in
17 Sacramento, California, as well as online via Zoom.
18 This closes our public comment hearing for today.
19 Thank you.

20 (End of audio.)
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