

FOCUS

President's Message

Carlos I. Cardelle

Exciting start to 2019! Happy Spring!

Our Chapter has been actively planning and organizing itself for 2019. Since our last newsletter, along with our dedicated Sponsors, we designed - and in many cases - reimagined our events for 2019. One of our new programs, for example, is our ACC South Florida Coffee Talk series - aimed at learning and earning CLE credits during morning sessions hosted by one of our outstanding law firms. We held our first Coffee Talk in February, hosted by Shook, Hardy & Bacon at their downtown Miami offices - learning about the upcoming California Consumer Protection Act and commercial arbitration. We are excited about our future Coffee Talk events and hope you find them as educational and rewarding as we planned them to be. In early March, Akerman took us to a cooking class (Tour of France) in Palm Beach County and we closed out the month practicing our golf swings at Top Golf thanks to Bilzin Sumberg! We have included some photos of these events in the newsletter - enjoy! Thank you to Shook Hardy, Akerman and Bilzin for such great events!

We are happy to report that we have selected the Seminole Hard Rock in Hollywood as the location for our 10th Annual CLE conference in September - please stay tuned for more details. We thank all the Chapter members who have volunteered to help plan this great event



- volunteering for our CLE conference is a great way to learn about our Chapter. We also selected our 2019 Law School Ambassadors - renewing our commitment to our community. Our ambassadors hail from Nova Southeastern, FIU and St. Thomas University law schools. As we did last year, we will highlight each of them in our newsletters. Our Law School Ambassadors play a big role in the success of our events - I encourage all of you to reach out to them during our events; they are eager to learn about the corporate counsel and in-house profession. Finally, speaking about our commitment to the community, we have a robust schedule of events planned for our community service and outreach efforts. We have events planned in each of our three counties - including volunteer opportunities at legal aid clinics. As always, please watch your email inbox for upcoming events. You can always keep current by visiting our website via acc.com.

Please know your Board of Directors is always working hard to make this the best ACC Chapter in the country. Please always feel free to reach to me, our Membership Chair, Alan Kramer or our Executive Directors, Christina Kim with any ideas or thoughts for our Chapter! I look forward to meeting as many of you as I can in 2019!

See you soon!

Carlos I. Cardelle
President, ACC South Florida Chapter

ACC South Florida Upcoming Events

June 26, 2019

Wine Down Wednesday:
An Evening of Wine Tasting
with Jackson Lewis P.C.

July 18, 2019

Coffee Talk CLE
presented by Foley & Lardner

July 31, 2019

Member Appreciation Event
hosted by Baker McKenzie

JOB OPPORTUNITIES

If you would like to be included on a distribution list for South Florida in-house employment opportunities, please e-mail Christina Kim at southflexec@accglobal.com. E-mails will be sent out on a periodic basis based on availability. Distribution list is only for ACC South Florida members.

How to Elevate Your In-house Practice by Taking a Page from the CFO Playbook

By Neil Peretz, Contract Wrangler, Inc.

Companies need lawyers closer to their day-to-day business operations to handle the new, complicated, and increasingly global legal landscape. The proliferation of new regulations, combined with the need for businesses to move faster than ever before, present major opportunities for in-house attorneys. But before you demand a spot on the executive committee, it's time for an attitude check.

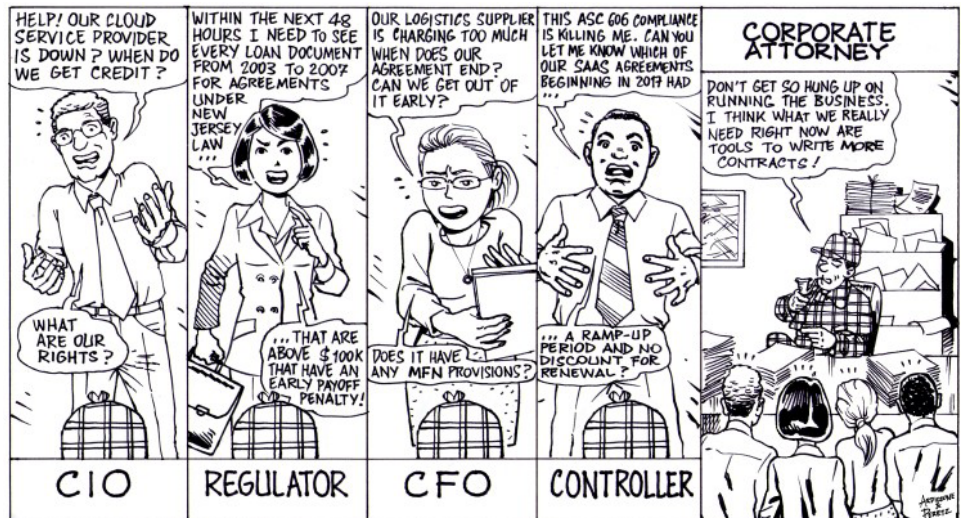
In order to truly succeed in-house, you need to become an involved business partner, rather than a detached advisor. It's no longer your job to be a detached professional advisor whose work is judged on the sheer number of hours worked or "points scored" by finding flaws and dangers around every bend.

These days, the most successful, indispensable in-house attorneys are those who become a member of the company's core senior leadership team. To do that, attorneys would be wise to learn lessons from the chief financial officer (CFO) world, where a similar transition occurred over the last decade. Previously, the CFO was considered a "scorekeeper" who would tally results and perhaps push others for budget forecasts. Today, the successful CFO has transitioned from keeping score to becoming a day-to-day partner with the CEO in growing the business.

How did the CFOs make this transition? And are there lessons for lawyers who want to follow in their footsteps from the role of specialist counselor to core decisionmaker?

Embrace digital transformation

A 2018 study by Accenture involving over 700 senior finance leaders revealed that a key contribution of top CFOs was to lead many of their organization's digital transformation efforts. The result affected the entire company, not just the financial or accounting department. The entire C-suite had new data and insights to guide the business, which led to better corporate decision-making and growth. Rather than



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focusing on tools targeted solely at making their own life easier, the CFOs set out to make the entire senior team smarter.

Find new value

Over 80 percent of the successful CFOs surveyed focused on how to go beyond their traditional purview of cost-cutting to finding new value or revenue streams for the business. At Adobe, for example, the CFO was integral to the decision to launch a cloud-based subscription service that has propelled the company's growth. In addition to helping the company's financial performance, this strategy also helped make other team members — ranging from legal ops to product to sales and marketing — into revenue-enhancing heroes. It's not a surprise that these other senior executives suddenly wanted more CFO involvement in key business decisions.

Share information widely

More than two-thirds (67 percent) of successful finance leaders worked to train non-finance executives how to take aspects of financial planning, budgeting, and forecasting into their own hands, according to the Accenture study. Rather than hoard information as a source of power, the top finance executives built their power base by essentially deputizing

employees in other departments to add a financial perspective and fiscal discipline to their own work.

So, what can in-house attorneys looking for personal and professional growth learn from the tremendous strides made by CFOs?

1. Lawyers have a tremendous opportunity to enable the company's digital transformation because almost all of their company's core business relationships pass through their hands. The next time you work on a business agreement for a colleague, start asking how that business relationship will be operationalized after the contract is signed. Are there key systems that need to be installed to monitor performance or record goals? As a lawyer, you are at the forefront of identifying key business processes that can be brought from separate paper archives into the digital shared world.
2. Lawyers often overlook the opportunity to leverage technology investments by the company to make themselves more accessible and efficient. For example, in the software industry, large engineering teams utilize systems like Trello and Jira to assign and track tasks, and cloud-based applications like Google Docs to enable team- and project-based collaboration. Your company may already have

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a license to use tools like these, along with expert users just down the hall from you. Examine your ability to utilize this technology for your law department. A task could be assigned to a lawyer through a system like Jira or Trello and be fed into a prioritization queue that each lawyer could manage, easing collaboration and communication with those outside the legal department. Similarly, using a shared Google doc across multiple departments is a low-cost way to gather feedback or seek approvals where there are many internal stakeholders in an agreement under negotiation.

3. Remember that the law does not just create roadblocks and restrictions: It can also create new opportunities for competitive advantage for your company. If you can find the most cost-effective or efficient method to comply with a new rule, you can gain a tremendous lead on your competitors. Your job as a business partner is to think about how something could be done in a compliant manner by digging into the history, spirit, and nuance of rules, a task for which you are uniquely qualified.

4. Learn what would make your colleagues successful in their jobs, rather than focusing solely on your department's accomplishments. Find out what your internal clients need most to excel in their own areas. Learn about which information will enable them to make better decisions on a day-to-day basis, rather than just serving as their scrivener at the outset of a new business relationship, or their advisor after a mishap has already occurred. You helped them form those external business relationships, negotiating and drafting agreements with everyone from software providers to landlords to investment bankers. Find a way to help everyone remember the key metrics for executing on those agreements, which is much more rewarding than developing ex post facto arguments based on bad facts.
5. Remember that corporate law and corporate contracts are not a temple, and you are not a high priest. Contracts exist to serve businesspeople and their departments. Use your legal interpretation skills to help colleagues turn contracts into day-to-day goals and tasks

that they can carry out. Deputize each relevant department to ensure that the value from contracts is maximized.

None of these steps requires you to sacrifice your legal judgment. Rather, these provide an opportunity to use your legal skills from the catbird seat at the heart of business negotiations, which will make your colleagues appreciate your value to the business much more than they already do today.

Author: Neil Peretz General Counsel of Contract Wrangler, which brings business agreements to life through attorney-trained artificial intelligence. Peretz has been general counsel of multiple financial services companies and also served as a DOJ Trial Attorney and co-founder of the Consumer Financial Protection Bureau's Office of Enforcement. His law degrees are from the University of California, Los Angeles (UCLA) School of Law and from Katholieke Universiteit Leuven, in Belgium, where he was a Fulbright Scholar.

ACC News

2019 ACC Annual Meeting: Where In-house Counsel Connect

Mark your calendars for October 27-30 in Phoenix, AZ for the 2019 world's largest event for in-house counsel. Earn up to a year's worth of CLEs, get the essential knowledge and insights you need to navigate today's increasingly complex business environment, and make meaningful connections with your in-house peers from around the globe. No other event delivers such a wealth of education and networking opportunities for corporate counsel all in one place at one time. Group discounts are available. Check out the full program schedule at am.acc.com.

Law Department Leadership: Strategic Decision Making for In-house Counsel

Making effective decisions is arguably your most critical responsibility as a

professional manager. In uncertain and changing business situations, you need a practical framework to make effective decisions quickly. Attend the Law Department Leadership program (23 September, Toronto, ON) to gain influence and advance your career by learning how to make better business decisions. Register today at acc.com/LDL.

Global General Counsel Summit: London Calling

Are you driving the discussion on corporate sustainability? Positive financial performance, regulatory pressure, material risk, and shareholder expectations are some of the reasons why you should be. Join the critical conversation on "Driving Corporate Sustainability—the Expanding Role of the GC" with your fellow CLOs from around the world, May 22-24, in London, UK. [Register today.](#)

Are you prepared to comply with new state privacy laws?

Rapidly growing data privacy regulations from California to New York make you accountable for all third-party service providers that access, process, or store your company's personal data. Visit acc.com/VRS for more information.

New to In-house? Are you prepared?

The ACC Corporate Counsel University® (June 26-28, Minneapolis, MN), combines practical fundamentals with career building opportunities, which will help you excel in your in-house role. Come to this unrivaled event to gain valuable insights from experienced in-house counsel, earn CLE/CPD credits (including ethics credits) and build relationships and expand your network of peers. Register at acc.com/ccu.

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Drive Success with Business Education for In-house Counsel

To become a trusted advisor for business executives, it's imperative for in-house counsel to understand the business operations of your company. Attend business education courses offered by ACC and the Boston University Questrom School of Business to learn critical business disciplines and earn valuable CLE credits:

- Mini MBA for In-house Counsel, June 3-5, September 9-11, and November 4-6

- Finance and Accounting for In-house Counsel, September 23-25
- Project Management for in-house Law Department, November 13-14

Learn more and register at acc.com/BU.

Connect Your Circles...Expand Your Reach!

When your in-house peers join ACC, you create opportunities to engage with colleagues, expand your professional network, and share ideas and expertise.

Now through 30 September, you are automatically entered into a \$100 USD monthly drawing when you recruit a new member. As an added bonus, your new recruit is automatically entered into a separate drawing, too! Learn more at acc.com/MemberConnect.

The California Consumer Privacy Act: What Every In-House Lawyer Should Know

By Al Saikali Chair, Privacy & Data Security Practice, Shook, Hardy & Bacon, LLP

SHOOK
HARDY & BACON

In 2018, the world's most onerous privacy law, the European Union's General Data Protection Regulation, went into effect. California then responded, "hold my beer!" and enacted the California Consumer Privacy Act (CCPA). The CCPA imposes significant compliance costs and creates potentially enormous liability for companies that fail to comply. With in-house counsel in mind, this primer provides an overview of the CCPA's scope, its requirements, and tips on operationalization.

Once Upon a Time...

The CCPA came about because a wealthy Californian was upset at what he perceived to be a lack of transparency and control over how his personal information was being collected, sold, and used by large technology companies, social media companies, and data brokers. He took action by funding a campaign to put on the November 2018 ballot in California an initiative that would have created the most onerous privacy law ever to go into effect in the United States.

The law would have created a private right of action for any violation (not just data breaches) and created a tsunami of liability for companies doing business in California. The measure gained support, eventually reaching the threshold number of signatures required to place the initiative on the November ballot.

Realizing that California residents would likely support this measure if it were to be placed on the ballot, pro-business groups reached a last-minute deal pursuant to which the ballot initiative was withdrawn in return for the California State Legislature adopting a law that encompassed most of the same requirements as the ballot initiative. This "compromise" in producing the CCPA was the lesser of two evils for companies doing business in California because it meant a slightly less draconian law and a better chance to amend the law in the future. As a result of the last-minute negotiations rush (the bill was drafted and passed within a couple of weeks), the CCPA contains inconsistencies, typographical errors, and many unresolved issues.

To Whom Does the CCPA Apply?

The CCPA applies to for-profit entities that:

1. collect consumer personal information (a "consumer" is currently defined as any resident of California—so think employees as well as customers—though there is an amendment to the CCPA pending that would limit the definition of consumer to the more traditional meaning);
2. determine the purposes and means of processing (i.e., the business controls what happens to the personal information);
3. do business in the state of California; and
4. do any of the following:
 - a. earn \$25 million in revenue per year (this is not limited to revenue generated solely in California);
 - b. receive for commercial purposes, sell, or share for commercial purposes 50,000 consumer records per year; or
 - c. derive 50 percent of annual revenue from selling personal information.

The CCPA applies not just to companies located in California, but any company that collects, discloses, or sells personal information about California residents.

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Are There Exceptions to the CCPA's Scope?

Yes, the law has many exceptions. For example, the CCPA doesn't apply to information governed by HIPAA/HITECH, GLBA, FCRA, clinical trial information, or information that has been deidentified or aggregated. Note, however, that these are not company-wide exceptions, meaning they apply only to the information. So, for example, a covered entity under HIPAA may still be governed by the CCPA to the extent it collects personal information that is not PHI. There are other exceptions, too, like where a company needs to comply with legal obligations, comply with law enforcement or a subpoena, exercise/defend a legal claim, or prevent the violation of an evidentiary privilege.

What Is "Personal Information" Under the CCPA?

The CCPA adopts the broadest definition of personal information we have ever seen. It means any information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Examples of personal information include the following:

- Identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers;
- Any categories of personal information described in California's data breach notification law;
- Characteristics of protected classifications under
- California or federal law (e.g., race, gender, and ethnicity);
- Commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies;
- Biometric information;

- Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer's interaction with an internet website, application, or advertisement;
- Geolocation data;
- Audio, electronic, visual, thermal, olfactory, or similar information;
- Professional or employment-related information;
- Education information; and
- Inferences drawn from any of the information identified in this subdivision to create a profile about a consumer reflecting the consumer's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.

To put the breadth of this definition into perspective, the 50 different state data breach notifications typically limit their definition of personal information to the first two bullets above. The CCPA also includes information gleaned from a California-based IP address visiting your website. The way a person sounds, smells, and the amount of heat they emit are all types of personal information under the law. Professional and employment-related information are included in the definition (surprisingly, salary is not considered personal information under most data breach notification laws). If that definition were not broad enough alone, it also includes that any inferences drawn about individuals (or households) from any of these pieces of information would also be considered personal information.

What Rights Does the CCPA Bestow on Data Subjects?

The CCPA creates seven fundamental rights for data subjects:

1. The right to know about the collection and sale of their information, and about their CCPA rights. At or before the time of collection, a business must inform data subjects of the categories of personal information collected, the sources of that information, the third parties with whom the information

is shared, and the purposes for which the personal information will be used. Companies must also disclose their collection, sale, and disclosure practices, as well as descriptions of data-subject rights, in their public-facing privacy notice.

2. The right to access a copy of their information that has been collected or sold. A data subject can request from a business that collects personal information: categories of personal information collected, categories of sources of personal information, the business purpose(s) for collecting the personal information; categories of third parties with whom the personal information is shared, and the specific pieces of personal information collected. These requests, commonly referred to as "data subject access requests" or DSARs, should be verifiable, which can be complicated, depending on what information the business already has about the data subject by which verification can take place. The business' response to a DSAR must cover the preceding twelve months, should be provided free of charge in a portable and usable format (typically a PDF), and delivered within 45 days of receiving the verifiable request (extendable by up to an additional 45 days²). The business must provide two or more methods for submitting a DSAR, including a toll-free number and a website address. Many companies choose to develop portals, accessible via their website, through which DSARs can be submitted. In certain instances, like where the DSAR is manifestly unfounded or excessive, a business can charge a fee or refuse to act on it.
3. A right to erasure. The data subject can request that a business (and its service providers) delete personal information the business or service provider collected. The exceptions to this right, however, swallow the rule. For example, a business can refuse a deletion request to complete a requested service or transaction,

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- to detect security incidents, repair functionality errors, exercise any legal right, comply with legal obligations, and engage in certain research. But the two biggest exceptions are: (a) for solely internal uses that are aligned with the consumer's expectations; and (b) for internal purposes that are compatible with the context in which the consumer provided the information. The exceptions are important because the right to erasure extends to third parties with whom the business shares personal information, and it can be expensive and operationally difficult to ensure that personal information has truly been "deleted."
4. Right to opt out of the sale of their information. The CCPA allows a data subject to direct a business to stop selling his/her information. The definition of sale is far broader than the typical definition, as it includes the sharing of personal information not just for money but for any "valuable consideration." Businesses are required to provide notice to data subjects that their information may be sold and that they have a right to opt out of the sale of their personal information. The business' homepage, mobile application, and privacy policy must include a link titled "Do Not Sell My Personal Information" that initiates a process to opt out of the sale of personal information. This is not operationally easy to implement.
 5. A right against discrimination. A business cannot deny goods or services or charge different prices to a data subject who exercises his/her rights under the CCPA. A business may, however, offer financial incentives for the collection, sale, or deletion of personal information. For example, a coffee shop can offer a free cup of coffee in exchange for a customer's personal information, but the coffee shop can't charge a customer more for coffee because the customer submitted a DSAR. Financial incentives, like loyalty programs, require opt-in consent before the collection/use of the data subject's information.
 6. Consent requirements for the sale of information about children. If the data subject is younger than 13, the business must first obtain the parent or guardian's consent to sell the child's personal information. If the child is between 13 and 15 years old, however, the business need only obtain the child's consent before selling her data. Consent is not necessary to sell the information of an individual who is 16 or older.
 7. A right to sue for data breaches. The CCPA will make California the first state in the nation to create a statutory private right of action for a data breach. Damages can range between \$100 to \$750 per person per incident depending on the degree of intentionality in the misconduct. As a threshold matter, the data subject can sue where the business' alleged failure to "implement and maintain reasonable security procedures and practices" resulted in the unauthorized access and exfiltration, theft, or disclosure of personal information. Technically, a data breach alone (without poor procedures and practices) doesn't trigger liability under the CCPA, but plaintiff's counsel likely will not find it difficult to demonstrate at least one failure in procedures or practices in light of the fact that the company suffered a data breach. The goal of the plaintiff's counsel will be to create an issue of fact that gets the case past a motion to dismiss or motion for summary judgment and into a large settlement. The right to sue is marginally tempered by a requirement that prior to initiating an action, the data subject must notify the business and provide a 30-day term to cure. This provision makes little sense as once a breach has occurred the data subject's information is already "out there." It is possible that the right to cure means, for example, the implementation of a technical safeguard that, if implemented earlier, would have prevented the breach (e.g., encryption or multi-factor authentication). While the private right of action is currently limited to data breaches, a bill is quickly making its way through

the California Legislature, which would create a private right of action for the privacy violations under the CCPA as well.

What Happens if My Company Violates the Law?

Currently, the CCPA will be enforced by the California Attorney General beginning the earlier of July 1, 2020, or six months after the Attorney General's office releases much anticipated guidance on the CCPA. The Attorney General can impose fines of up to \$2,500 for each negligent violation of the CCPA or up to \$7,500 for each intentional violation of the CCPA. Violation will mean each person and possibly also each provision of the CCPA that has been violated. The Attorney General may also pursue injunctive relief.

The CCPA's private right of action is, for the time being, limited to data breaches where there is a lack of reasonable security procedures and practices. That could change soon. If the California Legislature passes SB 561 and it is signed into law, you could see class action lawsuits based on companies' failure to disclose collection practices, failure to comply with the opt-out requirements, failure to obtain consent for financial incentive programs, or any of the CCPA's other privacy requirements. A class action lawsuit will be less likely in the context of DSARs, where each individual's request may involve a different set of facts.

What Steps Must An In-House Lawyer Take to Protect the Company?

First, don't procrastinate. There will be a temptation to believe you have plenty of time because the law doesn't go into effect until January 2020 (and may not be enforced until as late as July 2020). Resist this temptation! Remember that in response to a DSAR, you have to provide information for the preceding 12 months. So if you receive a DSAR in January 2020, will you be prepared to provide a response based on information in your company's possession in January 2019?

Begin by creating a task force and developing a compliance strategy. The task force should be comprised of at least one person from each of the following functions: legal, IT, HR, marketing, sales, and corporate communications. Try to do this in conjunction with and at the direction of highly qualified outside counsel like Shook's Privacy and Data Security Practice, which can leverage its experience performing CCPA and other privacy compliance work to draw from templates, their knowledge of the law, benchmarking experience, and relationships with the right vendors. As an additional benefit, performing this work at the direction of outside counsel for the purpose of allowing counsel to advise the company on its obligations under the CCPA, may have the supplemental benefit of triggering attorney-client privilege. As part of this phase, counsel should help you prepare a task list for the compliance work.

Next, perform a data inventory and data map. What's the difference between them? A data inventory provides a description of what personal information the company collects, in which systems, why, where it comes from, and where it goes. A data map tracks the lifecycle of the data from the point it enters until the point it leaves your environment. How an inventory and map is created often depends on your available resources. Companies with limited resources may need to perform the inventory themselves through the help of counsel's templates or use a small consulting company. Larger companies (particularly those that collect considerable amounts of personal information) should consider procuring technology solutions that perform ongoing data discovery, identification, and mapping in real time. They may also choose to retain a larger consulting firm to assist with this step at the direction of counsel. Just remember that both a data inventory and a data map are snapshots in time. To overcome this problem, you may need to review them periodically or purchase a solution that will help you track the data in real time.

Once you know what personal information you're collecting and what you're doing with it, you can determine your legal obligations. Again, this is where experienced outside counsel should have a chart at the ready, and should be able to explain (without significant research) which laws apply to you, why, and what those laws require. Use this opportunity to think in the long term. Don't just focus on the CCPA. There are already, as of the time of this article, at least 13 other states considering privacy laws, some of which are comprehensive. Identify the privacy principles that you will abide by as a company and build those into your operation.

You will next need to create a process for responding to DSARs. DSARs can be handled manually or via technology solutions that allow you to respond much more efficiently to these requests. Again, Shook's privacy team can point you in the right direction. They can also ensure that your process adequately captures the information you will be legally obligated to provide in response to a DSAR. Counsel should also draft formal guidance and policies to help the company determine whether there is a legal obligation to respond to a request, how to process the request, the content of the response, how to document the request and response process, and when to deny requests.

In conjunction with creating a process for responding to DSARs, you will want to create a process for responding to requests for deletion. You'll need a policy that describes when information should or should not be deleted. You'll need to identify responsible personnel for handling those requests. You will also need a method for actually deleting the data (this is where involvement by IT is crucial). Similarly, you will want to ensure that, to the extent you sell consumer information, you have the ability to implement any opt-out requests.

Updating your privacy notices and online presence will be required. For example, your consumer-facing privacy statements will need to be reviewed to be consistent

with the CCPA's requirements. Privacy statements shared with job applicants and contractors, to the extent you have them, will need to be updated. You will likely have to address what to do if you always believed (and stated) that you do not "sell" personal information but, under California's much broader law, you now do. Again, this is where an experienced team like Shook's will be key. Additionally, you will need to add a link to your company's homepage and mobile application that allows a California resident to opt out of the sale of their information.

Do you collect information from children? If so, you'll need to review your consent mechanisms and ensure they comply with the requirements under the CCPA (and perhaps other privacy laws like the GDPR or the Children's Online Privacy Protection Act).

Review your contracts with service providers. If a service provider fails to comply with the CCPA, your company could be liable if it does not build into the contract some specific language set forth in the CCPA. You will want to identify and update applicable contracts, just as you may have done for GDPR.

Lastly, make sure your incident response plan and information security policies and procedures are in order, to minimize the risk of a data breach that triggers the potential right of action.

"It's the future of U.S. privacy law. We are seeing other states considering similar comprehensive privacy laws, and the trend is moving towards that, not away from it."

Al Saikali, CCPA Webinar

What's Next?

For now, we await any additional changes from the California Legislature, which is considering approximately 20 amendments to the CCPA. The ones that appear to have the greatest traction thus far involve expanding the private right of

action. And removing the right to cure for Attorney General enforcement. Other changes being considered include:

- “Consumers” does not apply to mean employees, job applicants, contractors, or agents. (AB 25)
- Loyalty programs are not prohibited by the CCPA. (AB 846)
- It is not a “sale” to share information with a third party for the purpose of measuring online advertisements. (SB 753)
- Removing the requirement of a “Do Not Sell My Personal Information” link. (SB 753)
- Exempting insurance companies and the sharing of personal information between car dealers and manufacturers from the CCPA. (SB 981, AB 1146)
- Fixing obvious errors in the statute. (AB 874)
- Requiring data brokers to register with the Attorney General. (AB 1202)
- We also await further guidance from the California Attorney General’s office. Under the CCPA, the Attorney General

is required to provide guidance on the following topics:

- Updating the categories of personal information to address changes in technology, data collection practices, obstacles to implementation, and privacy concerns.
- Updating the definition of unique identifiers to address changes in technology.
- Establishing exceptions necessary to comply with state or federal law, including, those relating to trade secrets and intellectual property rights.
- Establishing rules and procedures for:
 - Facilitating and governing the submission of a DSR to opt-out of the sale of personal information
 - Governing business compliance with a consumer’s opt-out request.
- The development of a uniform opt-out logo or button.
- How to give notice under this provision to consumers.
- How to verify a consumer’s request for information.

At the time of this article, other states like Massachusetts and Washington are considering equally or more onerous data privacy laws. There is also a push in Congress for a federal data privacy law. Both sides seem to agree in principle that a law is necessary, but the devil will be in the details, specifically preemption. Only time will tell whether we see a patchwork of privacy laws (like breach notification laws) or a federal privacy law with strong preemption.



About the Author:

Al Saikali is chair of the Privacy & Data Security Practice at Shook, Hardy & Bacon, and is the only Florida lawyer ranked by Chambers in the area of

Privacy and Data Security Law. Feel free to contact Al by email at asaikali@shb.com or by phone at (305) 960-6923.

¹The individuals to whom a privacy law applies are commonly referred to as “data subjects.” We will use that term throughout this article so as not to create confusion that “consumer” means only customers.

²Due to the hasty drafting of the CCPA, there is a conflict in the law regarding how much additional time a business can extend the time to respond to a DSAR. One section specifies 45 days, while another allows an additional 90 days. We recommend using the 45-day period to be conservative.

Welcome New Members!

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Boca Raton

Eileen Pruette

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Boca Raton

MEET OUR AMBASSASORS

ACC South Florida has an active student ambassador program. Through the ambassador program, select law students help manage ACC events and network with in house and law firm counsel. Here are a few of the 2019 ambassadors.



Priscilla Suarez

Priscilla is currently a Juris Doctor and Master of Business Administration candidate at Florida International University. She earned her Bachelor of Arts in English from the University of Miami. She served as the Recruitment Director for the International Dispute Resolution Club at the law school. Now she is the Vice President of Events for the International Law Students Association. She has had the opportunity to study International Contracting Strategies in Japan.



Jonathan N. Kernizan

Jonathan originally from Puerto Rico, joined the South Florida community following a four year tour with the United States Navy. He completed his undergraduate studies at Nova Southeastern University, majoring in Business Administration. Now, he is a second year law student at St. Thomas University School of Law. In his first year, he was elected by his peers to serve as a Governor with The Florida Bar YLD Law Student Division. During In his second year he became a member of the St. Thomas Trial Team and the St. Thomas Law Review. Asides from being a law student, Jonathan is an avid sports fan. His favorite teams are the Green Bay Packers, the Milwaukee Brewers, and the Wisconsin Badgers.



Tomas Robirosa

Tomas is a second-year law student at the Nova Southeastern University Shepard College of Law located in Fort Lauderdale, Florida. Prior to attending law school Tomas worked in the Tourism industry as a Product Manager for an online distributor. In this capacity Tomas managed a large portfolio encompassing resort and hotel properties in Mexico and all of the Dominican Republic. He earned his Bachelors of Science in Political Science from the University of Central Florida. In his spare time Tomas likes to stay active by mountain biking and scuba diving.

Connect with ACC South Florida Chapter!

You can find updates, event information and more at:



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Association of Corporate Counsel South Florida Chapter



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MEMBER APPRECIATION

Baker McKenzie

HOLIDAY PARTY:

Cozen O'Connor

Past Events

Akerman Cooking Event

Akerman invite ACC South Florida to join them for a hands-on, private cooking class (with friendly competition). We learned about classic and innovative cooking techniques, global flavors, and emerging trends. The menu was a Tour of France and included a complete selection of French wines, Lyonnaise Onion Soup, Bistro Steak with mushrooms and a Molten Chocolate Cake. Merci, Akerman.

akerman



Bilzin Top Golf Event

ACC South Florida members got their swing on with Bilzin Sumberg who sponsored a night of golf, networking, food and drinks at TopGolf in Miami Gardens. Thank you, Bilzin!

 **Bilzin Sumberg**



Littler Wine Tasting Event

The attorneys of Littler Miami invite ACC South Florida members to a private tasting of wines from around the world at Uvaggio Wine Bar & Restaurant in Coral Gables. Members enjoyed an evening of cuisine, hospitality, and wine tasting games that sharpened their sommelier skills!

Littler®



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SEPTEMBER 19, 2019

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ACC Association of Corporate Counsel
SOUTH FLORIDA

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Christina Kim
Executive Director
Address
would go here

Executive Director Note

Dear Members,

We hope you have had a chance to partake in some of the fun and educational programming our sponsors have been hosting this first quarter. We have many more events coming up this year including opportunities to give back to our community so we hope many of you will sign-up to join us! As Carlos mentioned in the President's message, we are also excited to announce that our 10th Annual CLE Conference will be returning to the Seminole Hard Rock Hotel & Casino on Thursday, September 19.

Christina Y. Kim

Executive Director, ACC South Florida

