

US Data Privacy Law Compliance Checklist

July 2023

The effective dates of new U.S. data privacy laws are closing in. Currently, nine states have passed comprehensive data privacy laws in the United States: California, Virginia, Colorado, Connecticut, Utah, Iowa, Indiana, Tennessee, Texas, Florida and Montana (the “US Consumer Privacy Laws”). The laws in California, Virginia, Colorado and Connecticut are currently effective. As such, businesses are encouraged to begin preparations now to permit adequate time to identify its specific obligations, consider the business impacts of these requirements and effectively implement a compliant program with minimal disruption.

While each state approaches data privacy regulation in different ways, the obligations imposed and rights created under the US Consumer Privacy Laws are similar in many respects.

The following table summarizes the primary tasks a business will need to complete in order to achieve compliance with the US Consumer Privacy Laws. Businesses can expect some states to further refine these data privacy laws through issuing regulations and providing additional guidance in the coming months. As such, businesses will need to maintain the ability to adjust to new developments under these (and other) state privacy laws while implementing the requirements set forth under this checklist.

Action

- Determine Whether Your Business is Subject to the US Consumer Privacy Laws.** Entities must determine whether they meet the jurisdictional threshold of the US Consumer Privacy Laws and whether such laws apply to the personal information processed by the business.
- Perform Data Mapping Analysis.** Understand how your company collects, processes, and shares covered personal information, including sensitive personal information, to determine your data privacy obligations.
- Assess Cybersecurity Posture and Implement Appropriate Cybersecurity Controls.** Evaluate cybersecurity program and identify gaps, if any, between current cybersecurity policies, practices, and controls and the statutory requirements. Implement necessary additional policies, practices and controls.
- Negotiate Existing, or New, Contracts with Vendors.** Enter into appropriate contracts with vendors that comply with the US Consumer Privacy Laws' content and data restriction requirements.
- Conduct Data Protection Assessments.** Engage relevant stakeholders and conduct data protection risk assessments (where required) to evaluate the risks and operational impacts of consumer rights regarding processing for targeted advertising or profiling, the sale of personal data, or the processing of sensitive data.
- Develop Processes to Facilitate Consumer Requests and Ensure Permissible Processing.** Develop (or update) mechanisms for accepting, tracking, verifying, and honoring consumer requests, and collecting and retaining personal information.
- Create Mechanisms to Enable Consumer Opt-Out of the Sharing or Sale of Personal Information.** Provide consumers with a compliant means to exercise their opt-out rights where the business sells their personal information, uses it for targeted advertising, or for profiling purposes.
- Implement Consent Mechanism for Collecting Sensitive Information or Personal Information of Minors.** Businesses that collect sensitive personal information or personal information from minors should develop appropriate mechanisms to obtain consent before the collection of such information.
- Revise Privacy Policies and Other Privacy Notices.** Revise privacy policy and other consumer notices to properly reflect the business's personal data processing activities, communicate the new rights available to consumers, and facilitate that exercise of such rights.
- Provide Training Program.** Train employees who are responsible for handling consumer inquiries to verify and handle those requests in a timely and consistent manner.

T +1 202 626 3600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.

© 2023 White & Case LLP