

EMPLOYER CCPA FAQs #8: DOES THE CCPA APPLY TO NON-PROFIT EMPLOYERS?

May 10, 2019

As our series of FAQs regarding the California Consumer Privacy Act (“CCPA”) continues we are examining the scope of the law’s jurisdiction. These FAQs should help employers determine if they are required to comply with the CCPA and if so, what steps their HR professionals and IT departments should take to be in compliance.

As a reminder, the CCPA is a new privacy law that applies to data collected about California-based employees. The CCPA will go into effect in early 2020, and employers who must comply should be addressing compliance obligations now.

For US employers who have not had to comply with the GDPR, the requirements of the CCPA will likely require a new analysis of the treatment of employee-data and implementation of updated or new data policies. For employers with European operations, one key area of interest is the degree to which the CCPA aligns with the European General Data Protection Regulation (“GDPR”). Employers in compliance with the GDPR will likely already be familiar with many of the requirements of the CCPA – and with some assistance, should be able to bring their operations and policies into compliance with respect to California-based employees.

BCLP offers a complete compliance program for employers that includes a formal gap assessment and tailored policies, procedures, and protocols to close identified gaps. Bryan Cave Leighton Paisner LLP has a team of knowledgeable lawyers and other professionals prepared to help employers address their obligations under the California Consumer Privacy Act. If you or your organization would like more information on this or any other employment issue, please contact an attorney in the Employment and Labor practice group.

QUESTION #8: DOES THE CCPA APPLY TO NON-PROFIT EMPLOYERS?

Generally, no.

The CCPA applies only to “businesses” – a term that is defined, in relevant part, as including “any legal entity that is organized or operated for the profit or financial benefit of its shareholders or other

owners” and does business in the State of California.^[1] Based upon this definition most not-for-profit organizations will be exempt from the CCPA.

Like all good general rules, there is an important exception. Non-profits that “control or are controlled by” or that “shares common branding” with a business may be subject to the CCPA. For this purpose, “control” and “controlled” means ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting security of a business; control in any manner over the election of a majority of the directors, or of individuals exercising similar functions; or the power to exercise a controlling influence over the management of a company.^[2] “Common branding” means a shared name, servicemark, or trademark.^[3]

[1] CCPA, § 1798.140(c)(1).

[2] CCPA, § 1798.140(c)(2).

[3] *Id.*

RELATED PRACTICE AREAS

- Employment & Labor

MEET THE TEAM



Stephen J. Evans

St. Louis

steve.evans@bclplaw.com

[+1 314 259 2387](tel:+13142592387)

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should

consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.