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Data Broker Developments and Action Items in 2024 and Beyond

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Definitions

Overview

	Vermont (<i>Vermont Data Broker Regulation</i> codified as 9 V.S.A. §§ 2430, 2433, 2446 and 2447)	California (under CCPA) (TITLE 1.81.48. Data Broker Registration [1798.99.80 - 1798.99.88])	California (under CCPA) (SB 362) NEW DATA BROKER LAW	Oregon (H.B. 2052) (2023)	Texas (SB 2105) (2023)	ADPPA (H.B. 8152) (last amended 12/30/22)	SAFE Data Act (S.2499) (2021)
"Data Broker" Definition	<p>“a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.” <i>9 V.S.A. § 2430(4)(A)</i></p> <hr/> <p>- Protecting Americans’ Data from Foreign Adversaries Act of 2024: organizations that “for valuable consideration, sells ... or otherwise makes available data of U.S. individuals that the [data broker] did not collect directly from such individuals to another entity that is not acting as a service provider.”</p>	<p>“a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship.” <i>Cal. Civ. Code § 1798.99.80(d)</i></p>	<p>“a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship.” <i>Cal. Civ. Code § 1798.99.80(b)</i></p>	<p>"a business entity or part of a business entity that collects and sells or licenses brokered personal data to another person" <i>H.B. 2052 Section 1(1)(c)(A)</i></p>	<p>Data broker" means a business entity whose principal source of revenue is derived from the collecting, processing, or transferring of personal data that the entity did not collect directly from the individual linked or linkable to the data. (Sec. 509.001(4))</p>	<p>"Third-party collecting entity" defined as "a covered entity whose principle source of revenue is derived from processing or transferring covered data that the covered entity did not collect directly from the individuals linked or linkable to the covered data" <i>H.B. 8152 Section (2)(36)(A)</i></p> <p>"Principle source of revenue" means for the prior 12 month period:</p> <ul style="list-style-type: none"> • more than 50% of all revenue of the covered entity • obtaining revenue from processing/transferring covered data of more than 5,000,000 individuals not collected directly from the individuals <i>H.B. 8152 Section (2)(36)(B)</i>	<p>"a covered entity whose principal source of revenue is derived from processing or transferring the covered data of individuals with whom the entity does not have a direct relationship on behalf of third parties for such third parties' use." <i>S. 2499 Section 2(8)(a)</i></p>

- **Protecting Americans' Data from Foreign Adversaries Act of 2024 ([H.R. 7520](#))**
- “Data Broker” means “an entity that, for valuable consideration, sells, licenses, rents, trades, transfers, releases, discloses, provides access to, or otherwise makes available data of United States individuals that the entity did not collect directly from such individuals to another entity that is not acting as a service provider.”
- Exclusions: The term “data broker” does not include an entity to the extent such entity:
 - is transmitting data of a United States individual, including communications of such an individual, at the request or direction of such individual;
 - is providing, maintaining, or offering a product or service with respect to which personally identifiable sensitive data, or access to such data, is not the product or service;
 - is reporting or publishing news or information that concerns local, national, or international events or other matters of public interest;
 - is reporting, publishing, or otherwise making available news or information that is available to the general public [...]; or
 - is acting as a service provider.

California's Definition of "Data Broker"

- California: **"data brokers"** defined as "a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship."
- Impact of CPRA amendments
- "Sale" or "Share"
- Limits on "service providers" conducting "cross-context behavioral advertising"
- Impact of enforcement – scope of "sales" after *Sephora* and *Doordash*
- **Discussion – Are ad-tech companies data brokers?**



Texas' Definition of "Data Broker"

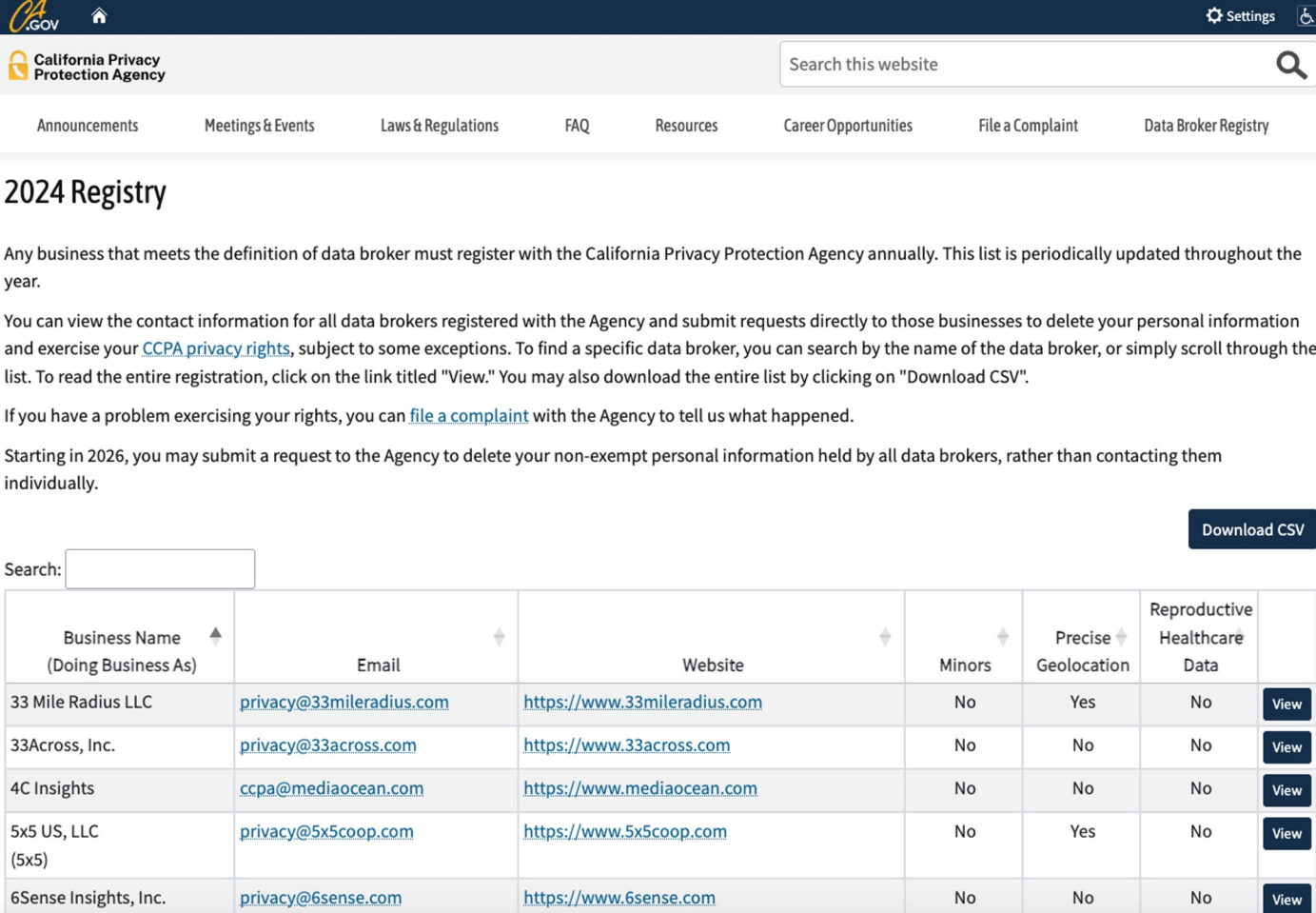
- (4) "Data broker" means a business entity whose **principal source of revenue** is derived from the **collecting, processing, or transferring** of **personal data** that **the entity did not collect directly from the individual linked or linkable to the data**.
- (11) "Personal data" means any information, including sensitive data, that is linked or reasonably linkable to an identified or identifiable individual. The term includes pseudonymous data when the information is used by a controller or processor in conjunction with additional information that reasonably links the information to an identified or identifiable individual. The term does not include deidentified data, employee data, or publicly available information.
 - (a) Except as provided by Subsection (b), this chapter applies only to a data broker that, in a 12-month period, derives:
 - (1) more than 50 percent of the data broker's revenue from processing or transferring personal data that the data broker did not collect directly from the individuals to whom the data pertains; or
 - (2) revenue from processing or transferring the personal data of more than 50,000 individuals that the data broker did not collect directly from the individuals to whom the data pertains.

CA DELETE Act

Overview

California's Data Broker Registry

- Gov. Newsom signed SB 362 - the DELETE Act - into law on October 10, 2023.
- Transfers authority over the data broker registry from AG to the CPPA
- Creates many new obligations for data brokers and for the CPPA over a multi-year timeline.



The screenshot shows the California Privacy Protection Agency website. The header includes the CA.GOV logo, a home icon, and a search bar. The navigation menu contains: Announcements, Meetings & Events, Laws & Regulations, FAQ, Resources, Career Opportunities, File a Complaint, and Data Broker Registry. The main content area is titled "2024 Registry" and contains the following text:

Any business that meets the definition of data broker must register with the California Privacy Protection Agency annually. This list is periodically updated throughout the year.

You can view the contact information for all data brokers registered with the Agency and submit requests directly to those businesses to delete your personal information and exercise your [CCPA privacy rights](#), subject to some exceptions. To find a specific data broker, you can search by the name of the data broker, or simply scroll through the list. To read the entire registration, click on the link titled "View." You may also download the entire list by clicking on "Download CSV".

If you have a problem exercising your rights, you can [file a complaint](#) with the Agency to tell us what happened.

Starting in 2026, you may submit a request to the Agency to delete your non-exempt personal information held by all data brokers, rather than contacting them individually.

Search:

[Download CSV](#)

Business Name (Doing Business As)	Email	Website	Minors	Precise Geolocation	Reproductive Healthcare Data	
33 Mile Radius LLC	privacy@33mileradius.com	https://www.33mileradius.com	No	Yes	No	View
33Across, Inc.	privacy@33across.com	https://www.33across.com	No	No	No	View
4C Insights	ccpa@mediaocean.com	https://www.mediaocean.com	No	No	No	View
5x5 US, LLC (5x5)	privacy@5x5coop.com	https://www.5x5coop.com	No	Yes	No	View
6Sense Insights, Inc.	privacy@6sense.com	https://www.6sense.com	No	No	No	View

Timeline for CPPA Implementation of DELETE Act



- **Jan. 31, 2024:** Registration deadline for businesses qualifying as data brokers (based on 2023 activities) – includes new registration requirements
- **July 1, 2024:** New data broker reporting requirements
- **????:** CPPA Rulemaking – Plus CPPA meeting...*today!*
- **Jan. 1, 2026:** CPPA must establish “accessible deletion mechanism.”
- **August 1, 2026:** Data brokers must begin processing deletion requests made through the accessible deletion mechanism.
- **January 1, 2028:** Data brokers must undergo an independent third-party audit (then every three years, thereafter) to determine compliance with the data broker law.
- **January 1, 2029:** Registration submission will require data broker to state whether it has undergone the required audit, and if so, the most recent year that the data broker has submitted an audit report to the CPPA.

Key DELETE Act Requirements: Central Deletion Mechanism



By January 1, 2026, the CPPA must set up a mechanism accessible through the CPPA website that enables a consumer “through a single verifiable consumer request” to request that all registered brokers delete the consumer’s PI. The mechanism must have all of the following features:

- Reasonable security.
- Allow consumers to selectively exclude brokers from their requests to delete.
- Allow consumers to alter their request (e.g. withdraw their name from the mechanism that brokers check once every 45 days).
- Allow brokers to determine whether a consumer request made through the deletion mechanism is verifiable.
- Must be free of charge to consumers.
- Must support requests in any relevant language.
- Must be accessible to those with disabilities.
- Must support use of authorized agents by consumers.
- Must allow consumers to check the status of their request (with each broker?).

Key DELETE Act Requirements: Brokers Accessing the Central Deletion Mechanism



- The CPPA has to create a deletion mechanism by January 2026, but then registered brokers have to access it regularly starting July 2026. Brokers will have to access the mechanism at least once every 45 days to:
 - Check for requests to delete.
 - Process those requests within 45 days of receipt and delete if required
 - Process deletion requests that can't be verified as requests to opt out of sales and sharing.
 - Direct service providers to delete/opt out of sales/sharing if not verifiable.
- CCPA exceptions for deletion requests apply.
- For valid deletion request read through the mechanism:
 - Brokers must continually delete a consumer's PI every 45 days on a rolling basis after they have received a request using the deletion mechanism (unless consumer requests otherwise).
 - After a consumer has submitted a request, the broker cannot sell or share the consumer's PI (i.e., not in the interim between rolling 45 day deletions), unless consumer requests otherwise.
In other words: **permanent deletion.**

Key DELETE Act Requirements: Third-Party Audit Requirement



- Starting January 1, 2028, each registered broker must undergo an audit by an independent 3rd party to demonstrate compliance with the DELETE Act's requirements.
- Upon request, the data broker must submit an audit report to the CPPA.
- The following year, the broker's registration submission will require it to state whether it has undergone the required audit, and if so, the most recent year that the data broker has submitted an audit report to the CPPA

What to expect from the CPPA?



Outside of rulemaking, the CPPA may be receptive to input on design considerations for the central deletion mechanism.

- Sent a questionnaire to registered brokers with an eye toward implementation.
- May engage in further stakeholder engagement while building the mechanism.
- The CPPA has **rulemaking** authority under the DELETE Act, which we expect the agency to take full advantage of.

Data Broker Requirements

- In-state registration
- Data minimization
- Flow-down DSAR obligations
- Privacy Policy disclosures and DSAR metric reporting
- CA Delete Act– CPPA universal deletion mechanism (by Jan. 2026)
- Penalties for non-compliance

Compliance Considerations for “Data Brokers”

- Honoring Jan. 2026 deletion mechanism
- Ad tech impact
 - Could “ad tech” companies be data brokers?
 - How to differentiate between applying to products / services operating as a “business” vs. “service provider”?
- 3P cookie deprecation impact on ad industry efforts to comply with data broker requirements
- “Sensitive data” definitions / “consent” requirements
 - Health
 - “Browsing data”

Considerations for Companies Working with “Data Brokers”

Considerations for Companies working with “data brokers”

- Contractual considerations
- Partner flow-down requirements (back-to-back decisioning)
- Purchasing/supplementing with precise geolocation data? Health data? (WA MHMD, NV, CT?)
- B2C broker data usage versus a B2B implementation?

Predictions

- Expanding scope
- National data broker registry or law?
- Technical updates to enable interoperability (or not)
- Legal challenges to broker laws / Delete Act



Questions?



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