

Marketplace
Risk.

MARKETPLACE RISK MONITOR



VOLUME 1,
ISSUE 2



@marketplaceorg

www.marketplaceassociation.org

info@marketplaceassociation.org

The Marketplace Monitor - Issue 2!

July 23, 2024

Hello, and welcome to the second issue of the Marketplace Monitor! Hopefully, everyone is fully functional again after Friday's CrowdStrike outage.

We bring you big news on the U.S. presidential front and several new state and international privacy developments. Our top stories are below. As always, we'd love to hear from you. Please reach out with your questions, and let us know if you're tracking anything not yet on our list. Shoot Heather a note at hstewart@marketplaceassociation.org.

Your support is invaluable. Help us spread the word by forwarding this email and encouraging others to subscribe [here](#)!

AMERICAN STATES: ENACTED & ONGOING LEGISLATION



Photo credit: California State Legislature, courtesy of Canva Commons

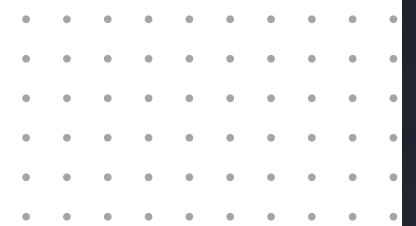
Just a handful of U.S. states are still in session, but California in particular remains busy.

California Privacy Protection Agency Releases Notice of Proposed Rulemaking and Proposed Regulations to Implement the DELETE Act

On July 5, 2024, the California Privacy Protection Agency (CPPA) began a [45-day public comment period](#) on proposed regulations for data broker registration under the Delete Act. The draft regulations detail annual registration requirements (including a \$400 fee), define key terms, and clarify disclosure requirements. California's [Delete Act](#) defines data brokers as entities that collect and sell personal information of individuals without a direct relationship. The draft regulations narrow the term "direct relationship," broadening the range of organizations needing to register. They state that a direct relationship is lost if a customer doesn't interact with the business for three years and that a business is still a data broker if it sells information not collected directly from the consumer.

Public comments are due by August 20, 2024 and can be submitted by email at databrokers@cppa.ca.gov with 'Preliminary Comment DROP 06-24' in the subject line. A virtual public hearing will also be held on August 20, 2024.

California's Various Active Marketplace & AI Bills



[AB1791: Digital Content Provenance](#)

Status: Amended and re-referred to the Assembly Committee on Appropriations (June 20, 2024)

Summary: California's AB1791 aims to combat the spread of misleading content on social media by setting standards for the origin of digital content. It requires companies using generative AI to adopt open standards and verify the authenticity of their content.

[AB2013: Artificial Intelligence Training Data Transparency Act](#)

Status: Rereferred to the Committee on Appropriations (July 3, 2024)

Summary: AB2013, the Artificial Intelligence Training Data Transparency Act, will significantly influence marketplace companies using AI by introducing transparency requirements. Companies must disclose the training data for their AI systems, enhancing consumer trust and necessitating compliance with new transparency standards. This may involve revising data management practices to ensure privacy and proprietary information are protected. The act aims to provide consumers with detailed information about AI systems, fostering informed decision-making and greater accountability for AI-driven platforms.



Photo credit: California State Legislature, courtesy of Canva Commons

[SB707: Responsible Textile Recovery Act of 2024](#)

Status: Referred to the Committee on Appropriations, July 3, 2024

Summary: SB707 introduces an Extended Producer Responsibility (EPR) program, affecting marketplace companies and consumers. If the bill were to pass, producers and sellers, including those on online marketplace platforms, must join a Producer Responsibility Organization (PRO) to manage textile recycling. Online marketplaces will have increased reporting duties for high-revenue sellers. Consumers will likely see a shift towards sustainable products, and the environment may benefit from reduced textile waste. The bill promotes a circular economy but may also lead to higher operational costs and compliance requirements for sellers.

[SB942: California Artificial Intelligence Transparency Act \(CAITA\)](#)

Status: Approved by the Assembly Committee on Judiciary (July 2, 2024)

Impact Summary: The most recent version of California's SB942 (as of July 3, 2024), will significantly affect marketplace companies and users by requiring AI-generated content to be clearly labeled; mandating the development of tools for users to check if content is AI-generated, enhancing content authenticity verification; obligating marketplace companies to label AI-generated content; and ensuring third-party licensees maintain AI system disclosure capabilities.

Florida Finalizes Implementing Regulations for the Florida Digital Bill of Rights



[The Florida Department of State](#) has finalized implementing regulations for the Florida Digital Bill of Rights Act ([SB 262](#)). The regulations will take effect on July 18, 2024 and cover four topics: (1) authorized persons, (2) data security, (3) enforcement, and (4) standards for authenticated consumer requests. Draft regulations were originally released in April and the final version appears has changed little.

The Florida regulations are significant in two primary ways. First, they provide that a business 'willfully disregards' that a user is a child if, based on readily available facts or circumstances, a controller "should reasonably have been aroused to question whether a consumer was a child and thereafter failed to perform reasonable age verification." Numerous state privacy laws have adopted an "actual knowledge or willfully disregards" knowledge standard for the application of child data protections, but typically do not offer further guidance on this term. The Florida regulations are the first instance where this standard has been directly tied to age verification.

Second, the data security provisions require covered entities to maintain security practices that "comply" with the risk management framework and standards adopted by the National Institute of Standards and Technology or US Department of Commerce. Overall, the data security provisions are likely to be more prescriptive than the data security requirements in other state privacy laws.



Photo credit: Florida State Legislature, courtesy of Canva Commons

Pennsylvania's Consumer Data Privacy Act

The Pennsylvania Consumer Data Privacy Act ([HB 1201](#)) is one of the last comprehensive consumer privacy bills of 2024. It is similar to Connecticut's privacy law but has a few notable differences:

1. Consumer Rights: There are ambiguities in the drafting related to consumer rights of access and portability.
2. Biometric Data: The definition of biometric data is narrower, excluding information converted to a "mathematical representation" that cannot recreate the original data.

3. Enforcement: The Attorney General is directed to create necessary regulations for enforcement.

The bill passed the State House in March with a 139-62 vote. On June 26, 2024, the Senate Communications and Technology Committee amended the bill, extending its effective date from six months to one year after enactment, and unanimously advanced it. However, on July 2, 2024, it was recommitted to the Senate Communications and Technology Committee, where it currently remains.

Delaware AG Launches Privacy Portal

The [Delaware Personal Data Privacy Act](#), set to take effect in January 2025, prompted the Attorney General's

office to launch an informational portal on July 8. This portal offers guidance for consumers, parents, and businesses.



A notable aspect of the portal is its section for parents. While some organizations argued that the Act uniquely prohibits the use of adolescent data for targeted advertising, the portal clarifies that the Attorney General's interpretation aligns with most state privacy laws, requiring opt-in consent for such data use.

AMERICAN NATIONAL

Hickenlooper to Introduce Bill to Provide Third-Party Audits for AI

On July 1, 2024, U.S. Senator John Hickenlooper [announced](#) the introduction of the Validation and Evaluation for Trustworthy (VET) AI Act. This bill directs the National Institute of Standards and Technology (NIST) to collaborate with federal agencies, industry, academia, and civil society to develop guidelines for certifying third-party evaluators. These evaluators will provide independent assurance and verification of AI companies' risk management and compliance with AI guardrails.

Hickenlooper emphasized the need for rapid development of sensible AI regulations to prevent potential harm. The bill aims to create a pathway for independent evaluators to verify AI companies' claims about their training, safety exercises, and risk management practices. This initiative is part of Hickenlooper's broader "Trust, but Verify Framework," which seeks to increase transparency and consumer protection in AI.

The bill also calls for the National Institute of Standards and Technology (NIST) to develop voluntary specifications for AI system developers, establish an Advisory Committee to recommend certification criteria, and conduct a study on the AI assurance ecosystem.

Divide Remains on American Privacy Rights Act (APRA)

On July 11, 2024, the U.S. Senate Committee on Commerce, Science, and Transportation held a [hearing](#) titled "The Need to Protect Americans' Privacy and the AI Accelerant." The hearing focused on how the rapid advancement of AI has increased the urgency for a federal comprehensive privacy law. Key discussions included the impact of AI on online surveillance, consumer profiling, and the creation of deep fakes. Witnesses emphasized the need for clear guidelines to protect individual privacy and ensure responsible AI development. (As a reminder, the Marketplace Industry Association shared a letter with the House Energy and Commerce Committee in advance of its expected markup of the American Privacy Rights Act (APRA). In it, we shared our concerns that the current version fell short of creating the clear, consistent, and workable national privacy standard we believe is necessary for both consumers and businesses.)



Photo credit: John Hickenlooper in 2023, Anna Moneymaker, Getty Images.

President Biden Bows Out as Democratic Nominee, Endorses VP Harris As His Successor

President Joe Biden has withdrawn from the 2024 presidential race, endorsing Vice President Kamala Harris as his successor. This move comes amid concerns within the Democratic Party about Biden's ability to defeat Donald Trump. Harris is now working to secure the Democratic nomination, with many party leaders and organizations quickly rallying behind her. Biden's campaign has been rebranded as Harris for President, and she is focusing on uniting the party and preparing for the upcoming election.

INTERNATIONAL

The EU AI Act was published in the Official Journal of the European Union and will Enter into Force on August 1, 2024

The EU AI Act, officially published in the EU's [Official Journal](#), will come into force on August 1, 2024, with full implementation by mid-2026. This comprehensive regulatory framework introduces a risk-based approach, banning practices like social credit scoring and untargeted facial recognition databases. It mandates strict requirements for high-risk AI applications in law enforcement and critical infrastructure, and imposes transparency obligations on general purpose AI models and chatbots. Additionally, powerful AI systems must conduct systemic risk assessments.



Photo credit: European Parliament, Reuters, May 2023. Used with permission.

Thanks for reading!

Help us spread the word by forwarding this newsletter to your friends and colleagues. You can also receive our future biweekly newsletter editions straight to your inbox by signing up [here](#).



Marketplace Risk.



@marketplacerisk

www.marketplacerisk.com

info@marketplacerisk.com