

12<sup>th</sup> March 2020



The California Consumer Privacy Act, otherwise known as the CCPA, came into effect on January 1, 2020. The act could be a frontier for data privacy across the USA. California has a population of more than 39 million people, and these regulations will affect a myriad of small and medium-sized businesses across the world, particularly funds and Captives which are registered in the Cayman Islands. Below you can see some of the biggest differences and similarities between the CCPA and GDPR and how it might affect your firm.

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## Scope

Who does it protect? The CCPA protects "consumers" who are natural persons and who must be California residents. Whilst the GDPR protects "data subjects," who are natural persons and does not specify residency or citizenship requirements. Read more on the differences below:



## TERRITORIAL & MATERIAL SCOPE

### Territorial scope

The GDPR applies to organisations outside the EU if they offer goods or services to or monitor the behavior of persons within the EU. The CCPA applies to businesses that do business in California and (although not explicitly mentioned) the CCPA appears to apply to a business established outside of California if it collects or sells California consumers personal information while conducting business in California

### Material scope

The GDPR applies to the processing of personal data by automated means or non-automated means if the data is part of a filing system. The CCPA does not specifically delineate a material scope, but its obligations cover "collecting," "selling," or "sharing" personal information. Personal information (CCPA) or data (GDPR) being any information that directly or indirectly relates to an identified or identifiable individual or under CCPA Consumer or household

## DIFFERENCES

### CCPA

*Personal Information* under the CCPA does not cover publicly available data. The CCPA does not separately define nor categorise *sensitive data* or *special categories of personal data*.

### GDPR

Personal Data under the GDPR covers publicly available data. The GDPR prohibits the processing of special categories of personal data

## PROCESSORS AND CONTROLLERS

### Processors

Although "processors" under the GDPR also bear similarity to "service providers" under the CCPA, when compared to the CCPA, the GDPR places more direct and detailed obligations on processors

### Controllers

"Controllers" under the GDPR bear similarity with "businesses" under the CCPA, as both are responsible for complying with the obligations under the respective laws. Some of the requirements of the GDPR, nonetheless, also apply to "processors," which are entities that process personal data on behalf of controllers and under the direction of controllers

## DIFFERENCES

### CCPA

The CCPA obligations apply to an organisation ("business") that:

1. Is for-profit  
Collects consumers' personal information or on behalf of which such information is collected
2. Determines the purposes and means of the processing of consumers' personal information
3. Does business in California  
meets any of the following thresholds:
  - a. has annual gross revenue in excess of \$25 million;
  - b. alone or in combination, annually buys, receives for the business's commercial purposes,
  - c. sells or shares for commercial purposes the personal information of 50,000 or more consumers, households, or devices; or derives 50% or more of its annual revenues from selling consumers' personal information.

### GDPR

GDPR obligations apply to "controllers," which can be natural or legal persons, irrespective of whether their activity is for profit or not, regardless of their size and whether they are private law or public law entities.

## **LEGAL RIGHTS**

Both the GDPR and the CCPA include provisions with regards to the information organisations must provide to individuals when collecting and processing their personal information.

Unlike the GDPR, the CCPA does not distinguish between the notice for collecting information directly from individuals and the notice when information is obtained from other sources.

Both the GDPR and the CCPA establish a right of access, which allows individuals to have full visibility of the data an organisation holds about them: they can obtain details about the data being processed but also copies of the data items themselves.

## **DIFFERENCES**

### **CCPA**

The rights of access under CCPA applies only to personal information collected in the 12 months prior to the request. The deadline to respond to such a right is 45 days of receipt of the consumer's request. It could be extended with an additional 45 days, but notice should be given to the consumer within the first 45 days.

### **GDPR**

The rights of access under CCPA applies only to personal information collected in the 12 months prior to the request. The deadline to respond to such a right is 45 days of receipt of the consumer's request. It could be extended with an additional 45 days, but notice should be given to the consumer within the first 45 days

Both the GDPR and the CCPA allow individuals to request the deletion of their personal information and data subjects must be informed that they are entitled to ask for their data to be erased. The CCPA requires that a link with the title "Do Not Sell My Personal Information" is provided on the homepage of the business.

### **CCPA**

The scope of this right under CCPA is not limited to the business that collects personal data but also impacts third parties to whom data has been sold/passed on.

### **GDPR**

The scope of this right under GDPR is not limited to the data controller but also impacts third parties such as recipients, data processors, and sub-processors that may have to comply with erasure requests.