



Mathematics and Computer Science Department

265 Church Street
Middletown, Connecticut 06459
860 685 2620 Fax: 860 685 2571
www.math.wesleyan.edu

Sebastian Zimmeck
Assistant Professor of Computer Science
(860) 685-2398
szimmeck@wesleyan.edu

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California Privacy Protection Agency
Attn: Debra Castanon
915 Capitol Mall, Suite 350A
Sacramento, CA 95814

Dear Debra,

As one of the initiators of the Global Privacy Control (GPC) protocol [1], I would like to comment on the proposed rulemaking under the California Consumer Privacy Act of 2020 (Proceeding No. 01-21), 5d How businesses should process consumer rights that are expressed through opt-out preference signals [2], as follows.

1. Section 1798.135(e) of the California Consumer Privacy Act

Section 1798.135(e) of the California Consumer Privacy Act (CCPA) allows consumers to authorize another person to opt-out of the sale of personal information on their behalf via opt-out preference signals. The details of such opt-outs are to be specified in regulations that will be adopted by the California Attorney General. Section 1798.135(e) reads as follows:

A consumer may authorize another person to opt-out of the sale or sharing of the consumer's personal information and to limit the use of the consumer's sensitive personal information on the consumer's behalf, including through an opt-out preference signal, as defined in paragraph (1) of subdivision (b), indicating the consumer's intent to opt out, and a business shall comply with an opt-out request received from a person authorized by the consumer to act on the consumer's behalf, pursuant to regulations adopted by the Attorney General regardless of whether the business has elected to comply with subdivision (a) or (b). For purposes of clarity, a business that elects to comply with subdivision (a) may respond to the consumer's opt-out consistent with Section 1798.125. [emphasis added]

Section 1798.135(e) is a crucially important provision for consumers to exercise their opt-out rights via privacy preference signals by a representative, especially, as it applies regardless of whether a business has elected to comply with 1798.135 (a) or 1798.135 (b). However, without further clarification in the regulations, I am doubtful that it will be of much use for consumers, at least, if the requirements for the representatives acting on behalf of the consumers are interpreted too narrowly.

2. Clarify in the Regulations That the Consumer’s Representative Can Act Through Automated Software, especially, Software on the Consumer’s Computer

Websites usually rely on identifiers, such as cookie identifiers or login credentials, to keep track of a consumer’s opt-out status. The representative would need to have access to these identifiers to facilitate the opt out for a consumer. Requiring a consumer to send such identifiers to a representative is a potential security risk and highly impractical. For example, consumers would need to look up individual cookie identifiers on their browser, which may not be easily accessible, and provide those to the representative. It would be much simpler if consumers could download software for installation on their computers by which representatives could access the required information on-device and process it from there. For example, representatives could provide dedicated opt-out browser extensions. In fact, if their browsers contain opt-out functionality, browser vendors could also act as representatives. This way the privacy preference signaling could be automated. Using cloud-based opt-out functionality may be an option as well to help consumers exercising their opt-out rights.

3. Clarify in the Regulations That the Consumer Can Authorize the Representative via the Representative’s Terms of Service or Other Electronic Contract Without Any Additional Requirements

Representatives can exercise consumers’ opt-out rights via opt-out preference signals if they are authorized to do so. If consumers want a representative to opt-out on their behalf, section 1798.135(e) requires them to “authorize another person.” Thus, the regulations should clarify what qualifies as an authorization in the context of section 1798.135(e). In particular, consumers should be able to authorize representatives via the representatives’ terms of service or other electronic contracts that the consumes agree to. Otherwise, it would be necessary to authorize representatives by a dedicated authorization process, which the average consumer would likely not engage in. In case of a browser vendor acting as a representative the website receiving the opt-out request would also be aware of the consumer’s authorization via the user agent indicating the browser the consumer uses. It would be clear to websites that all consumers using a browser with opt-out functionality turned on and language in its terms of service that the vendor acts as representative are authorizing the browser vendor for purposes of section 1798.135(e). For browser extensions and other non-browser software a link to the website with the terms of service could be sent to the website together with the privacy preference signal.

Thank you for the opportunity to comment. I am available for further questions and clarifications.

Sincerely,



Sebastian Zimmeck

[1] [Global Privacy Control \(GPC\)](#).

[2] [Invitation for Preliminary Comments on Proposed Rulemaking under the California Privacy Rights Act of 2020 \(Proceeding No. 01-21\)](#).