



September 6, 2018

The Honorable Edmund G. Brown, Jr.
 Governor, State of California
 State Capitol
 Sacramento, CA 95814

**SUBJECT: SB 1121 (DODD) – CALIFORNIA CONSUMER PRIVACY ACT OF 2018
 REQUEST FOR SIGNATURE**

Dear Governor Brown:

The California Chamber of Commerce and the listed coalition of business interests **REQUEST** your **SIGNATURE** on **SB 1121 (Dodd)**, which makes a number of amendments to the California Consumer Privacy Act (CCPA), that was signed by you this past June.

After the swift passage of the CCPA, we proposed numerous amendments to address its drafting errors as well as to fix aspects of the law that would be unworkable and that would result in negative, unintended consequences. We appreciate the effort by Senator Dodd and the CCPA authors, Assemblymember Chau and Senator Hertzberg, to address some of these problems in **SB 1121**, including:

- Ensuring that the CCPA language drafted to prevent confusion from conflicting local laws takes effect immediately. The CCPA becomes operative on January 1, 2020, and that includes its local preemption language. This is problematic because a local privacy ordinance could be passed on the November 2018 ballot, resulting in the very confusion the CCPA authors intended to avoid. Thus, **SB 1121** was passed with an urgency clause to ensure that the CCPA's local preemption clause takes immediate effect.

- Clarifying that the CCPA's private right of action only applies to Section 1798.150 (which assigns additional liability to businesses after a data breach). This was the intent of the authors. However, because the authors expanded the traditional definition of a "breach" to include an "unauthorized disclosure," clarification is needed.
- Clarifying the Gramm-Leach-Bliley Act (GLBA) and the Driver's Privacy Protection Act (DPPA) exemptions. The GLBA is a federal law that requires financial institutions to maintain consumer privacy protections and regulates how those institutions may disclose certain consumer information to nonaffiliated parties. Similarly, the DPPA is a federal law that regulates the disclosure of personal information from state DMV records and limits the recipients of the records to only those with a permissible purpose, such as effectuating an airbag recall. Both the GLBA and the DPPA already provide significant protections to consumers and should be exempt from the requirements of the CCPA. Although the CCPA authors intended to offer GLBA and DPPA exemptions, the CCPA's current language offers none. The CCPA's exemptions are only operational when there is a conflict between the CCPA and the GLBA or the DPPA, which is not workable. **SB 1121** amends the GLBA and DPPA exemptions so they may function properly.
- Clarifying the Health Insurance Portability and Accountability Act (HIPAA) exemption. **SB 1121** makes three crucial clarifications to the CCPA's HIPAA exemption. First, **SB 1121** ensures that life-saving clinical trials can continue in California. Second, **SB 1121** specifies that the HIPAA exemption also covers HIPAA-defined "business associates," which are already subject to all HIPAA privacy and security obligations. For example, third party administrators, (TPAs) are "business associates" that contract with health plans and insurers to adjudicate claims. If TPAs are not exempted from the CCPA, insured individuals could ask that TPAs delete personal information they collect – which would preclude claims from being processed and prevent providers from getting paid. Finally, **SB 1121** largely exempts hospitals and doctors from complying with CCPA. Otherwise, if a consumer could request their information be deleted, hospitals and doctors would be required to collect all information about an individual, review each piece to determine what is protected by HIPAA (and not subject to the CCPA) and what is not protected by HIPAA (and must be deleted). This massive administrative burden would greatly increase the cost of healthcare with no corresponding benefit to the patient.
- Delaying enforcement of the CCPA until either 6 months after the publication of the Attorney General's final regulations or July 1, 2020, whichever is sooner. The delay is crucial because many of the significant concerns we raised are not addressed in **SB 1121**, and more concerns with the CCPA will likely come to light as businesses plan for compliance. This amendment acknowledges the practical reality that there are still issues with the CCPA that will need to be addressed next year in the legislature; it enables the Attorney General to finalize its rulemaking after the end of next year's legislative session; and it allows businesses time to finalize implementation after the law and regulations are settled.

Although many problems will still need to be addressed if **SB 1121** is adopted, this bill makes important and necessary changes to the CCPA. It is a step in the right direction. We look forward to continuing to work with the CCPA authors on the many remaining issues this fall and during the next legislative session.

For these reasons, we respectfully **REQUEST** your **SIGNATURE** on **SB 1121 (Dodd)**.

Sincerely,



Sarah Boot
Policy Advocate
California Chamber of Commerce

Advanced Medical Technology Association
Alliance of Automobile Manufacturers
American Council of Life Insurers

American Insurance Association
Association of California Life & Health Insurance
Companies

Association of National Advertisers
Biocom
California Association of Health Plans
California Association of Health Underwriters
California Bankers Association
California Cable & Telecommunications
Association
California Hospital Association
California Land Title Association
California Life Sciences Association
California Manufacturers & Technology
Association
California Mortgage Bankers Association
California Retailers Association
California Trucking Association
Civil Justice Association of California
CompTIA
Consumer Data Industry Association
Consumer Technology Association
CTIA
Delta Dental
Email Sender & Provider Coalition

Independent Insurance Agents & Brokers of
California
Internet Association
Motion Picture Association of America
National Association of Insurance and Financial
Advisors
National Association of Mutual Insurance
Companies
National Business Coalition for E-Commerce
and Privacy
Pacific Life
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Property Casualty Insurers Association of
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Retail Industry Leaders Association
Securities Industry and Financial Markets
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Silicon Valley Leadership Group
Software and Information Industry Association
TechNet
United Parcel Service
U.S. Chamber Technology Engagement Center

cc: The Honorable Bill Dodd
Tom Dyer, Office of the Governor

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