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## How Does the CCPA Affect My Business? Important Early Considerations For California Consumer Privacy Act Compliance

By Michael Hellbusch, Esq., CIPP/US, CIPP/E, CIPM

The California Consumer Privacy Act is the most stringent U.S. privacy law to date. It grants Californians novel rights to access, review, request deletion of their personal information, and to opt-out of its sale. Though it was signed into law one year ago, on June 28, 2018, the CCPA does not take effect until January 1, 2020. Despite the significant lead time to operational compliance, many businesses subject to the law have not yet started. Those that have may be aware that operationalizing compliance is not as easy as updating a privacy policy. The most important primary task is to clearly define the role your organization will play in the CCPA ecosystem.

The CCPA categorizes non-consumer entities as “businesses,” “service providers,” or “third parties.” An entity may be one or more depending on the circumstances, so it is important to identify how the law will treat your organization. This requires an evaluation of the personal information your organization processes, how it received it, and for what purpose. This article will address how the law defines each type of entity and how to clearly identify how the CCPA applies to your organization as a result.

### What is a “Business” under the CCPA?

An entity is a “business” pursuant to the CCPA if it is a for-profit entity that *collects and determines the purposes of processing* personal information, that does business in the State of California and satisfies one or more of the following thresholds: (1) Has annual gross revenues in excess of \$25 million dollars; (2) Alone or in combination, annually buys, receives for the business’ commercial purposes, sells, or shares for commercial purposes the personal information of 50,000 or more consumers, households, or devices; or (3) Derives 50 percent or more of its annual revenues from selling consumers’ personal information.

Notably, an organization may indirectly qualify as a business if it is the parent company or subsidiary of an entity that qualifies as a business and it shares common branding with that entity. Common branding means that it shares a name, service mark, or trademark with the business subject to the law. It is unclear whether parents or subsidiaries of CCPA-subject business are treated one-in-the-same as the CCPA-subject entities or whether they are considered separate business also subject to the CCPA. The ramifications for compliance between the parent and subsidiary may look quite different depending on the outcome.

There is a common misconception that the CCPA applies to a business that merely *collects* personal information about 50,000 or more Californians. This is based on a misreading of the second threshold for compliance which conflates “collection” of information with use for a commercial purpose. “Commercial purposes” means to advance a person’s commercial or economic interests. Collecting personal information to induce another person to buy a good or subscribe to a service is commercial purposes. This is in contrast to “business purposes” (i.e., operational purposes) which use personal information for things like processing and fulfilling orders, verifying customer information, or using analytics. Collecting an IP address to count the number of site visits is a business purpose; collecting it to send targeted advertising is a commercial purpose. Businesses should note this distinction carefully if they do not meet either of the other two thresholds.

### What is a “Service Provider” under the CCPA?

Another issue often overlooked is the application of the CCPA to “service providers.” Service providers process a business’ personal information for one or more business purposes. However, to qualify as a service provider, the entity must sign a written contract with the business that prohibits the service provider from retaining, using, or disclosing the personal information *for any purpose other than for the specific purpose of performing the services specified in the contract*

*for the business* (or other purposes permitted under the CCPA). Businesses are incentivized to create a service provider relationships whenever possible because doing so allows them to avoid liability for the service provider’s violations of the CCPA (so long as the business wasn’t aware of that the service provider intended to commit those violations). When the entity receiving personal information from a business does not meet the definition of a “service provider,” the recipient is deemed a “third party.”

Vendors who provide processing services for businesses may resist signing service provider contracts because doing so limits their ability to use the personal information collected from the business for their own commercial or non-business purposes. If a business shares personal information with a vendor who will not sign a service provider agreement or a similar contractual restriction, then the business will be deemed to have *sold* that information to a third party. Since a consumer has the right to opt-out of the sale of her personal information to third parties (but not the sharing of it with service providers), the business be faced with logistical and legal challenges in honoring the opt-out. Because of this most businesses will seek to implement service provider arrangements whenever possible.

### What is a “Third Party” under the CCPA?

Entities that are neither businesses nor service providers are “third parties” under the CCPA. Because of the way the CCPA defines a third party, as a catchall for entities who are not business or service providers, it is presumed that there is no other type of entity that exists within the data processing ecosystem. However, if a third party receives personal information about consumers from a business (as opposed to the consumer), and otherwise meets the definition of a business under the CCPA, it will be considered a “business” with its own obligations attendant to that designation. In other words, an organization doesn’t need to collect personal information directly *from* consumers in order to be deemed a “business.” Entities should not focus myopically on first-party relationships with consumers when determining what type of entity they are.

It is unclear whether third-parties are subject to CCPA enforcement. The only prohibition placed on third parties in the CCPA is that they may not further sell personal information about a consumer unless the consumer has received explicit notice and is provided an opportunity to exercise the right to opt out. While the attorney general has the authority to bring enforcement actions against any entity that violates the CCPA, it is not clear that courts would assert jurisdiction over foreign third parties with only tangential relationships with California.

Evaluating the legal relationships constructed by the CCPA will sometimes be very difficult. Strict scrutiny ought to be paid to your organization’s data collection, use, and sharing practices in order to determine how best to comply with the CCPA. From there, you may properly evaluate your compliance obligations.

Michael Hellbusch excels in several areas of law including cyber law, data security, and privacy issues. He has a broad range of experience both as a transactional lawyer and as a litigator. He focuses his practice on brand and reputation protection for clients in the online atmosphere. Contact Information: (714) 662-4691  
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## There's a Big Elephant in Your Business – Name it and Tame it!

There is an elephant in every business – and it's trampling company profits, scaring away customers and blocking valuable insights. What's your company's elephant? Is it returned mail? Fraudulent transactions? Bad business decisions? Beware, these problems all stem from one big beast – bad address data.

It's time to address the elephant. Effective communications, predictive analytics, fraud prevention and ultimately, your bottom line, all depend on how well you name and tame *your* beast. Let's see how facing address problems head on can help conquer company pain-points and lead your business into a more profitable year.

### Behold, the Bottom Line

77% of companies believe their bottom line is negatively affected by bad data. The other 23% may be in denial. Think about your company's business initiatives – what does undelivered mail cost you? What about missed opportunities to connect with clients? How many man hours are spent on cumbersome fraud prevention? Or, how impossible is it to find key insights within your data?

Let's try to quantify these elephants. Consider the "1-10-100 Rule". The \$1 is the "prevention cost" – the amount it costs to verify the accuracy of a record at the point-of-entry. This is the least expensive way to ensure data is clean and validated from the start – before it enters your database. The \$10 is the "correction cost" – the amount it costs to clean bad data in batch, after it enters your database. The increased cost reflects the negative impact to your business the longer the issue is left unresolved.

And finally, \$100 is the "failure cost" – the increased amount represents the costs businesses will pay if nothing was done to clean their bad data. It's a failure at this point because it's too late to do anything – a complete lost opportunity.

Simply put, bad data means higher costs and lower profits.

### Verify & Update Addresses to Personalize Communications

It's common for customers to provide the wrong address – albeit intentionally, or by accidentally mistyping information. But even when an address is entered correctly, it can go stale over time. In fact, 40 million people in the U.S. alone, or 14% of the population, move each year.

If you want to maintain communication with customers and prospects, an address verification process should be in place. Melissa's Global Address Verification solution can verify and standardize addresses at point-of-entry for more than 240 countries. And if you have outdated address data, you can utilize a change-of-address service to update addresses in batch.

### Fill in Missing Pieces for a Complete Customer Profile

Having correct customer addresses not only means direct mail reaches the intended recipient, but also helps you gain insight for improved communications. Melissa's Data Append Services take a small piece of your customer's profile and create a whole picture by filling in the blanks. From a single address – a customer's full name, phone number and email address can be added into their profile. Reaching customers via their preferred method of communication, as well as creating multi-touch campaigns, are proven strategies that boost response rates.

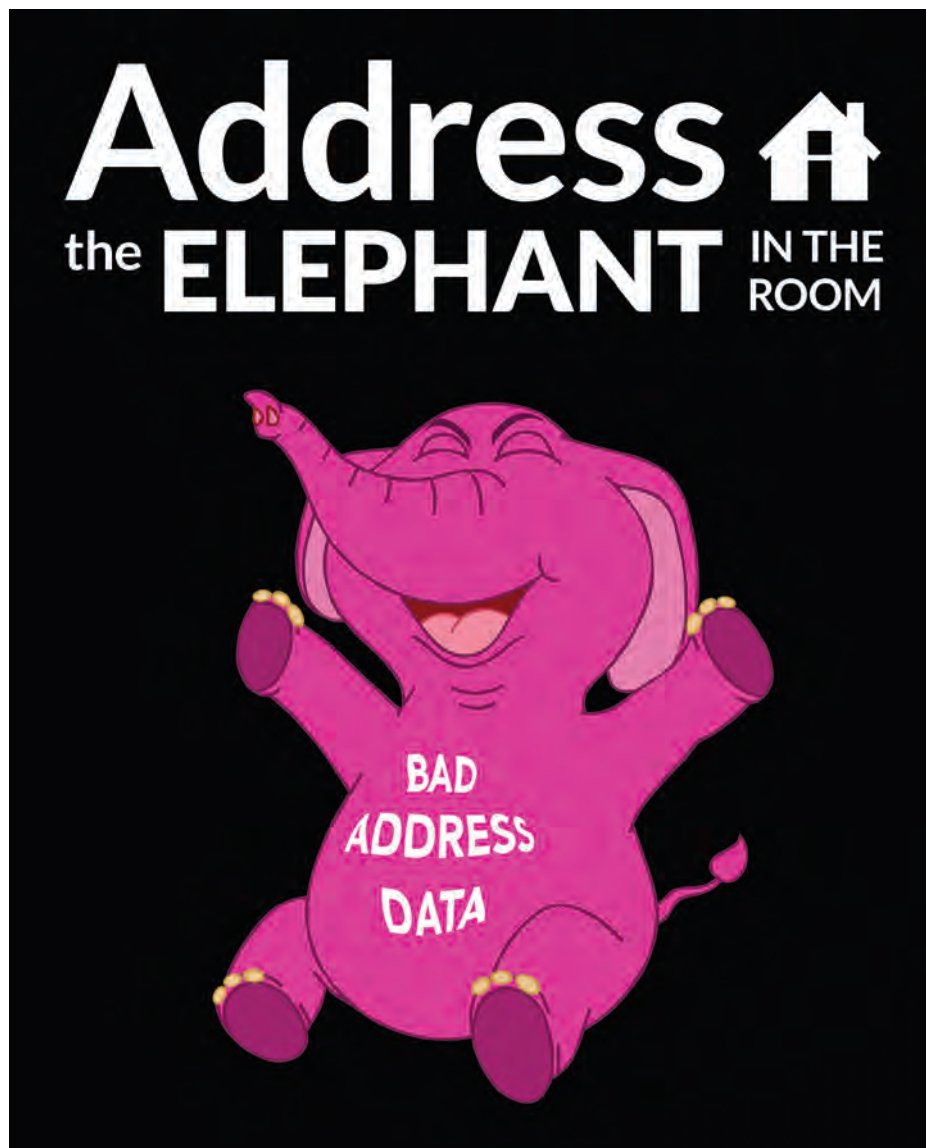
An encyclopedia of information about a single person, company or an entire household (demographics, psychographics, business firmographics and property data) can also be added. With a complete picture of your customer, creating more effective and personalized messaging becomes easier. You'll also be able to identify unique attributes of your best customers, so you can micro-target prospects just like them.

### Make Analytics More Impactful with Location Intelligence

Business decisions based on faulty analytics can cause lost sales – or more long-lasting effects like reputational damage. Yet accurate address data can be easily transformed into location intelligence that leads to smarter choices. Melissa's GeoCoder® helps leverage the power of clean addresses by converting them into exact longitude/latitude coordinates.

Those points can be plotted on a map to help you recognize geographic patterns that would otherwise go undetected. That information can be cross referenced with key demographics and used to develop targeted campaigns for clusters of prospects that have similar attributes.

GeoCoder also provides information like census tract/block number, voting district or country name with FIPS code to help optimize route planning and resource allocation, utilities management and risk assessment.



Other additional benefits of geocoding – improved logistics, decreased shipping costs, the ability to power retail store location and local search lookups, and more precise targeted marketing.

### Fight Fraud – the Easy Way

Having an identity verification process in place hinders money-laundering schemes, identity theft, chargebacks and many other forms of fraud. But most processes are time consuming for the company and the customer.

Melissa's Personator® Web Service verifies identity by confirming the given name matches the address in real-time. With Personator, you can easily tailor the service to your specific sign-up process and risk management requirements to ensure fast onboarding or e-commerce checkout while still protecting against fraud and money laundering.

Personator also ensures compliance in the areas of Anti-Money Laundering (AML), Politically Exposed Persons (PEP) and Bank Secrecy Act (BSA).

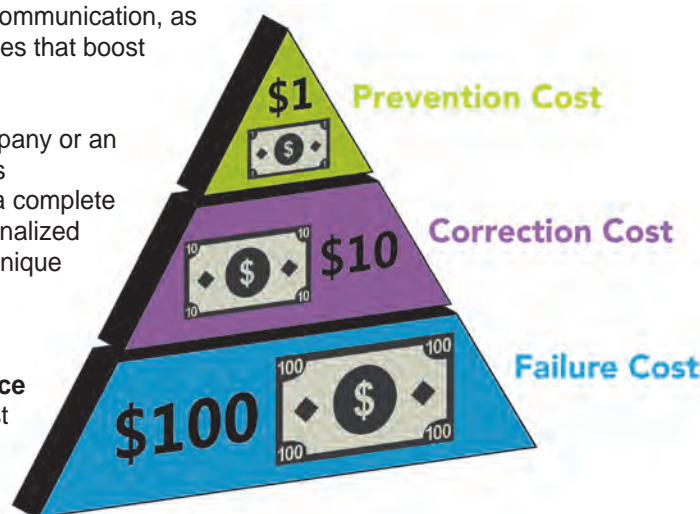
### Name it and Tame it

The first step towards taming the elephant is to name it – determine what's costing you money, clients and insight. Global Address Verification is a perfect start. It will verify and standardize international addresses at point-of-entry so you can increase ROI,

reduce fraud and realize better business decisions.

After 34 years of data quality and address management expertise, Melissa knows it all starts with a clean address. We've helped tens of thousands of organizations around the world realize the true potential in their data by first cleaning up outdated and inaccurate addresses. Then, we can assist in transforming your address data into comprehensive customer profiles, fraud prevention initiatives and predictive analytics to drive better business decisions.

Ready to name and tame your elephant? Call 1-800-MELISSA. Or visit: [i.melissa.com/nameandtame](http://i.melissa.com/nameandtame)





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## DataON is Transforming On-Premises Compute and Storage with Microsoft Azure Stack HCI for Hybrid Cloud

Many companies are facing challenges with traditional Fibre Channel and iSCSI storage area networks (SANs), such as frequent disk failures, increased maintenance costs, space-confinement challenges, costly software licensing fees, poor performance and an unsatisfactory eco-footprint. IT managers are now looking to make a change in its on-premises infrastructure by choosing Microsoft Azure Stack HCI solutions to provide high performance, simpler operations, enterprise-grade security, and lower costs.

Azure Stack HCI uses Hyper-V for its hypervisor and Storage Spaces Direct for software-defined storage. Both are included in the Windows Server 2019 Datacenter edition operating system. Storage Spaces Direct uses industry-standard servers with locally-attached drives to create highly available, highly scalable, software-defined storage at a fraction of the cost of traditional SANs. Its converged or hyper-converged architecture radically simplifies procurement and deployment, while features such as caching, storage tiers, and erasure coding—together with the latest hardware innovations like Remote Direct Memory Access (RDMA) networking and solid-state drives—deliver unrivaled efficiency and performance.

DataON has thirty-year history of working with the technology that enables Azure Stack HCI, with over 150PB of Storage Spaces Direct data deployed with over 650 enterprise customers. We were the first company to have a

Windows Server certified platform for Storage Spaces, the first certified Microsoft partner for Windows Server Software-Defined (WSSD) data center for Windows Server 2016, and one of the first companies to offer Azure Stack HCI nodes.

Based in Southern California, DataON has been providing companies of all sizes with Microsoft solutions that have modernized our customers' IT infrastructure. As an Intel Platinum Partner, DataON solutions are powered by the latest Intel technologies, including 2<sup>nd</sup> generation Intel® Xeon® Scalable processors, Intel® NVMe drives, and Intel® Optane™ SSDs and persistent memory. Our solutions are also validated Intel® Select Solutions so you can spend less time designing and evaluating hardware and get up and running faster.

DataON was named one of the '20 Most Promising Microsoft Solution Providers 2018' by CIO Review, a leading enterprise technology magazine. CIO Review believes that DataON is one of the companies poised to be the next generation of leaders in providing solutions to influence and create significant impact to the industry.

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