

RSAC[®]Conference2020

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HUMAN
ELEMENT

SESSION ID: LAW-W02

Privacy, Policymakers, and the TECH Needed to Protect People



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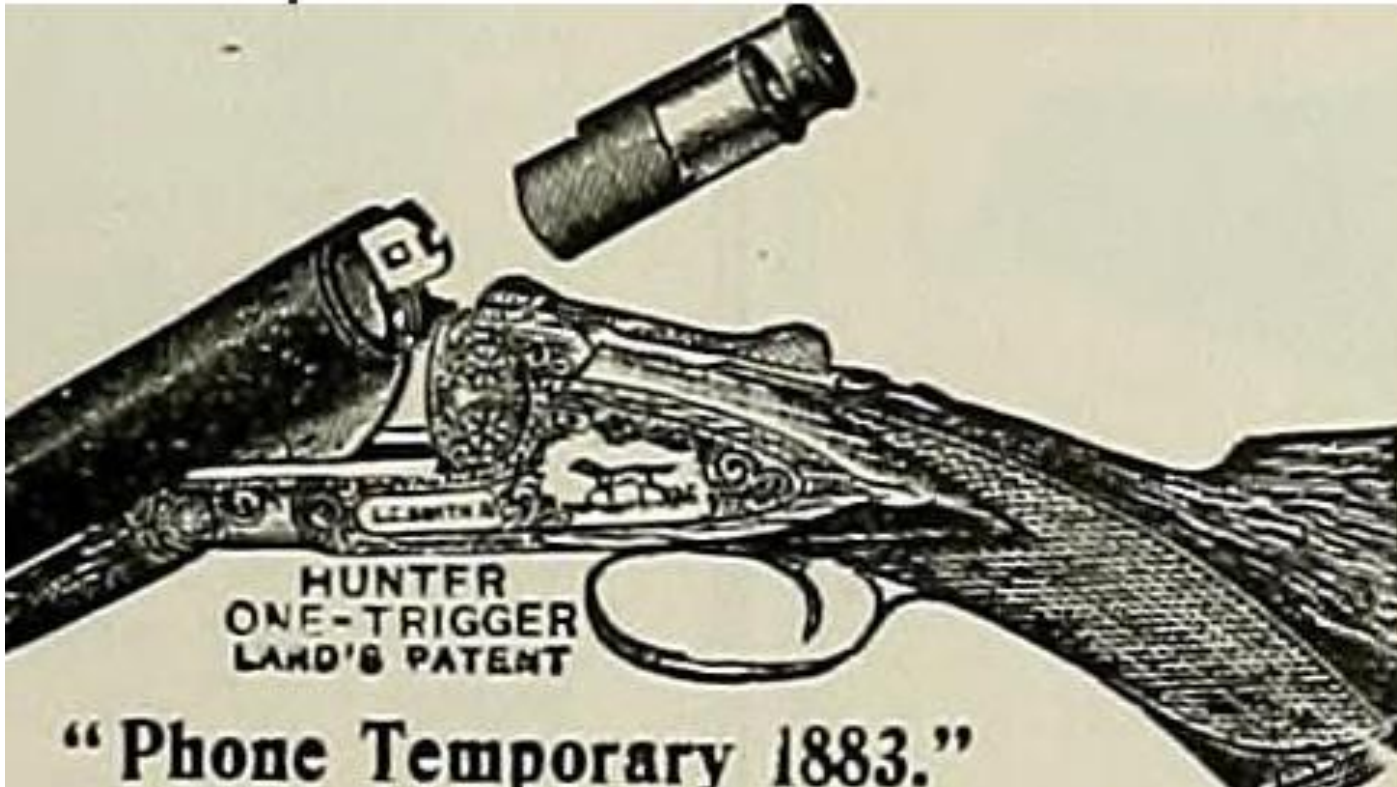
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#RSAC

Protecting the people...



“data protection law was not designed to protect private information from disclosure but to protect people from a specific form of technology: computers.”

“DESIGNED TO SERVE MANKIND” (RECITAL 4)

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the **protection of natural persons with regard to the processing of personal data** and on the free movement of such data, and repealing Directive 95/46/EC

What is the California Consumer Privacy Act (CCPA)?

Is CCPA a “copycat” of GDPR?



**CCPA GIVES YOU
THE RIGHT TO...**

KNOW

YOU MAY REQUEST THAT A BUSINESS DISCLOSE WHAT PERSONAL INFORMATION OF YOURS IS COLLECTED, USED, SHARED OR SOLD BY THE BUSINESS.

**CCPA GIVES YOU
THE RIGHT TO...**

DELETE

YOU MAY REQUEST THAT A BUSINESS DELETE YOUR PERSONAL INFORMATION.

**CCPA GIVES YOU
THE RIGHT TO...**

OPT-OUT OF SALE

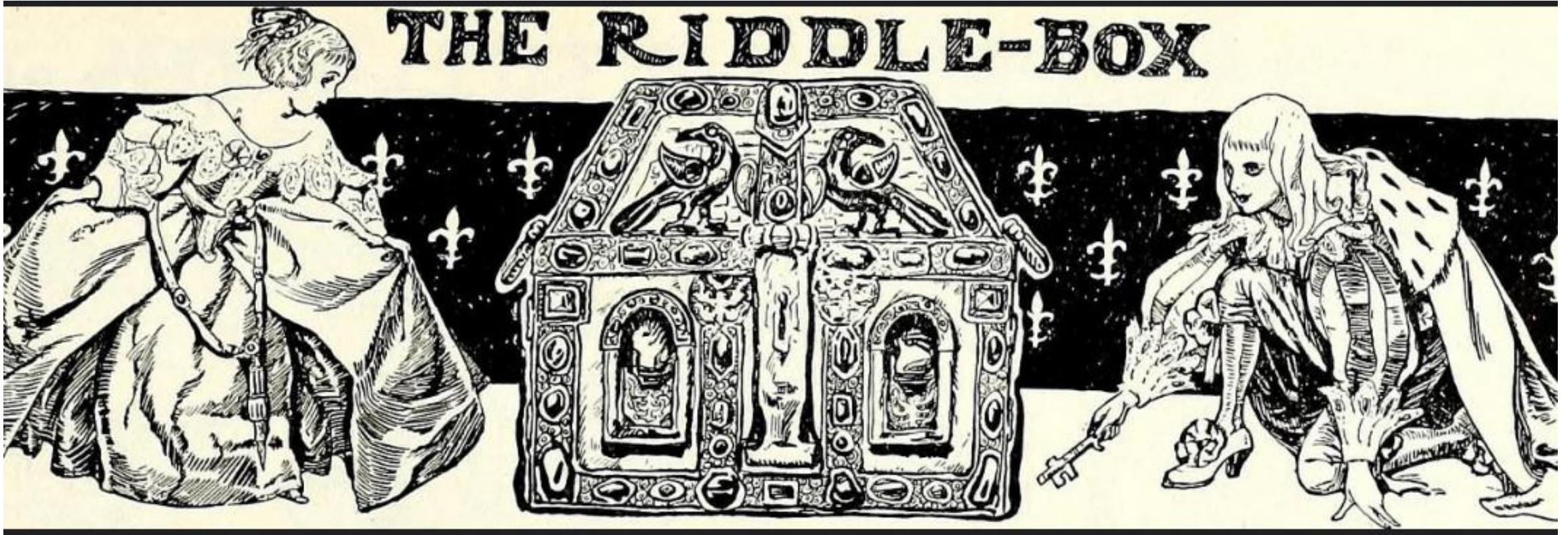
YOU MAY DIRECT A BUSINESS TO STOP THE SALE OF YOUR PERSONAL INFORMATION. THE CCPA REQUIRES A BUSINESS TO PROVIDE A “DO NOT SELL” MY INFORMATION LINK ON THEIR WEBSITE OR MOBILE APP.

**CCPA GIVES YOU
THE RIGHT TO...**

NON-DISCRIMINATION

A BUSINESS MAY NOT DISCRIMINATE AGAINST YOU IN TERMS OF PRICE OR SERVICE WHEN YOU EXERCISE A PRIVACY RIGHT UNDER CCPA.

Reasonable security



CAL CIV. CODE SEC. 1798.150 / PRIVATE RIGHT OF ACTION / \$100-\$750 “PER CONSUMER PER INCIDENT”

Any consumer whose nonencrypted and nonredacted personal information [as defined] is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business’s violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information may institute a civil action..”

Takeaway

For California purposes encrypt/redact the following PI:



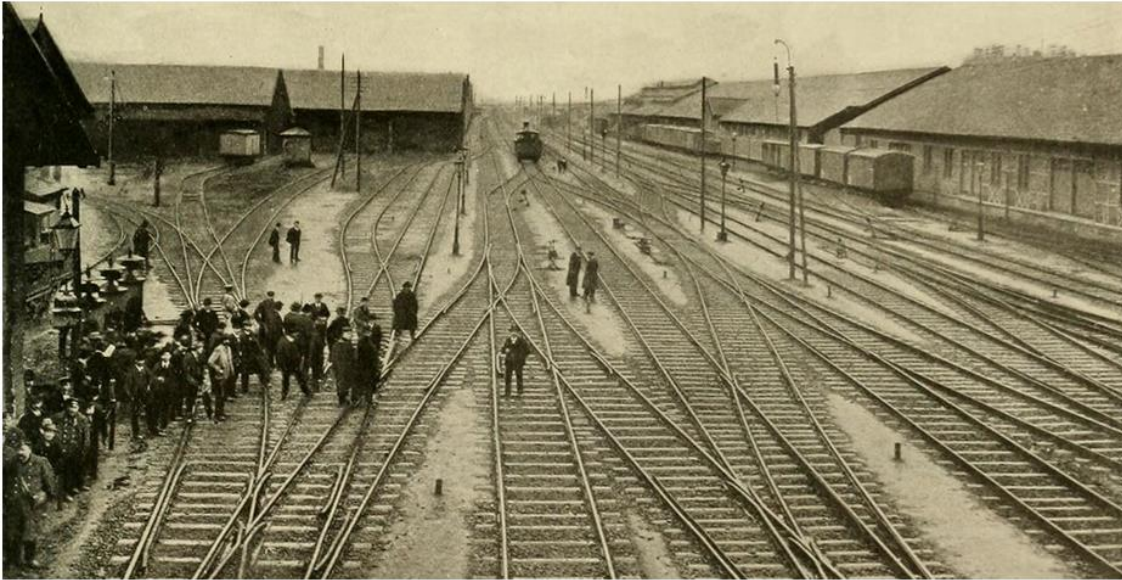
Cal. Civ. Code Sec.

1798.150 (1) (Priv. Right of Action under CCPA)
 1798.81.5(d)(1)(A) and 1798.81.5(d)(2)&(3) (Def. of PI
 for purposes of CCPA priv. right of action)

- **Social security numbers & other gov. issued unique identification number** (e.g. DL number, California ID, tax ID, passport number, military ID.)
- **Account number or credit or debit card number**, in combination with any required **security code, access code, or password that would permit access** to an individual's financial account.
- (iv) **Medical information** (meaning any individually identifiable information, in electronic or physical form, regarding the individual's **medical history or medical treatment or diagnosis by a health care professional.**)
- (v) **Health insurance information** (an individual's insurance policy number or subscriber identification number, any **unique identifier used by a health insurer** to identify the individual, or any **information in an individual's application and claims history**, including any appeals records.)
- (vi) Unique **biometric data** generated from measurements or technical analysis of human body characteristics (e.g. **fingerprint, retina, or iris image**, used to authenticate a specific individual (**potentially including physical or digital photograph** IF used or stored for facial recognition purposes)

What does it take to comply?

The path ahead...



- ❖ The human element
- ❖ The “will and the way”
- ❖ The technology