Group 3 - Case Discussion  
On 28 June, 2018, California enacted the Consumer Privacy Act (i.e., California Consumer   
Privacy Act, AB-375), a well-intentioned new law that seeks to protect users’ data privacy by   
imposing new rules on companies that gather, use, and share personal data. The law will go   
into effect in Jan 2020. As the rest of the U.S. stands by and watches, California has become   
the leader in consumer data privacy protection that many other states will soon follow.  
The new law affords California residents an array of new rights, starting with the right to be   
informed about what kind of personal data companies have collected and why it was   
collected. Among other novel protections, the law stipulates that consumers have the right to   
request the deletion of personal information, opt out of the sale of personal information, and   
access the personal information in a “readily useable format”.  
Research on CCPA regulation and help classmates understand:

1) Who is protected under CCPA and who should comply with CCPA?

The consumer who is California resident is protected under CCPA and the California business of substantial size (with regard to revenue or number of consumers affected) that collect consumer personal data should comply with CCPA.

E.g. Companies that sell consumer data

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| **Consumer’s Right** | **Requirements for the Business** |
| the bill would grant a consumer a right to request a business to disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of 3rd parties with which the information is shared. | The bill would require a business to make disclosures about the information and the purposes for which it is used. |
| The bill would grant a consumer the right to request deletion of personal information. | The bill require the business to delete upon receipt of a verified request, as specified. |
| The bill would grant a consumer a right to request that a business that sells the consumer's personal information, or discloses it for a business purpose, disclose the categories of information that it collects and categories of information and the identity of 3rd parties to which the information was sold or disclosed. | The bill would require a business to provide this information in response to a verifiable consumer request. |
| The bill would authorize a consumer to opt out of the sale of personal information by a business and would prohibit the business from discriminating against the consumer for exercising this right, including by charging the consumer who opts out a different price or providing the consumer a different quality of goods or services, except if the difference is reasonably related to value provided by the consumer’s data. | The bill would authorize businesses to offer financial incentives for collection of personal information. |
|  | The bill would prohibit a business from selling the personal information of a consumer under 16 years of age, unless affirmatively authorized, as specified, to be referred to as the right to opt in. [Special command for business] |

Extracted from http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\_id=201720180

AB375

2) The key regulation highlights in CCPA.

The Act (the full text of which is available [here](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB375)) gives “consumers” (defined as natural persons who are California residents) five categories of data privacy rights in relation to their personal information:

1. The Right to Know: the right to know, through a general privacy policy and with more specifics available upon request, what personal information a business has collected about them, where it was sourced from, what it is being used for, whether it is being disclosed or sold, and to whom it is being disclosed or sold;
2. The Right to Opt Out: the right to “opt out” of allowing a business to sell their personal information to third parties (or, for consumers who are under 16 years old, the right not to have their personal information sold absent their, or their parent’s, opt-in);
3. The Right to Deletion: the right to have a business delete their personal information, with some exceptions; and
4. The Right to Equal Service: the right to receive equal service and pricing from a business, even if they exercise their privacy rights under the Act.
5. The Right to Access: Consumers also have the right to request certain information from businesses.

The Act requires that companies make certain disclosures to consumers via their privacy policies, or otherwise at the time the personal data is collected.

“*For example, businesses need to disclose proactively the existence and nature of consumers’ rights under the Act, the categories of personal information they collect, the purposes for which that personal information is collected, and the categories of personal information that it sold or disclosed in the preceding 12 months. In terms of compliance, these provisions will require companies to determine what personal data they are collecting from individuals and for what purposes, and to update their privacy policies every 12 months to make the disclosures the Act requires.”*

<https://privacylaw.proskauer.com/2018/07/articles/data-privacy-laws/the-california-consumer-privacy-act-of-2018/>

<https://www.sullcrom.com/files/upload/SC-Publication-New-Statute-Introduces-Privacy-Protections-for-California-Consumers-and-Subjects-Businesses-to-Potential-Liability.pdf>

And I think discuss these two problems together.

3) According to CCPA, what is considered as “personal information” that needs   
protection?

**What qualifies as “personal information” under the Act?**

“Personal Information” is defined as “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.” For example, personal information includes “commercial information” (including “records of personal property, products or services purchased, obtained or considered, or other purchasing or consuming histories or tendencies”), “Internet or other electronic network activity information” (such as browsing and search histories), “education information” and “audio, electronic, visual, thermal, olfactory, or similar information.” Personal information does not include information that lawfully is made available from federal, state or local government records that is used for a purpose that is compatible with the purpose for which such data is so maintained.

While various California laws define “personal information” in different ways, they generally recognize that “personal information” is information that can be used to identify a particular individual. The Act’s definition is worded more broadly, and includes information that is identifiable to a household, not necessarily a consumer. Also, the Act’s many examples of personal information serve to illustrate how wide-ranging the definition can be. For example, the definition of personal information includes unique personal identifiers, which is defined broadly to include device identifiers, other online tracking technologies and “probabilistic identifiers” (identifiers based on personal information that “more probable than not” identify a consumer or device). On the other hand, the Act does not apply to de-identified personal data, as long at the de-identification measures meet the Act’s very strict standards, or to aggregate consumer information, which also is defined strictly by the Act. Companies developing their compliance strategy should give careful consideration to the types of personal information they collect, and cast a wide net in terms of thinking about data that may fall within the Act’s definition.

Extracted from: <https://privacylaw.proskauer.com/2018/07/articles/data-privacy-laws/the-california-consumer-privacy-act-of-2018/>

4) Comparing CCPA and PDPA 2012, identify THREE dissimilarities (if any) between   
these two regulations. Comments on them.

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|  | CCPA | PDPA | Comments |
| Implementation | * Will be implemented in California * Signed into law by California on June 28, 2018 * Effect beginning January 1, 2020 | * Already implemented in Singapore * Assented on 20 November 2012 * Full effect on 2nd July 2014 | In order to avoid last-minute compliance scrambles as effective dates are close, it's also worth keeping an eye on new privacy laws on the horizon. |
| Extra-territorial jurisdiction | * applicable to for-profit businesses that collect and control California residents’ personal information, do business in the State of California * if every aspect of … commercial conduct takes place wholly outside of California | * Applicable to any organization in Singapore processing personal data from anywhere, and organizations outside of Singapore processing personal data from individuals in Singapore. * The PDPA does not define "organization" or "personal data" in terms of geographical location. | CCPA just covers California currently but they expect large companies will soon have to offer similar rights to Americans. |
| Penalties | * The california Attorney General may impose civil penalties of up to $7,500 per intentional violation. * Private right of action for data breaches ($100-$750) * But 30 day cure period | * Fines not exceeding S$5,000-10,000 (depending on the offence) or imprisonment of up to 12 months for the individuals in breach of policy * Fines not exceeding S$50,000 - 100,000 (depending on the offence) for the organisations | In CCPA there is a cure period for which customer has to give violating business 30 days advance notice. If the business cures the alleged violation within 30 days and provides a written statement that violation has cured and never occur, the lawsuit cannot be filed. |
| Right to object | Consumers have a right to opt out of the "sale" of their personal information, greater control over data-sharing | Individuals has right to withdraw their consent but opt out from “sale” of their personal data is not mentioned. | CCPA has given greater control to the consumer. The consumer has the right to opt out from the “sale” of his information incase he has given consent to sell his information. |
| Right of equal service | The right of Californians to equal service and price, even if they exercise their privacy rights | Right of equal service is not specified. | If a consumer has not given any consent to use his information or sell which means he is using his rights (business won’t get much benefit from that consumer), still the business should provide the same quality of service and price to the consumer |
| Right to be forgotten | The right to have a business delete their personal information, with some exceptions | Organizations are obligated not to retain personal data if it is no longer required for the purpose for which it was collected, and if there are no business or legal reasons to retain it. | PDPA mentions that personal data can only be retained for business/legal purposes and securely destroy personal data when no longer needed.  Whereas CCPA doesn’t talk about retention and deletion of the collected data but provides rights to the consumer to delete their information from business anytime. |

v Recommended resources:  
• California Consumer Privacy Act 2018  
o https://www.caprivacy.org/  
o http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\_id=201720180  
AB375  
o https://privacylaw.proskauer.com/2018/07/articles/data-privacy-laws/the-  
california-consumer-privacy-act-of-2018/

• What you need to know about California’s New Data Privacy Law?  
o https://hbr.org/2018/07/what-you-need-to-know-about-californias-new-data-  
Privacy-law

• How Will California's Consumer Privacy Law Impact The Data Privacy Landscape?  
o https://www.forbes.com/sites/forbestechcouncil/2018/08/20/how-will-  
californias-consumer-privacy-law-impact-the-data-privacy-  
landscape/#3931299de922

• PDPA 2012  
o <https://sso.agc.gov.sg/Act/PDPA2012>

Q4: References  
<https://privacylaw.proskauer.com/2018/07/articles/data-privacy-laws/the-california-consumer-privacy-act-of-2018/>

<https://www.brlawcorp.com/news-and-insights/comparative-analysis-gdpr-vs-pdpa>

<https://en.wikipedia.org/wiki/Personal_Data_Protection_Act_2012_(Singapore)#Protection_Obligation>