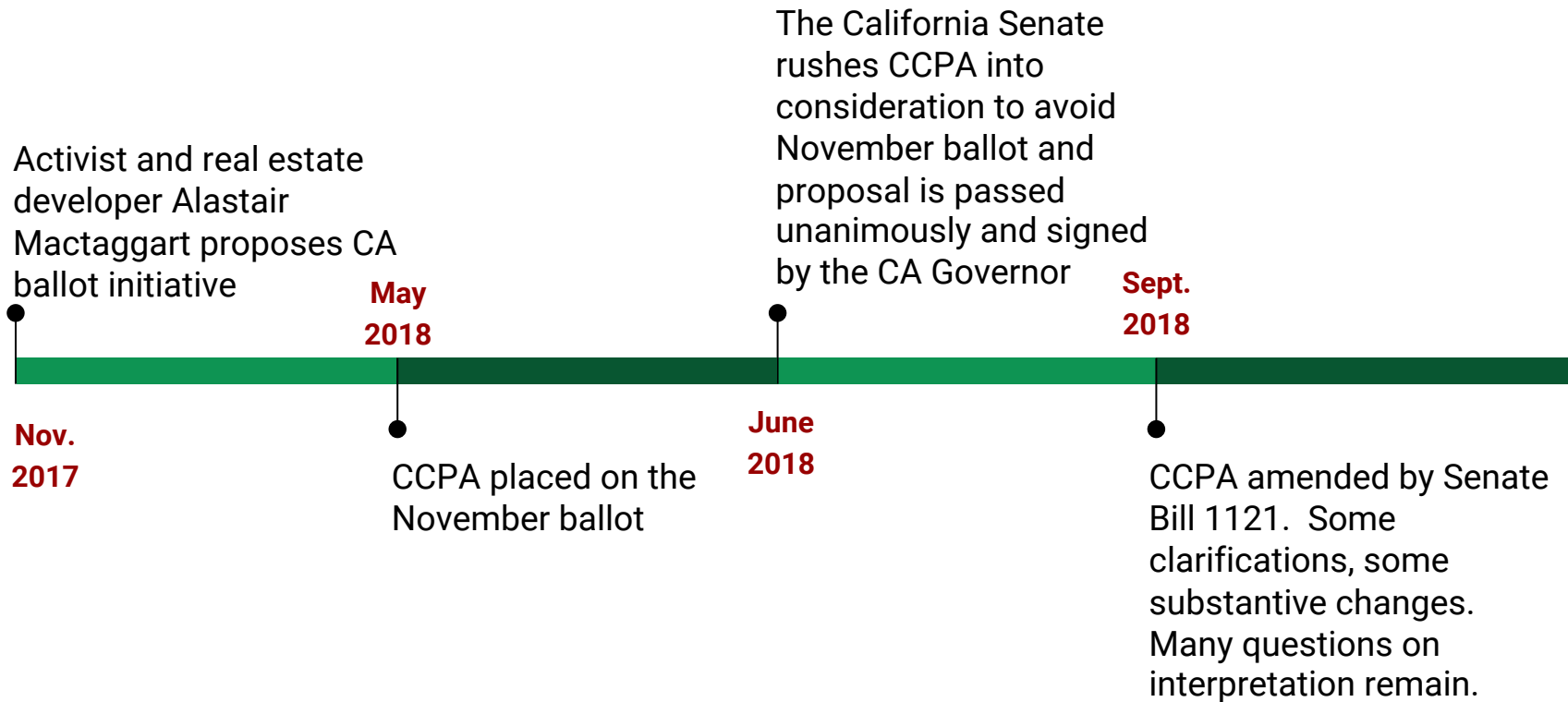




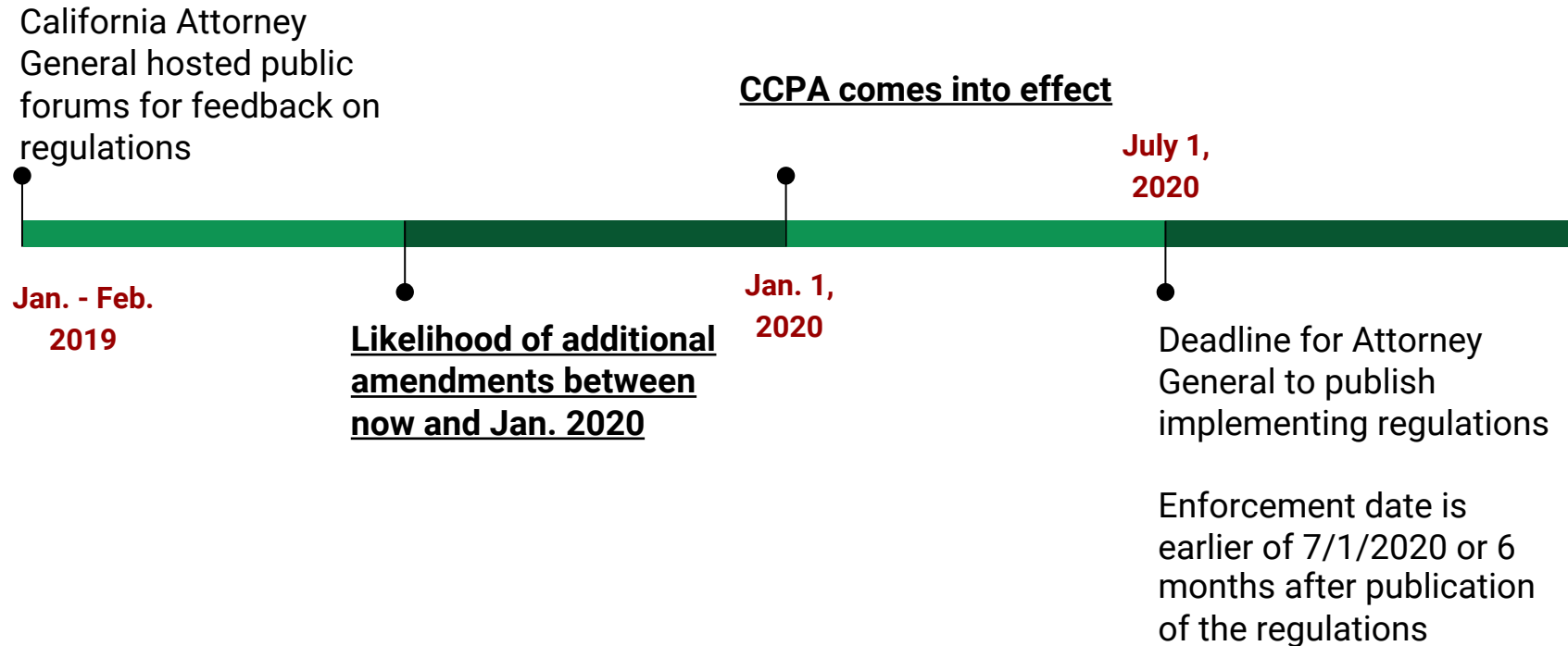
California Consumer Privacy Act of 2018

Orla O'Hannaidh
April 26, 2019

CCPA: How Did We Get Here?



CCPA: What Happens Next?



CCPA:

Putting it in Context

- California has a history of passing privacy laws and other states follow (e.g., data breach laws)
- 9 states have introduced “CCPA-like” bills (varying likelihood of passing):
 - Hawaii, Maryland, Massachusetts, Mississippi, New Mexico, New York, North Dakota, Rhode Island & Washington
- Federal Privacy Bill?

GDPR vs. CCPA: Comparison

	GDPR	CCPA
Who is protected / geographic scope	Individuals in the European Economic Area	California consumers Consumers = CA residents. For now, assume includes CA employees
Personal Information	Broadly defined - relating to an identified or identifiable person	Broadly defined - identifies, relates to, capable of being associated with, reasonably linked, directly or indirectly, an individual <i>or household</i>

GDPR vs. CCPA: Comparison

	GDPR	CCPA
Individual Rights	<ul style="list-style-type: none"> ● Right to know/notices ● Right to access ● Right to deletion ● Right to portability ● Right to object/revoke consent ● Right to correction 	<ul style="list-style-type: none"> ● Right to know/notices ● Right to access ● Right to deletion ● Right to portability ● Right to opt-out of sale of PI
Response times / parameters	30 days + extension in limited circumstances	45 days + 45 day extension when reasonably necessary 12-month lookback max 2 requests per 12 months

CCPA:

Territorial Scope

- Applies to for-profit entities that collect consumers' personal information and “alone or jointly with others determines the purposes and means of processing,”
- “Does business” in California and
- Satisfies 1 of the 3 following thresholds:
 - 1) +\$25M in annual gross revenue
 - 2) annually receives, buys or shares PI of 50k or more consumers, households or devices
 - 3) derives 50% or more of its annual revenues from selling PI
- Applies to any entity that controls or is controlled by a business covered by the CCPA and shares common branding

CCPA:

What is Personal Information?

Information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Examples:

- name
- mailing address
- personal ID
- IP address
- email address
- physical characteristics
- employment information
- protected classifications (race, age, etc.)
- purchase history
- Internet activity / browsing history

CCPA:

Right to Request - A Closer Look

The right to request information can be triggered in two cases:

1. if a business collects PI about consumers,
2. if a business sells or discloses PI about consumers.

What information a business has to provide to the requestor depends on the type of request above

CCPA:

Right to Know - A Closer Look

Collection: Consumers have the right to know:

- ✓ **categories of PI** collected,
- ✓ the **sources** of those categories,
- ✓ business or commercial **purposes** for collecting or selling PI,
- ✓ the **third parties** with whom the data is shared,
- ✓ the **specific pieces** of PI collected.

CCPA:

Right to Know - A Closer Look

Sale/Disclosure: Consumers have the right to know:

- ✓ categories of PI **collected**
- ✓ categories of PI **sold**
- ✓ categories of **third parties** to whom the PI was sold, **by category** of PI for each third party
- ✓ categories of PI that the business **disclosed** about the consumer for a business purpose
- ✓ if **no** sale or disclosure, state that fact

CCPA:

Right to Access - A Closer Look

- Must have 2 or more methods for requests:
 - ✓ Toll-free number +
 - ✓ Website page for submitting requests
- Delivery of PI:
 - to individual's business account (if exists)
 - If not, at individual's choice:
 - ✓ mail
 - ✓ electronic
- If electronic, must be *“portable and, to the extent technically feasible, in a readily useable format that allows the consumer to transmit this information to another entity without hindrance.”*

CCPA:

Right to Deletion - A Closer Look

- Must honor deletion requests from CA residents
- Must direct service providers to delete
- 9 exemptions (where do not have to delete).
 - to comply with a legal obligation
 - for security purposes (e.g. detect security incidents, protect against malicious or fraudulent activity)
 - to complete the transaction for which the PI was collected

CCPA:

Right to Opt-Out - A Closer Look

- At any time, consumers can request that a business not sell their PI
- Must have a “[Do Not Sell My Personal Information](#)” link on homepage where requestor can opt-out
- Can “re-ask” permission in 12 months
- Cannot require requestor to create account

CCPA:

Additional Points

- Businesses should follow the principles of:
 - **data minimization**
 - **purpose limitation** (collect personal information for one specific purpose)
- Obligation to **train** employees who handle privacy requests on CCPA and how to handle requests

CCPA:

What are the Risks?

- Direct right of action for CA consumers
 - **What?** If nonencrypted or nonredacted PI is subject to a data breach *as a result of* company's violation of the duty to implement and maintain reasonable security procedures
 - **When?** Notice + 30-day cure period
 - **How much?**
 - Greater of actual damages or \$100 - \$750 per consumer, per incident
 - Injunctive or declaratory relief
 - Any other relief court deems proper

CCPA:

How is it Enforced?

- California Attorney General can enforce:
 - Injunction
 - Civil penalties
 - not more than **\$2,500** per violation or **\$7,500** per each *intentional* violation
 - 30 day cure period



Questions?