Opt-out Preference Signals (OOPS) Rulemaking Recommendations

CALIFORNIA PRIVACY PROTECTION AGENCY

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AGENDA

I. Background on OOPS

II. Preliminary Rulemaking Activities

III. Recommendations for Board Consideration

Background on OOPS

PURPOSE OF OPT-OUT PREFERENCE SIGNALS

"The purpose of an opt-out preference signal is to provide consumers with a **simple and easy-to-use method** by which consumers interacting with businesses online can **automatically exercise** their right to opt-out of sale/sharing. Through an opt-out preference signal, a consumer can opt-out of the sale and sharing of their personal information with all businesses they interact with online **without having to make individualized requests** with each business."

11 CCR § 7025(a)

HISTORY OF OOPS

1 **Aug. 14, 2020**
AG adopts first iteration of OOPS regulations (11 CCR § 999.315(c)).

2 **Oct. 2020**
Technologists develop Global Privacy Control (GPC).

3 **Nov. 3, 2020**
CA voters approve CPRA, which amends the CCPA.

4 **Jan. 28, 2021**
AG Becerra states that GPC satisfies legal requirements in CCPA regulations.

5 **Aug. 24, 2022**
AG announces Sephora settlement involving failure to honor GPC.

HISTORY OF OOPS

6 **Jan. 1, 2023**
CPRA amendments go into effect.

7 **March 29, 2023**
CPRA regulatory records reinforce GPC as a valid request to opt-out.

8 **July 2025 – Feb. 2026**
Continued enforcement actions by CA AG and CalPrivacy involving failure to honor GPC (i.e., Healthline, Tractor Supply, PlayOn Sports, Disney).

9 **Jan. 1, 2027**
AB 566 (requiring browser developers to offer GPC functionality) goes into effect.

OOPS Preliminary Rulemaking Activities

PRELIMINARY RULEMAKING ACTIVITIES

- **Meetings with Stakeholders**
  - Enforcement Partners
  - Businesses and Industry Representatives
  - Consumer Advocate Organizations
  - Academics
- **Research**
  - Academic Studies, White Papers, News Reports
  - Legislative materials (including other state laws), Rulemaking packages
  - Review and Analysis of Comments

PRELIMINARY WRITTEN COMMENTS

- **43 written comments received, 376 pages**
  - Comments relate to both reducing friction and OOPS rulemaking topics
- **Commenters represented:**
  - Businesses and Trade Organizations
  - Consumers and Consumer Advocate Organizations
  - Data Brokers
  - Authorized Agents
  - Academics and Legal Practitioners

SUMMARY OF WRITTEN COMMENTS

Themes from OOPS comments:

- Issues with the processing of GPC, including its application to pseudonymous profiles, known consumers, and when GPC conflicts with privacy settings
- Timing issues regarding GPC and cookies firing
- Information about specific privacy mechanisms and signals
- Competition-neutral safeguards to apply OOPS uniformly and concerns regarding the presumption of consumer's intent
- Request for safe harbors, more examples, and flexibility in application
- Friction in the process of using GPC; standardized language in disclosures re OOPS
- AI handling of GPC
- Age Signal Interoperability

Recommendations for Board Consideration

RECOMMENDATIONS

I. Explicitly Identifying GPC as an OOPS

II. Examples Clarifying How OOPS Applies to Pseudonymous Profiles

III. Reporting of OOPS Metrics

IV. Examples Clarifying Timing Issues Regarding GPC and Sale/Share Tracking Technologies

EXPLICITLY IDENTIFYING GPC AS AN OOPS

EXAMPLES CLARIFYING HOW OOPS APPLIES TO PSEUDONYMOUS PROFILES

REPORTING OF OOPS METRICS

EXAMPLES CLARIFYING TIMING ISSUES REGARDING GPC AND SALE / SHARE TRACKING TECHNOLOGIES