

## **ADDENDUM TO FINAL STATEMENT OF REASONS**

July 29, 2020

### **BACKGROUND**

The OAG hereby incorporates this addendum as part of the final rulemaking package. In addition to withdrawing certain provisions for additional consideration, the OAG has made the following non-substantive changes for accuracy, consistency, and clarity. Changes to the original text of a regulation are non-substantive if they clarify without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code Regs., tit. 2, § 40.) Changes without regulatory effect include renumbering or relocating a provision, revising structure, syntax, grammar or punctuation, and, subject to certain conditions, making a provision consistent with statute. (Cal. Code Regs., tit. 2, §100.)

### **Global Modifications**

- A period has been added to the end of each heading in Sections 999.300 through 999.337. This is a formatting change for consistency with other regulations.
- A hyphen has been added to every reference of “opt in,” “opt out,” and “opting out,” so that they read “opt-in,” “opt-out,” and “opting-out,” and are consistent with other parts of these regulations. See sections 999.301, subd. (a); 999.307, subd. (b)(3); 999.313, subd. (d)(7); 999.316, heading and subd. (b); and 999.336, subd. (d)(1).
- Unnecessary commas have been deleted from statutory reference sections. See sections 999.304, 999.305, 999.312, 999.313, 999.314, 999.315, 999.316, 999.317, 999.318, 999.323, 999.324, 999.325, 999.326, 999.330, 999.331, 999.332, 999.336, and 999.337. This is a formatting change for consistency with other regulations.
- The words “or ‘Do Not Sell My Info’” have been deleted throughout the regulations to align with the express language of the statute. See sections 999.305, subds. (b)(3), (f)(1); 999.306, subd. (b)(1); and 999.315, subd. (a).
- The words “minors” and “minor” have been changed to “consumers” and “consumer” to align with the statute. See sections 999.301, newly lettered subd. (s); 999.308, subds. (c)(1)(g)(3) and (c)(9); 999.318, subd. (c); Art. 5 heading; 999.330 heading; 999.331 heading, subds. (a) and (b); and 999.332 heading, subd. (b).

### **§ 999.300. Title and Scope.**

- The statutory reference has been modified to identify the specific sections of the CCPA to which the regulation applies.

### **§ 999.301. Definitions.**

- The statutory reference has been modified to identify the specific sections of the CCPA to which the regulation applies.
- In the last sentence of subsection (a), the words “of age” have been added after “consumers 13 years” to be consistent with other parts of these regulations.

- In subsection (j), the word “retention” has been changed to “deletion” to align with the express language of the statute.
- The definitions of “request to delete” (previously subsection (r)) and “request to opt-out” (previously subsection (s)) have been moved to organize the section in alphabetical order. The surrounding subsections have been re-lettered accordingly.
- In newly lettered subsection (s), the phrase “required by Civil Code section 1798.120, subdivision (c),” has been deleted because the statutory reference does not pertain to a consumer who has previously opted-out of the sale of their personal information. This change is necessary for accuracy and clarity.
- In subsection (u), the statutory reference has been corrected to state “1633.1 *et seq.*” This change is necessary for accuracy.
- In the second sentence of subsection (v), the word “identity” has been added after “Third-party” to be consistent with other parts of these regulations.
- In this section, the following changes have been made for grammatical reasons:
  - (p) – in the first sentence, “means the policy” has been changed to “, as” and the word “and” after “subdivision (a)(5)” has been deleted
  - (u) – “per” has been changed to “in accordance with”
  - (x) – “or is the parent or legal guardian of that consumer who is less than 13 years of age” has been changed to “or if that consumer is less than 13 years of age, the consumer’s parent or legal guardian”

#### **§ 999.304. Overview of Required Notices.**

- In subsections (a) through (d), the words “these regulations, including” have been deleted as unnecessary.

#### **§ 999.305. Notice at Collection of Personal Information.**

- In subsection (a)(4), the word “which” has been changed to “that” for grammatical reasons.
- Subsection (a)(5) has been withdrawn and the subsequent sections re-lettered accordingly. The OAG may resubmit this section after further review and possible revision.

#### **§ 999.306. Notice of Right to Opt-Out of Sale of Personal Information.**

- Subsection (b)(2) has been withdrawn and the subsequent sections re-lettered accordingly. The OAG may resubmit this section after further review and possible revision.
- In newly lettered subsection (b)(2), the words “right to direct the business that sells their personal information to stop selling their personal information” has been changed to “right to opt-out” for consistency with other parts of these regulations. The phrase is a defined term in section 999.301.
- In subsection (e), the extraneous word “notice” has been deleted after “right to opt-out.”

#### **§ 999.307. Notice of Financial Incentive.**

- In this section, the following changes have been made for grammatical reasons:
  - (a)(1) – “on” has been changed to “about”
  - (a)(2)(e) – “opting into” has been changed to “opting-in to”

### **§ 999.308. Privacy Policy.**

- In this section, the following changes have been made for grammatical reasons:
  - (b) – the comma after “privacy” has been deleted
  - (c)(1)(a) – “Explain” has been changed to “Explanation”
  - (c)(1)(b) – “Provide instructions” has been changed to “Instructions”
  - (c)(1)(c) – “Describe in general” has been changed to “General description of”
  - (c)(1)(d) – “Identify” has been changed to “Identification of”
  - (c)(1)(e) – “Identify” has been changed to “Identification of”
  - (c)(1)(f) – “Identify” has been changed to “Identification of”
  - (c)(1)(g)(1) – “Identify” has been changed to “Identification of”
  - (c)(1)(g)(2) – “provide” has been deleted
  - (c)(1)(g)(3) – “State” has been changed to “Statement regarding”
  - (c)(2)(a) – “Explain” has been changed to “Explanation”
  - (c)(2)(b) – “Provide instructions” has been changed to “Instructions,” and “provide” has been deleted
  - (c)(2)(c) – “Describe in general” has been changed to “General description of”
  - (c)(3)(a) – “Explain” has been changed to “Explanation”
  - (c)(3)(b) – “State” has been changed to “Statement regarding”
  - (c)(4)(a) – “Explain” has been changed to “Explanation”
  - (c)(5)(a) – “Provide instructions” has been changed to “Instructions”
  - (c)(6)(a) – “Provide consumers with a” has been changed to “A”
- In subsection (c)(1)(e), the second sentence has been deleted because it is duplicative of the definition of “categories of sources.”
- In subsection (c)(1)(g), a period has been added to the end of the heading. This is a formatting change for consistency with other regulations.
- In subsection (c)(1)(g)(3) and (c)(9), the “minors” has been changed to “consumers” to align with the express language of the statute.

### **§ 999.312. Methods for Submitting Requests to Know and Requests to Delete.**

- In subsection (c), the word “by” has been changed to “with” for grammatical reasons.

### **§ 999.313. Responding to Requests to Know and Requests to Delete.**

- In this section, the following changes have been made for grammatical reasons:
  - (a) – “on the phone” has been changed to “orally”
  - (c)(3) – “of” has been added after “if all”
  - (c)(10)(d) – “which” has been changed to “whom”
  - (c)(10)(e) – “which” has been changed to “whom” and “and” has been added after “;”
  - (d)(6) – a comma has been added after “delete”
- In subsections (c) and (d), a period has been added to the end of the heading. This is a formatting change for consistency with other regulations.
- In subsection (c)(8), the phrase “by the business to cover a longer period of time” has been added after “Unless otherwise specified.” This change is necessary for clarity and to align with the language of the statute.

#### **§ 999.314. Service Providers.**

- In subsection (b), the words “second business” have been changed to “second entity” for clarity and to align with the language of the statute.
- In this section, the following changes have been made for grammatical reasons:
  - (c)(1) – a comma and the word “that” after “personal information” have been deleted
  - (c)(4) – a comma has been deleted

#### **§ 999.315. Requests to Opt-Out.**

- In this section, the following changes have been made for grammatical reasons:
  - (a) – “plugin” has been changed to “plug-in”
  - (b) – “when determining which methods consumers may use to submit requests to opt-out” has been moved from the middle to the end of the first sentence
  - (c) – “plugin” has been changed to “plug-in”
  - (f) – “plugin” has been changed to “plug-in”
- Subsection (c) has been withdrawn and the subsequent sections re-lettered accordingly. The OAG may resubmit this section after further review and possible revision.
- In newly lettered subsection (f), the words “that does not submit proof” have been changed to “if the agent cannot provide to the business the consumer’s signed permission demonstrating” for clarity and to be consistent with other parts of the regulation.
- The reference to Civil Code, section 1798.135 has been deleted from the “Authority cited” section for accuracy.

#### **§ 999.317. Training; Record-Keeping.**

- Subsection (g)(3) has been changed to (g)(2)(a). This is a formatting change for accuracy and clarity because this subsection pertains specifically to the requirement set forth in subsection (g)(2).
- Subsection (g)(4) has been changed to subsection (h). This is formatting change for accuracy and clarity because subsections (g)(1) through (g)(3) are requirements while newly lettered subsection (h) is optional.
- Subsection (g)(5) has been re-numbered to (g)(3) due to other formatting changes.
- In this section, the following changes have been made for grammatical reasons:
  - (a) – “of” has been added after “informed of all”
  - (b) – “the business responded to said” has been changed to “it responded to the”
  - (g) – two commas have been deleted
- newly lettered subsection (g)(2)(a) – “identify” has been changed to “disclose”
- In the newly lettered subsection (g)(2)(a), the reference has been corrected from (g)(1) to (g)(2) for accuracy.

#### **§ 999.318. Requests to Know or Delete Household Information.**

- In the heading and in subsections (a)(1) and (c), the words “requests to access” and “request access” has been changed to “requests to know” and “request to know” to be consistent with other parts of these regulations.

**§ 999.323. General Rules Regarding Verification.**

- In subsection (c), the words “and for security or fraud-prevention” have been changed to “security, or fraud-prevention” for grammatical reasons.

**§ 999.324. Verification for Password-Protected Accounts.**

- In subsection (a), the word “themselves” has been changed to “themselves” for grammatical reasons.

**§ 999.325. Verification for Non-Accountholders.**

- In this section, the following changes have been made for grammatical reasons:
  - (b) – “, which the business” has been changed to “that it”
  - (d) – “reasonable degree or a reasonably high” has been changed to “reasonable or reasonably high”
- In subsection (c), the words “, which is a higher bar for verification” has been deleted as unnecessary and duplicative.
- In subsection (d), the words “and documents” have been deleted as unnecessary.
- In subsection (e)(2), the words “non-name identifying information” has been changed to “personal information” to be consistent with other parts of these regulations.
- In subsection (g), the words “on a yearly basis” has been deleted and “at least at least once every 12 months, in connection with Civil Code section 1798.130, subdivision (a)(5)’s requirement to update the privacy policy” has been added to the end of subsection for accuracy and clarity and to be consistent with the statute.

**§ 999.326. Authorized Agent.**

- In subsection (b), the statutory reference has been corrected from “4000 to 4465” to “4121 to 4130” for accuracy.
- Subsection (c) has been withdrawn and the subsequent sections re-lettered accordingly. The OAG may resubmit this section after further review and possible revision.
- In newly lettered subsection (d), the word “purpose” has been changed to “purposes,” and the word “for” has been deleted before “verification” and “fraud prevention” for grammatical reasons.

**§ 999.330. Consumers Under 13 Years of Age.**

- In this section, the following changes have been made for grammatical reasons:
  - (a)(1) – “children” has been changed to “a child”
  - (a)(2)(f) – “where” has been changed to “as long as”
- In subsection (a)(2)(a), the words “physically or electronically” have been deleted because they are duplicative of the defined term “signed” and thus, unnecessary.
- In the statutory reference section, “(a)(6)” has been deleted after “1798.185” as unnecessary.

**§ 999.331. Consumers 13 to 15 Years of Age.**

- In the heading, the words “13 to 16 Years of Age” has been changed to “13 to 15 Years of Age” to align with the language of the statute.

- In subsections (a) and (b), the words “years of age” have been added after “at least 13” for consistency with other parts of these regulations.

**§ 999.332. Notices to Consumers Under 16 Years of Age.**

- In subsection (b), the words “of such minors without their affirmative authority” have been changed to “without the affirmative authorization of consumers at least 13 years of age and less than 16 years of age” for accuracy and grammatical reasons.

**§ 999.336. Discriminatory Practices.**

- In this section, the following changes have been made for grammatical reasons:
  - (d)(1) – “\$5 per month” has been changed to “\$5-per-month”
  - (d)(2) – “to their email address” has been changed to “by email,” and “request to delete as to” has been changed to “request to delete with regard to”
  - (d)(4) – “value of the coupons are reasonably” has been changed to “value of the coupons is reasonably,” and “as to” has been changed to “with regard to”
- In subsection (d)(4), the word “discounts” has been changed to “coupons” for accuracy and clarity.

**§ 999.337. Calculating the Value of Consumer Data.**

- In subsection (a), the words “To estimate the value of the consumer’s data,” has been deleted as unnecessary and duplicative.
- In subsections (a)(1) through (a)(8), the semi-colons at the end of each section have been changed to periods for grammatical reasons.

**Article. 7. Severability; § 999.341**

This section has been deleted as unnecessary.