CALIFORNIA PRIVACY PROTECTION AGENCY

TRANSCRIPTION OF RECORDED PUBLIC MEETING

AUGUST 24, 2022

SACRAMENTO, CALIFORNIA

Present: BRIAN SOUBLET, General Counsel
CHRIS THOMPSON, Board Member
ASHKAN SOLTANI, Executive Director
VONGAYI CHITAMBIRA, Deputy Director of Administration
TRINI HURTADO, Moderator

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TRANSCRIBED RECORDED PUBLIC MEETING

August 24, 2022

MR. SOUBLET: Good morning, and thank you for being here. On behalf of the California Privacy Protection Agency, I would like to welcome everyone to today's hearing regarding proposed regulations implementing the California Privacy Rights Acts amendments to the California Consumer Privacy Act. My name's Brian Soublet. I'm the acting general counsel for the California Privacy Protection Agency. I will be the hearing officer for today's proceedings.

I'd like to briefly introduce Board Member Chris Thompson, to say a few words before we start these hearings.

MR. THOMPSON: Thank you, Brian. And good morning. My name is Chris Thompson. I'm one of the five board members of the California Privacy Protection Agency Board. And I want to thanks the executive director and staff who -- who've worked diligently to put together these hearings. And I'm really pleased to invite your participation over the next couple of days.

We've -- this is a continuation of a trend. We've seen impressive stakeholder engagement. I would say, during the preliminary rulemaking period, we received hundreds of pages of written pre-rulemaking comments from

the public, and there was a lot of robust engagement in our pre-rulemaking informational sessions and the stakeholder sessions that we held earlier this year.

On July 8th of this year, this Agency marked a key milestone when it began the formal rulemaking process to adopt proposed regulations implementing the California Privacy Rights Act of 2020, the CPRA. That's a law that is amending and building on the California Consumer Privacy Act. The CPRA amendments, the 2020 law, to the CCPA, give California residents new rights over their personal information that covered businesses, regulated business maintain about them.

These proposed regulations updates -- the proposed regulations update the existing CCPA regulations to harmonize them with the CPRA. And you're going to hear these -- these abbreviations a lot over the next couple of days. The -- the proposed regulations update the existing CCPA regulations to harmonize them with the CPRA amendments to the underlining CCPA.

The proposed regulations operationalize new rights and concepts introduced in the 2020 CPRA to provide clarity and specificity to implement the law, and then there's some clean up and reorganization and consolidation of -- of requirements set forth in the law to make the regulations easier to follow and understand.

The Agency and its Board are in a listening mode. We're learning as much as we can. And as I mentioned, that Agency staff are organizing and moderating this event, but members of the Board, including me, will be listening closely to your comments. We're eager to hear about your experiences and receive your input in this rulemaking process. I'm really looking forward to -- to hearing your input and engagement, and thank you for participating. Back to you, Brian.

MR. SOUBLET: Thank you, Mr. Thompson. Also present with me here today is Ashkan Soltani, the executive director of the California Privacy Protection Agency, and Ms. Trini Hurtado, who will be acting as today's timekeeper.

For the record, today is August 24th, 2022, and the time is 9:12 a.m. We are at the Elihu M. Harris State Building located at 1515 Clay Street, Oakland, California. This hearing is being conducted both in person and virtually due to COVID-19 precautions.

As a note on the COVID-19 precautions, we encourage members of the public participating in person to wear a mask during the hearings. We have masks available at the sign-in table if you need one. You may remove your mask, if you're comfortable, while making your public comment, to ensure that we have a clean record of what was said

today. But we encourage you to resume wearing one when returning to your seat.

As a housekeeping issue, restrooms are on the right as you exit the auditorium, and then they're down the hall on the right. And additional housekeeping matter, if you have a cell phone, please put it on silent.

Before we begin, there are a few points I would like to make. The Notice of Proposed Rulemaking for the CCPA regulations was published in the California Regulatory Notice Register on July 8, 2022 in Register No. 27-Z, starting at page 770. The notice and related rulemaking documents were posted on the Agency's website on July 8th, 2022, and emailed to all interested parties who had requested rulemaking notices.

Today is the first day of the public hearings that were announced in that notice. The deadline for submitting written comments closed on August 23rd, 2022 at 5 a.m. -- 5 p.m., sorry, yesterday evening. But any attendees who have any written comments that they would like to submit, may provide them to the staff at the sign-in table to -- or to email to comments to regulations@cppa.ca.gov at the end of this hearing.

We recently posted additional resources on our website about the Agency's CPPA -- CCPA rulemaking process, including two documents in PDF format, tips on

submitting effective comments, and information about rulemaking processes. Please visit the CCPA website at cppa.ca.gov for more information.

Today's public hearing is quasi-legislative in nature and is being held pursuant to the California Administrative Procedures Act. The California Administrative Procedures Act specifies that the purpose of this hearing is to receive public comments pertaining to the proposed regulations. If you are speaking today, we ask that you limit your comments to the proposed regulations or the rulemaking procedures that we are following.

We do not intend to answer questions or otherwise engage in dialogue in response to any oral or written comment. However, we may ask that you speak slower or louder or ask a limited follow-up question to clarify a point.

Today's hearing is being recorded and will be transcribed by a court reporter. The transcript of the hearing and any written comments presented during the hearing will be made part of the rulemaking record. Please try your best to speak slowly and clearly to help the court reporter create the best possible record.

After the public comment period ends, the Agency will review and consider all relevant comments and

recommendations provided at the public hearings and in writing. The Agency will then compile a summary of each relevant comment or recommendation and prepare a response to it, which will be included in the Final Statement of Reasons. Once the Final Statement of Reasons is complete, the entire rulemaking record will be submitted to the Office of Administrative Law, and a copy of the final statement of reasons, along with a notification of any changes that were made to the proposed regulations, will also be posted on the Agency's website.

We will notify all persons who provided comment and all those otherwise interested of any revisions to the proposed regulations, and any new material relied upon in proposing these rules. Accordingly, there's a check-in table as you entered the room where speakers and attendees can sign in and provide their contact information. You may also sign in to speak without providing your name or contact information. However, please know that we will not then be able to provide you with written notice of any revisions or rule -- or other rulemaking activities if you haven't given us your contact information.

If you've previously RSVP'd online or here in person and provided your email address, you will automatically be included on our mail. If you are attending virtually

and haven't signed up but would like to be notified via our mailing list, please go to our website, cppa.ca.gov, click on "Contact Us", and then click on "Sign up to the Rulemaking List" to add yourself to the Rulemaking Proceedings List.

If you RSVP'd to speak today, we will call on speakers in order of the RSVP. When we call your name, please come to the microphone here in the front of the room, and if you would like to be identified, state and spell your full name, and identify the organization you represent. If you have a business card, please provide it to us directly before approaching the microphone. You can hand that in at the sign-in table. If you have not signed up and would like to speak, please sign in at the door.

If you're attending virtually, when we call your name, please use the "raise hand" feature, and you will be unmuted and prompted to speak. Again, if you would like to be identified, state and spell your name and your organization, if any. If you do not want to give your name, you can use an appropriate pseudonym. Attendees who did not RSVP will be given a chance to speak after we make it through the RSVP list.

Each speaker will have five minutes to speak. To assist speakers, Ms. Hurtado will have a speaker alert

and alert you when there's thirty minutes -- thirty seconds left in your allotted time. In the interest of time, if you agree with comments that were made by a prior speaker, please state that fact and add any new information you feel is pertinent to the issue.

Also, there is no need to repeat or read aloud any written comments already submitted. All comments, whether written or oral, will be responded to by our office. If we have remaining time after all the speakers have had a turn, we will give speakers the opportunity to take a second turn and add to their remarks.

Lastly, we will need to take breaks during the proceeding, including at least a forty-five-minute lunch break. It appears -- if it appears that we have no speakers waiting for their turn to provide comments, we may end the hearing.

At this time, we welcome your comments. And I'm going to start calling people that have RSVP'd and are here in person. Our first speaker is Mr. Brian Olsen.

Mr. Edwin Lombard, you're next, so please be ready to go when Mr. Olsen is finished.

So Mr. Brian Olsen, if you would approach the microphone?

Okay. I see Mr. Olsen may not be here, so we'll come back to him.

Mr. Lombard, you're next.

MR. LOMBARD: Good morning.

MR. SOUBLET: Good morning, Mr. Lombard. Thank you for coming today.

MR. LOMBARD: Yes. Good to see you again, Mr. Soublet.

Chair and members of the Board, my name is Edwin Lombard, and I'm here as a small business owner and consultant with the representation of small black-owned businesses throughout the state of California. Proposition 24 regulations represent a significant body of law that will have consequential impact on small business owners like myself and those I represent.

Under the immerse (sic) burden of the ongoing pandemic and inflation, online platforms have been the lifeline for many small businesses serving underserved communities. While these small businesses remain committed to upholding Proposition 24 to provide strong privacy protection for our customers, we are very concerned that the excessive and impractical regulation could further devastate small and diverse businesses during these difficult times.

At this point, after witnessing many critical CPPA actions and inaction, it is unfortunate and disappointing that the CPPA and its proposed regulations fall short of

what is required under Prop 24. But there's still time to get this right and have California serve as a national model.

First, the Privacy Protection Agency is operating with a lack of accountability. The Agency had a chance to work with the legislature to expire -- extend the July 1st, '22 adoption deadline, and it chose not to. However, the Agency can work with the legislature to extend the July 1st, 2023 enforcement date. It is important because small businesses should not have to spend more money to comply with a shorter time frame for something the Agency could have addressed but refused to.

Second the Agency is -- is very vastly underestimating compliance costs facing small businesses. The Agency's estimate is $127.50 per business is, at best, a lowball figure. We are aware that nor -- that no effort by the Agency to reach out to small businesses to discuss compliance and better understand the cost they face, not the least of which include the cost effectiveness of online platforms that rely on -- we rely on to connect with and serve our customers.

Third, the Agency has the legal issue -- has a legal issue. I'm not a lawyer, but I question the legality of the regulation going beyond the statutory adoption date of July 1st, as required under Prop 24. How can these

regulations even be legal at this point? Finally, I'll close with this; when corporations catch a cold, small businesses like mine catch pneumonia.

These privacy regulations can avoid this by significantly changing -- but significant changes are needed. We urge that the Agency take the responsible action by working with the legislator (sic) before it adjourns to extend the deadline for adopting regulations to the January 1st, 2023 -- and extend their enforcement date to January 1st, 2024. This would be consistent with the one-year enforcement time line extended by Prop 24. Thank you very much.

MR. SOUBLET: Thank you, Mr. Lombard.

Our next speaker, Mr. Julian Canete.

And Donald Seals, please be ready after that.

MR. CANETE: Good morning, Mr. Soublet and members of the Board. Julian Canete, President/CEO, California Hispanic Chambers of Commerce. At the chamber we represent the interests of the over 800,000 Hispanic-owned businesses here in California, which range from small to large businesses, the whole gamut. As the largest regional ethnic business organization in the nation, we promote the economic growth and development of California's emerging Hispanic businesses.

When an issue such as this one arises, we uplift the

vote -- voices of the small business owners to ensure agencies consider how they are impacted. A privacy protection agency was created by voters to protect Californians' privacy while taking into account potential impacts on business and innovation. This unfortunately, has not happened and needs to change. For Hispanic businesses in California, failure to make a course correction could mean undoing years of hard-earned gains.

Over the last ten years, Hispanic-owned businesses have set the pay -- pace for business growth, increasing -- increasing forty-four percent nationwide, compared to four percent for all others. In California, Hispanic-owned businesses in 2020 accounted for nearly fifteen percent of all enterprises, bringing in more than $150 billion in receipts.

During the pandemic -- during the pandemic, many Hispanic businesses adapted by learning to utilize technology and social media to build customer loyalty and transform their businesses from -- from more expensive brick and mortar operations to highly cost-efficient e-commerce and online marketing platforms. However, the Privacy Agency's proposed regulations would make online tools less effective and cost efficient, which will also add significant costs for the daily operations of small businesses.

These small businesses are already facing market uncertainty and will have difficulty understanding new requirements of the sprawling regulatory framework for everything from reporting to training to recordkeeping. This results in compliance costs that are especially hard for small businesses to absorb.

Small and minority businesses are -- are no strangers to adversity. Resiliency is in our DNA. At the same time, we are committed to protecting personal privacy. It's vital to our business success and to our customers, not only to trust us, but believe in us and the products and services they provide. But we can't do it alone.

We need the Privacy Agency to work with us, not against us. Take the time to get these complex, new policies right, extend the enforcement deadline, take into account the impact that these regulations will have on businesses and innovation. We owe this not just to small businesses, but all Californians. Thank you for your time.

MR. SOUBLET: Thank you.

Donald Seals?

Our next speaker after Mr. Seals is Craig Erickson.

Good morning, Mr. Erickson.

MR. ERICKSON: Good morning. Thank you very much.

My name is Craig Erickson. I'm a California consumer, and like other California consumers who have exercised their privacy rights under the CCPA, spent a significant amount of time and money issuing data requests. And one of the difficulties that I found was determining when organizations are exempt or not.

And that leads to the question of, if an organization that isn't exempt does want to voluntarily comply with the CCPA in the CPRA, but then turn around at the end of the process and say they're exempt, what I -- what I'm asking for, is some type of guidance, in terms of would the CPPA take up those type of complaints, or would that guidance be directed better to the FTC?

And I -- I know it's -- there's no questions, but that's my comment, and so I would appreciate some type of guidance around that.

MR. SOUBLET: Thank you very much.

MR. ERICKSON: Thank you.

MR. SOUBLET: Our next speaker is McKenzie Lombard. That's spelled M-C-K-E-N-Z-I-E, for the record.

Good morning, Ms. Lombard.

MS. LOMBARD: Good morning. My name is McKenzie Lombard, and I am the owner of Wild Fern Marketing, a small minority-owned business in Long Beach, California. I thank you for the opportunity to provide comments

before the Board today. I used to work in the service industry as a restaurant manager until COVID-19 hit. I lost my job and suffered for two years. And after that, I created Wild Fern Marketing, an internet-based firm. I use social media to gain and service my clients.

The regulations published on July 8th, 2022, has left businesses in a pickle. We don't understand this complex regulatory framework, therefore, we don't know how to ensure compliance. As a result, my business could be subject to costly lawsuits, forcing us to close our doors. To continue to run a successful business, we need our customers to believe in us. Therefore, we remain committed to protecting the privacy of all of our customers and providing the best services we can.

However, with very little time left to comply with such complicated regulations, I am concerned how this framework will affect my business and other small minority-owned businesses like myself in California. I ask that the Agency simply listens to our voices and consider the real impact that these regulations and the missed deadlines will have on us. Thank you.

MR. SOUBLET: Thank you very much.

I'm going to go back to Mr. Brian Olsen, if you're present?

Okay.

Donald Seals, if you're present?

We'll come back to them at the end of the day. We're going to take our first online speaker. Don't have a name, so I'm just going to call out the email address. Yes.

Data -- datumooo. D-A-T-U-M-O-O-O, if you're online, please raise your hand, and we'll unmute you.

Okay. I'm going to move to the next online speaker.

ilenox, I-L-E-N-O-X, if you're online, please raise your hand, and we will unmute you.

MS. HURTADO: Your time begins now.

MR. SOUBLET: She's unmuted.

MR. THOMPSON: Are you asking me?

MS. HURTADO: Cheryl --

MS. BROWNLEE: Good -- yes. Good afternoon, Chair and -- good morning, Chair and Board members. My name is Cheryl Brownlee, and I'm the owner of CB Communications, a small minority-owned business in Sacramento, California. I appreciate the opportunity to provide comments before the Board today.

The regulations published on July 8th, 2022 have left businesses like mine to quickly work to understand this complex regulatory framework, and make sure we are in compliance. If we make a misstep, my business could be subject to costly and lots of (audio interference).

Without online, my business will simply not be here (audio interference) July (audio interference).

We cannot afford to lose such an important tool. To be successful, we need our customers to believe in us and our businesses. Because of that, we remain committed to protecting their privacy and providing the best services we can. However, with very little time left to comply with such complicated regulations, I am deeply concerned how this framework work will affect my business and other small minority-owned businesses in California.

At this time, I would respect -- respectfully ask that the Agency listen to the voices of small business owners like myself, and consider the very real impact these regulations and the missed deadlines will have. Thank you very much.

MR. SOUBLET: Thank you. Our next online commenter is Roman Hill. Roman Hill (ph.), if you're online, please raise your hand.

MS. HURTADO: Roman Hill, you may begin speaking. You now have five minutes.

MR. HILL: Hi. This is Roman Hill. I actually don't have any comments. There must have been a mistake. Thank you.

MR. SOUBLET: Thank you, Mr. Hill.

Our next commenter is Scott Chapman (ph.).

Mr. Chapman, if you're online, please raise your hand.

Okay. We'll move on.

Mia Wang? Mia Wang, if you're online, please raise your hand.

Our next speaker, Tony Lengeling, L-E-N-G-E-L-I-N-G? If you are online, please raise your hand.

Okay. Daniel Magana, M-A-G-A-N-A, if you're online, please raise your hand.

Amy Dunn, D-U-N-N. Ms. Dunn, if you're online, please use the "raise your hand" function.

And I'm going to apologize, but I really spent -- pronounce this name poorly, Joao Chagas, C-H-A-G-A-S, if you're with us online, please use the "raise your hand" function.

Moving along. Amber Ogawa, O-G-A-W-A, if you're with us, please use the "raise your hand" function.

Luigi Mastria, M-A-S-T-R-I-A, if you are with us online, please use the "raise your hand" function.

Okay. Janae Hill, if you're online, please use the "raise your hand" function.

Okay. We're now up to number 20 on our list. Braden Carkhuff, C-A-R-K-H-U-F-F, if you are online, please use the "raise your hand" function.

Margaret Gladstein, G-L-A-D-S-T-E-I-N, if you're with us online, please use the "raise your hand"

function.

I just have first name, Steve. Steve, if you are with us online, please use your "raise your hand" function.

We're going to move on to Don Marti, M-A-R-T-I. Don Marti, if you're online use -- please use the "raise your hand" function.

MS. HURTADO: Mr. Marti, you've been unmuted. You now have five minutes. Your time begins now.

MR. MARTI: Thank you. My name is Don Marti, and I'm representing CafeMedia. CafeMedia is an advertising services firm that exclusively represents the advertising businesses of more than 3,600 web publishers, including 346 small and mid-sized websites published in California. These independent publishers fill an important role on the internet by providing many kinds of free content to more than 183 million web users who visit at least once a month.

As the largest ad representative for independent publishers, we took our compliance responsibilities seriously when CCPA came into effect, including becoming an early adopter of global privacy control and the Interactive Advertising Bureau's CCPA compliance framework.

In the 2020 election, the voters of California

passed Proposition 24 to strengthen our privacy protections in the State of California. However, gaps in privacy regulations continue to allow some companies to avoid respecting the intent of the voters, which is unfair to those of us who do. Today, we in California have an opportunity to fix the gaps in the regulations by clarifying and reforming them to make it practical for everyone in California to exercise their basic privacy rights.

Some of the gaps in the existing regulations include arbitrarily complex verification processes. California residents must take selfies, upload photos to poorly tested websites with limited device support, pass quizzes, pass quizzes that only work if you put in wrong answers, print documents, scan documents, even have documents notarized. Regulations must address the issue of complex verification pathways in order to make it practical for anyone in California to exercise their right to know and right to delete under the law.

Second, categories of information, not values, must be disclosed under the current regulations. That means that when I do a Right to Know, I can get results back like "Social: Influencer Propensity 14". Influencer Propensity 14. What's that? Is that good? Or I can get "Lifestyle Stage 87Q". What's an 87Q? Does that mean

I'm retired? Pregnant? I don't know. This is a simple fix for the regulations. The new regulation need to include the actual data points in the list of items that need to be disclosed in a way that is meaningful to the consumer.

Finally, large companies are still failing to disclose shadow profiles. When company A sells or shares my information to company B, then, under the law, I can still exercise my right to know with company B, even if I am not a registered user there. The law does not allow company B to require me to accept their contractual terms of service in order to exercise my right to know. I realize that there is substantial complexity around this issue, but allowing shadow profiles without right to know is unfair to companies that do comply with the law.

I have additional background information on some of these issues in my written comments, and I'm also available to provide additional background information after the meeting. Thank you again for the opportunity to comment.

MR. THOMPSON: You're muted.

MR. SOUBLET: Mr. Dan Frechtling? Mr. Frechtling, if you are online, please use the "raise your hand" function, and we will unmute you.

MS. HURTADO: Mr. Frechtling, you've been unmuted.

You have five minutes to speak. Your time begins now.

MR. FRECHTLING: All right. Thank you for this opportunity. My name is Dan Frechtling, CEO of Boltive, the software company doing business in California. We help companies fix consent errors and data leakage through online ads and web digital objects, like the analytics trackers. Well, the reason I'm speaking is to present an understanding of consent errors that we see on a regular basis, and this can happen 100 times or more to the average U.S. consumer. And this can happen with consent management platforms. But there are other ways of managing consent, like web forms, ad choices, global privacy control, and others.

Users will visit websites. They will opt out of data sharing, and nonetheless, that data is shared anyway. And our software finds that this is commonplace in cross-context behavioral advertising, commonplace in programmatic advertising. There are 250 billion bid requests are so per day, which compares to 15 billion stock trades per day. And the error rate for consent management platforms is greater than one-third.

When we unpack consent errors and how this is happening, we see that there are elements within the proposed rulemaking that is actually very favorable to solving this problem. It's often a problem of the

consent system and the network of partners where websites integrate. The error rate for consent management platforms, and that is when somebody opts in or opts out to data sharing, and that gets passed on with errors, meaning it's unintelligible or uninterpretable, that error rate for content management platforms averages twenty percent.

The error rate with networks that consent management platforms integrate with is about twenty-four percent, and combined, the error rate is thirty-seven percent. So this produces what we call dark signals, consumers' elections to opt out that are lost in the chain of vendors, which we spoke about on November 5th in written testimony and in spoken testimony on May 5th.

This can happen with problems to consumer data sharing in -- in ways that can be malicious. We worked with a hospitality company and discovered that there were data skimmers, like hardware attached to gas pumps and ATMs. They look like they're supposed to be there, but they're actually foreign objects. That's in credit card fraud a known risk and hazard. But in online advertising, these online skimmers sit and read bitstream data and can in -- get involved, in the case of the hospitality company, in malware distribution.

We worked with another company that is in the

wireless space, and tracing their third parties led us to Segmento, which is owned by Russia's Sberbank, and was on a list of sanctioned entities after the invasion of Ukraine. They were invisible to the company involved and to third parties. With reviews, audits and tests, as outlined in the CCPA language and the new proposed language, these data skimmers can be discovered and data exfiltration can be stopped.

What can we do about this? We applaud the way the language is written today and it's 7053(b) and 7062(f), whereby third parties and similar intermediaries bear responsibility for honoring and transmitting opt-out signals. Section 7053(b) helps ensure businesses contract with third parties to check and honor opt-outs. 7026(f) states that obligations to businesses and third parties to pass opt-outs through the chain of vendors. We think these are very favorable, because they can stop dark signals.

However, we would recommend going a little bit further and applying certain clauses regarding service providers in 7051 to third parties in 7053. The audits and scans of service providers in 7051(a)(7), really should refer to third parties as well in 7053(a)(4). Today, the way it's written under 7051(a)(7), the contracts between businesses and service providers grant

the business to undertake scans and audits at least every twelve months. And we're puzzled as to why this language is missing from 7053(a)(4).

Similarly, Safe Harbor requirements applying to service providers in 7051(a) should apply to third parties and 7053(a).

MS. HURTADO: Thirty seconds.

MR. FRECHTLING: And so we propose that you add the audit and test language to ensure best practice in 7053. Finally, we would ask for a simple process to withdraw consent, similar to what is in the Connecticut law, the text of ADPPA and in GDPR. We think there's a lot of good news in the language, but if they aren't amended to require audits and checks of third parties, that means companies may do just enough to serve the letter of the law and not the spirit of the law. Thank you.

MR. SOUBLET: Thank you.

I just want to remind those attending here and present, can you please silence your cell phones?

Our next speaker is Yadi, Y-A-D-I. Yadi, please raise your hand function, and we will unmute you.

MS. HURTADO: Yadi, you have been unmuted. You have five minutes to speak. Your time begins now.

YADI: Oh. Hi there. I -- I would like to be put back into the queue and speak on the second day, if

that's an option. Thank you so much.

MS. HURTADO: Thank you.

MR. SOUBLET: Our next speaker is Rich. Rich, if you are with us, please use the raise your hand function, and we will unmute you.

MS. HURTADO: Rich, you've been unmuted.

MR. WALLACE: I am --

MS. HURTADO: You have five minutes to speak. Your time begins now.

MR. WALLACE: Oh. Good afternoon, and thank you for allowing me to speak. My name is Rich Wallace, and I am the president of the Southern California Black Chamber of Commerce, from the desert to the sea, with eighteen chapters and over -- a little over 2,200 members of our organization, which are all small businesses, which are affected by the July 8th, '22 decision.

So I -- and I'm here today to ask the -- to ask the Board to actually reconsider the deadline, and go back to the table and allow the small businesses here to be a part of the decision that's going to affect their lives. The economic situation that we live in today is tough enough. We're already down to the bare bones of trying to survive and getting our businesses up and running, and decisions like this that doesn't involve the community doesn't allow us to be able to be a part of what we're

trying to grow.

Small business is the backbone of America. And I ask you to reconsider and to listen to what the small business people have to say. And then allow you -- even if you make the same decision, at least open the door so other businesses can be a part of what we're doing here, so we can all feel like we're on one accord here and make the decisions that we need to make.

My name is Rich Wallace. I'm with the Southern California Black Chamber of Commerce, from the desert to the sea, and I thank you for this opportunity to be able to speak to you today. And ask that you reconsider your decisions that you've made for July the 8th. Thank you.

MR. SOUBLET: Thank you, Mr. Wallace, for your comments.

I just want to note that this is the public participation part of our rulemaking process where the public has the opportunity to submit both written and oral comments. We've also held several pre-rulemaking sessions where the public was invited to participate in the process. So I just want to make sure that the record reflects that.

Our next speaker is Chris Pedigo, P-E-D-I-G-O. Chris Pedigo, if you're with us online, please use the raise your hand function, and we will unmute you.

MS. HURTADO: Mr. Pedigo, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. PEDIGO: Great. Thanks very much. Again, my name's Chris Pedigo. I'm the Senior Vice President for Government Affairs at Digital Content Next. DCN is a Trade Association. We represent exclusively digital publishers who create digital content, original digital content. According to Comscore, 100 percent of U.S. online population will visit at least one of our members' websites every month.

So as you can imagine, our members spent a lot of time and resources making sure that the consumer experience matches with the consumer's expectations. Against that backdrop, our comments on the draft regulations are almost entirely focused on how the regulations would impact the ability of publishers to meet consumer expectations. I'd like to discuss a few of the points that we raised.

First, we have some concerns about the requirement that businesses display in real time, whether they have processed a consumer's opt-out preference. We're concerned this may present a significant burden on technical and employee resources. We're also concerned that the consumer screen, especially in smaller devices, may become overly crowded with disclosures and links, as

are required under other California law.

Second, the illustrative examples under Section 725(c)(7) envisions a scenario where a login consumer visits a business' website via a browser with an enabled opt-out preference signal. In this example, it suggested that the business should apply the opt-out preference to the business' entire relationship with the consumer, including to offline sales or sharing.

We're concerned that it may be inappropriate to always extend that opt-out preference to the entirety of a business' relationship with the consumer. For -- for starters, it -- it may be technically difficult. It would certainly invert -- inadvertently require companies to collect more information about the consumer, which seems to run contrary to the -- the intent of the CPRA.

You can imagine a scenario where the consumer is logged in with an email. But that might be different than any information that they've provided in an offline setting, for instance, a newspaper subscription where they simply provided an address and a name.

In addition, consumers tend to have different expectations in different contexts. So in the scenario envisioned, the consumer may have enabled the opt-out preference signal because of concerns about unknown third parties tracking them across the web. But this consumer

may have no intention of impacting data collection by the first party in other contexts, or data collection in general or on other devices, like a television or in a physical store where third parties are less prevalent.

All that said, lastly, I'll -- I just want to close on a positive note by reiterating our three -- iterating (sic) our support for two key components of the draft regulations. First, we support the ability for consumers to opt out using opt-out preference signals. We agree that these signals can be turned on by default, especially if they are marketed as privacy enhancing. We also agree that the consumer should not be required to confirm or authenticate this signal. The whole point of these signals is to eliminate friction in the consumer experience and quickly align with consumer expectations.

Second, we support provisions in Section 72 -- 7026 and 7052, which require that third parties must revert to the role of a service provider when they receive a consumer's opt-out signal. It's imperative that there are clear rules for the road in order to avoid a situation where a few large tech companies might attempt to use their market dominance to negotiate special terms in order to avoid the impact of the law.

That said, I appreciate the opportunity to speak today, and thank you for all your work.

MR. SOUBLET: Thank you. Our next speaker, number 28, is Mike. Mike, if you're with us online please use the "raise your hand" function, and we will unmute you.

Okay. We're going to move on to Ashlee Garrison. Ms. Garrison if you are with us online, please use the "raise your hand" function, and we will unmute you.

We're going to move on to Shima, S-H-I-M-A, Shams, S-H-A-M-S. Shima Shams, if you're on -- with us online, please use the "raise your hand" function.

Okay. Another name I will probably mispronounce but looks like Khyati Dalal, K-H-Y-A-T-I, D-A-L-A-L. If you're with us online, please use the "raise your hand" function, and we will unmute you.

David LeDuc, L-E-D-U-C, if you're with us online, please use the "raise your hand" function, and we will unmute you.

Travis Frazier, if you're with us online, please use the "raise your hand" function, and we will unmute you.

MR. FRAZIER: Here I go. Good morning, and thank you for the --

MS. HURTADO: You have five minutes to speak. You've been unmuted. Your time begins now.

MR. FRAZIER: Thank you. Good morning, and thank you for the opportunity to testify on the proposed regulations to implement the California Privacy Rights

Act of 2020. My name is Travis Frazier, and I'm the manager of government relations at the Association of National Advertisers, the ANA. The ANA serves the marketing needs of 20,000 brands, with a membership consisting of U.S. and international companies, including hundreds based on California.

Our members collectively invest more than 400 billion in marketing and advertising annually. The ANA and our members believe that protecting consumer privacy is of paramount importance. We have filed more detailed comments in writing, however I would like to take the time today highlight several areas we believe are critical. First, the CPRA support the time line for finalizing regulations by July 1st, 2022, followed by agency enforcement a year later. This time line would have provided a one-year ramp-up period for businesses to comply with new mandates. Unfortunately, given the delay in finalizing regulations, companies will not have a full year to operationalize the requirements as intended by the law. As a result, we urge the agency to delay enforcement until one year following the finalization of regulations.

Second, the agency should promulgate regulations that are consistent with the plain text of the CPRA. Several provisions in the proposed regulations contradict

the clear text of the law. For example, the "necessary and proportionate" standard in Section 7002 should be aligned with the plain text of the CPRA.

The proposed regulations would time necessary and proportionate data collection use and retention to a vague average consumer expectation standard is not present in the text of the CPRA and would read the rule of notice out of the law. The section should be amended to match the CPRA by time necessary and proportionate to purposes disclosed to consumers in applicable notices.

Additionally, the proposed regulations approach to opt-outs preference signals conflicts with the text of the law. The proposed regulations make it adherence to opt-out preference signals mandatory, when the law clearly gives businesses the choice to either accept such signals or provide consumers the ability to opt out via a clearly labeled link. The agency should update the proposed regulations to reflect this clear option set forth in the CPRA.

Additionally, the agency should promulgate regulations to clarify key safeguards set forth in the CPRA for businesses' evaluation of such optional opt-out preference signals; namely, safeguards to ensure that such signals are true expressions of consumer choice, not set by default, and do not disadvantage certain

businesses in the marketplace.

Finally, mandating the opt-out request be sent downstream is inconsistent with consumer choice and the CPRA's text. Requiring businesses to forward opt-out requests to other businesses in the marketplace could contravene consumer choice. When a consumer submits an opt-out choice to one business, the consumer expects that choice to apply to that business, not the entire marketplace.

Additionally, the CPRA does not require businesses to forward opt-out selections to others. The statute clearly includes such requirement for deletion requests, but it makes no similar mandates for opt-out requests. The agency should consequently remove the proposed rule requiring businesses to forward opt-out requests downstream.

In addition, the agency should remove Section 7050(c) because -- because it is duplicative and unnecessary. The section merely restates the CPRA, which prohibits entities from acting service providers to provide cross-context behavioral advertising services. The CPRA and the proposed regulations reconfirm that service providers may provide advertising and marketing services subject to specific limits set forth in the text of the law. Because this section is duplicative of the

law and provides no additional clarity, it is unnecessary, and the agency should remove from the text of the regulations.

It is ANA's hope that the agency will develop reasonable regulations that protect consumer privacy and allow businesses to continue to innovate, subsidize the economy, and facilitate consumers' access to a wealth of information online. The agency should avoid rules that would significantly reduce the use and value of consumer data. Overly broad regulations would significantly hinder business operations, kill small and start-up businesses, and deprive Californians of benefits and advantages they currently receive through access to an open and largely free internet ecosystem. Consumers will also certainly feel the effects of the CPRA, which will raise the cost of doing business in California.

Thank you for the opportunity to speak to you today, and we look forward to continue to working with you during the rulemaking process.

MR. SOUBLET: Thank you, Mr. Frazier. Our next speaker, Dan Murphy. If you are with us online, please use the "raise your hand" function, and we will unmute you.

Joel Odelson, O-D-E-L-S-O-N. Joel Odelson, if you are online, please use the "raise your hand" function.

Ashley Keller, K-E-L-L-E-R. Please use the "raise your hand" function, and we will unmute you. Okay. Yeah.

Xenia Morris, X-E-N-I-A, Morris. Xenia Morris, please use the "raise your hand" function, and we will unmute you.

MS. HURTADO: Ms. Morris, you've been unmuted. You have five minutes to speak. Your time begins now. Ms. Morris? If you're speaking, we can't hear you.

MR. SOLTANI: We can invite them back to speak.

MR. SOUBLET: We'll -- we'll come back to Ms. Morris. Cheryl Brownlee, B-R-O-W-N-L-E-E. Cheryl Brownlee, please use the "raise your hand" function, and we will unmute you.

Justin Kloczko, K-L-O-Z -- K-L-O-C-Z-K-O. Justin Kloczko, please use the "raise your hand" function, and we will unmute you.

MS. HURTADO: Mr. Kloczko, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. KLOCZKO: Hey. Good morning. Thank you to the Board for the thorough draft regulations on behalf of California voters. I'm just going to highlight a couple areas here really quick that we think are important to flag.

The first is on global opt-out and friction. We --

we commend the Regulation 725 for making clear that companies must display a do not share/sell my information button, and limit the use of my sensitive personal information button on their home page as well as honor global opt-out signal. We think the home page button is crucial for informing consumers who are not aware of their privacy rights, and it's -- the global opt-out was critical to make privacy choices as seamless as possible for those who already know they want to exercise those rights. Requiring global privacy signals be honored by businesses is an easy, seamless way for consumers to notify all businesses of their privacy preferences.

That many advertising and tech industry firms who monetize our data say that the global opt-out is voluntary under the -- the law says a lot about the importance of such a mechanism. Now we know that's incorrect with the -- the regulations. However, we -- we do worry about some friction, worry about businesses making it difficult for consumers to exercise that opt-out right. Under proposed Regulation 7025, it says, "A business may provide the consumer with an option to provide additional information if it will help facilitate the consumer's request to opt out of sale or selling".

We -- we think this can open a door for -- for friction in the form of, like, worse service or pop-ups,

and that we think goes against the intent of the law. For example, companies could still ask for information even if do not sell or share is enabled. It could be interpreted as allowing companies to ask for, you know, names, emails, you know, quite frequently, and consumers will get fatigued for -- for being punished for exercising privacy rights.

So kind of the ability for a business to have, like, a last say in this exchange over data sharing should just be eliminated. I know the agency's regulations state that the path for a consumer to exercise a more privacy protective option shall not be longer than the path to exercise a less privacy protective option.

And you know, finally, I wanted to talk about the fifteen days. There's a provision that says there's fifteen days to opt out of sale and -- and sharing. Under Sections 7026 and 7027, businesses have fifteen days to honor a person's request to stop selling or sharing data with third parties as well as fifteen days to limit use and disclosure of sensitive personal information.

This is a pretty big window that threatens to upend the entire law. We don't believe the regulation is backed up by the -- the statutory language. The problem is once people's data is acquired, it's usually sold by

businesses right away, and once data gets out in the world, it can get into anyone's hands.

So even when somebody opts out, personal information will still be sold because businesses are granted this two-week grace period. It will also spur companies to concentrate on using and selling data within the window, kind of producing this wild, wild west effect on data selling, and even though it says a business should honor a request "as soon as feasibly possible", businesses will cite fifteen days as soon as feasibly possible.

So we think, you know, businesses should be forced to honor a person's opt-out request just as soon as they're able to sell your data, which apparently is -- is mere seconds. So please, we urge the Board to close this gap, and that's it. We -- we look forward to seeing final regulations that address issues and the next round of draft -- draft rules. Thanks for listening.

MR. SOUBLET: Thank you. Our next speaker is Andrea Cao, C-A-O. Andrea, please use the "raise your hand" function, and we will unmute you.

MS. HURTADO: Ms. Cao, you've been unmuted. You have five minutes to speak. Your time begins now.

MS. CAO: Okay. Thank you so much. Good afternoon, Chair and members of the Board. My name is Andrea Cao, public policy manager at the California Asian Pacific

Chamber of Commerce, and we represent -- we represent more than 600,000 Asian and Pacific Islander, also referred to as AAPI, owned businesses throughout California. We serve as the listening ear and voice for California's AAPI small business owners, ensuring they are heard on the issues that will impact them the most, such as the state privacy regulation.

To be clear, without further changes, the regulations proposed by the Privacy Protection Agency will negatively impact AAPI businesses throughout the state. For starters, since the agency missed its July 1st deadline to adopt privacy regulations, there has been no communication about whether the agency will extend the enforcement deadline to ensure businesses have a full year to comply as intended by Proposition 24. AAPI and other California businesses did not miss the July 1st deadline. We are concerned that they will be made to pay the price for it much more than the agency's estimated $127.50 per business.

According to a study by Berkeley Economic Advising and Research for the attorney general, the estimated cost of initial compliance with the agency's privacy regulations will be 55 billion dollars, and that is before the agency moves toward a shorter compliance period. Having a shorter compliance period leaves

several hundred thousand small businesses in the dark, which will result in more costs as they try to catch up to a regulatory process that has not been transparent, nor accountable.

There are always costs our members absorb when laws are changed. Unfortunately, this process will lead to more financial burden for businesses that are doing all they can to stay afloat. To give small, diverse businesses sufficient time to comply with new regulations, we encourage the agency to work in coordination with the state legislature to extend the date of enforcing new privacy regulations from July 1st of 2023 to January 1st of 2024.

California's small, minority-owned businesses are not only the backbone of the state's economy, but they bring immense value to our community. Now is the time to listen to their -- their voices and get this right. Thank you so much for your time.

MR. SOUBLET: Thank you. That was the end of our -- our list. So what I'm going to do now is I'm going to ask those of you that had RSVPed to speak and are attending remotely, if you'll just please raise your hand, and we will identify you one at a time and give you -- unmute you and give you an opportunity to speak. So if you've RSVPed online, please raise your hand if we

have not heard from you already.

MR. THOMPSON: We'll start with Nick Hill.

MR. SOUBLET: Okay. Nick Hill.

MS. HURTADO: Mr. Hill, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. HILL: Good morning. My name is Nick Hill. I'm president and CEO of the Kern County Black Chamber of Commerce, and on behalf of small black-owned businesses that I represent, I urge this agency to extend the deadline for compliance with these newly released regulations.

California small minority-owned businesses are the backbone of the state's economy. The agency's reg -- regulations have the potential to further disrupt the livelihoods of many of our community members, but that does not have to be the case. There is still an opportunity to listen to these small businesses and allow us to be a part of this decision. I ask that you listen to the voices like mine and consider doing so. Thank you so much.

MR. SOUBLET: Thank you.

MR. SOLTANI: Xenia, Xenia Morris.

MR. SOUBLET: Okay. Xenia Morris.

MS. HURTADO: Ms. Morris, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. SOLTANI: Her microphone may not be -- she's unmuted, but her microphone may not be working.

MR. SOUBLET: Just -- Ms. Morris, can you unmute and check and see if your microphone is working?

MR. SOLTANI: She can also dial in. That would --

MS. HURTADO: Ms. Morris, if you wish, you can dial in using the phone options, and we can take your comment over a phone call.

MR. SOLTANI: We also have a chat.

MR. SOUBLET: Can we just give the dial-in number?

MR. THOMPSON: I just posted it -- I'll reread it. The dial-in number for those that are having technical issues is area code 866-434-5269. Again, 866-434-5269, and the conference code is 682962. Again, 682962. It's on our website, and I've also pasted it in the chat. Why don't we go now to the room, I don't think anyone --

MR. SOUBLET: Okay.

MR. SOLTANI: -- on this list has RSVP'd, and then we'll go back to them.

MR. SOUBLET: There were several people that are present that had signed up to speak that we missed earlier. So I'm going to go back to the top my list.

Mr. Brian Olsen, if you're here and present, would you please come forward?

Okay. I'll move down to Donald Seals. If you are

here and in person, please come forward to the podium.

Okay. That was it. Again, Maxi Levie, if you are here, please come forward.

MR. THOMPSON: Anyone in person?

MR. SOUBLET: Okay. Why don't you come forward. Identify yourself, give us your name and if you're with an organization. Just come on up. Good morning and welcome.

MR. WASHINGTON: Thank you. Greetings, everyone. I'm Sammuel Washington with the Silicon Valley Black Chamber of Commerce. I'm the president of that organization, representing roughly 700 businesses here in northern California. I'm also a principal security consultant at Pfizer for companies such as HP supporting the -- the (indiscernible) security officer. I have a number of concerns. I think I may be a little loud, but it's (indiscernible) over there, so I'm going to back up from the mic.

But that having been said, just a few things that I would like you all to consider. As Nick Hill with the Kern County Chamber of Commerce said, for minority businesses, especially small businesses, I have to say businesses in general, the acts and the -- the notices that are being given for -- for businesses to comply with the -- the proposed mandates as they currently sit would

just about destroy small companies and small businesses in the state.

You know, and not just -- you know, not just restaurants or technical firms, but companies that sell shoes, companies that -- that sell clothes, even companies that provide services like hair care and those kinds of things, because those firms use software that collects the consumer information for banking, for processing, all of those kinds of things. Those systems generally collect -- collect consumer information, and they're not necessary related or engaged with -- with -- with the third-party agencies that are collecting this information.

In addition, there is the -- there's the simple fact that very large companies, like Google, collect consumer information just by entering their websites. Government agencies do the same thing, and so there are all of these -- these prospects and components of collecting, storaging -- storing, managing, and distributing consumer information that the agency would need to try to address in order to become in compliance with its own regulations.

I would highly recommend that, one, a -- a time period be set, possibly a graduated time period for businesses to comply that's actually stretched out a

greater distance than, say, any time in 2022. We would probably be looking at a more realistic time frame of probably 2024 or 2025, given the complexity of the requirements that would need to be put forth -- and they are not bad requirements. It's just that we need to let people catch up with the technology.

Most people, most companies are buying services that collect information. They have no idea what that information is or how those systems work, and so the management of that would be a little involved. From that standpoint, I look forward personally and on behalf of the Chamber of working with you all to lay down those prospects, that -- that construction of the solutions that are possible and actually providing people with some form of written guidance or advisory services to -- not just for larger, complicated businesses, but for small business of every type who are going to be engaged in consumer information collection, even nonprofits that do it every day. Thanks a lot.

MR. SOUBLET: Thank you. I'm looking out, and if there's anyone else present here in the room who would like to make a comment and haven't already had the opportunity to do so, why don't you please come forward. Step to the microphone, tell us your name, and if you're representing an organization, that organization, and

we'll give you five minutes to comment.

I see it's about 10:20. We're going to take a ten-minute break until 10:30, and then we'll come back on the record and see if there are any more people who would like to comment. So we're going to go off the record now. Thank you.

MR. SOLTANI: And I'm going to let people know that folks online can raise their hand when they --

MR. SOUBLET: Yeah.

MR. SOLTANI: -- come back.

MR. SOUBLET: Yeah. When we come back online, we'll ask those people that are attending online if you'd please use the "raise your hand" function, we will call you and then you will have five minutes to speak. So we're going to go off for about -- for ten minutes, and then we'll be back at 10:30. Thank you.

(Whereupon, a recess was held from 10:20 a.m. until 10:33 a.m.)

MR. SOUBLET: You're muted. Okay. We're -- we're now going back on the record. We're resuming. Again, this is the California Privacy Protection Agency's public hearing on proposed regulations implementing the California Privacy Rights Act's amendments to the California Consumer Privacy Act.

We're going to go back to the people that we may

have missed online. If you are attending our hearing remotely online and I would like to speak, please use your "raise your hand" function. We will then call you, and you will have five minutes to speak. So again, I would like to encourage you, if you would like to speak this morning, please use the "raise your hand" function, and we will call on you.

MS. HURTADO: Mr. Geroe, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. GEROE: Hi. Thank you. My name is Mike Geroe. I'm legal counsel to members of the community regulated by California privacy laws around the world. I've been advising companies, both as outside legal counsel and as in-house counsel on data compliance matters since 2004.

And as I've listened to many of the comments made today, primarily by organizations representing small businesses as well as the gentleman who -- who spoke in the capacity of a consumer, I think he -- he was one of the first few speakers, a sort of lightbulb goes off in my head that I'd like to comment on, and the comment is that the CPPA Board should not dismiss these comments of small businesses suggesting that the cost of compliance will be more than the CPPA Board anticipates or that the complexity will be greater by -- by thinking that these small businesses are not going to be captured by the new

regulations.

The CPRA regulations have tinkered with what the definition of the regulated community will be. They've raised the minimums so that fewer small businesses will be captured. However, I think the CPPA Board may underestimate or runs the risk of underestimating the impact of these privacy laws on small businesses due to the private right of action that remains in the law.

I have seen this movie before, back in 2003-2004 with the CAN-SPAM Act, and I have reason to believe a cottage industry is going to develop, has probably already started developing, that is going to test the limits of what the private right of action is under the CPRA, and it will take years before the concrete dries on those boundaries as cases wind their way through the courts.

During this time, is going to be small and medium-sized businesses that -- that suffer as claimants of this cottage industry will have honed their skills from prior experiences, such as CAN-SPAM and other types of legislation that have been passed in other industries, in how to extract settlements and impose other indirect costs on the regulated community. And that is my comment. Thank you very much for your time.

MR. SOUBLET: Thank you for your comment.

MS. HURTADO: Our next speaker is Johan Gallo. Mr. Gallo, you've been unmute --

MR. GALLO: Yes. Good morning.

MS. HURTADO: You've been unmuted. You have five minutes to speak. Your time begins now.

MR. GALLO: Okay. Thank you very much. My name is Johan Gallo, executive director and founding member of the California Automotive Business Coalition, also known as CalABC; we were founded in 1992. California Automotive Business Coalition members are part of the automotive repair business that represents small, medium, and large automotive dealers that are registered with the Bureau of Automotive Repair.

CalABC would like to express our deep concerns over the data privacy regulations currently being considered by CPPA. Many businesses remain confused about the data privacy laws, and the regulations have changed many times in the recent years, causing future uncertainty around compliance. Some of our members operate businesses throughout the state and will be subject to all the regulations.

Legal advisors are recommending a number of new, costly changes, which including the following: We will need to update all of our contracts because the CPPA regulations impose new and different data protection

requirements and contracts; we will need to prepare for special privacy audits; operational data minimize -- operational data minimization, principals, redo again our processes around consumer information that's required also by the Bureau of Automotive Repair Act.

Many computer systems that are provided to auto repairs shops in California and those providers are resistant of making changes in California because of the fact that California continues to change and require different things in the law that are not required in other states, which puts an undue burden on these businesses that provide the software and systems for California automotive repairs shops.

The level of uncertainty, confusion that exists around privacy laws and regulations and new ones being considered is significant, including CCPA, CPRA, GDR -- GDPR, and out-of-state laws. How are businesses supposed to understand and navigate compliance with these several laws aimed at regulating the same thing?

Rather than further harming California small and medium-sized businesses, we believe that California is obligated to take an approach that is more supportive and collaborative rather than punitive and disruptive. We agree consumer privacy is important, and there is way to move forward by implementing a less costly and confusing

approach that threatens small and medium-sized businesses, jobs, and harms the economy and puts our industry and operations, along with many others, in jeopardy and is not the way to go.

One thing we've learned with CalABC is that we pride ourselves that we have started working with the Bureau of Automotive Repair, which just celebrated fifty years in existence. We found it's better to sit down and work with the Bureau of Automotive Repair, which we have now been doing for over thirty years, and ensure that all stakeholders that are involved have a win-win-win environment where the government can do its job, consumers are protected, and the businesses are in compliance with those laws and create a better business environment for all stakeholders involved.

I want to thank you for your time today, and I look forward to further engagements with this Board, and we hope you take to heart the businesses here. We're at the table. We want to work with you, we want to find a way to be in compliance, but we also want to find a way to continue doing our business and not have further disruptions and costs that are already eaten up by all the down time our businesses have suffered during the COVID pandemic shutdown. Thank you very much for your time today.

MR. SOUBLET: Thank you. Ms. Hurtado, will you please call our next speaker?

MS. HURTADO: Yes. Our next speaker is John Kabateck. Ms. --

MR. KABATECK: Hello, yes. Can you hear me okay?

MS. HURTADO: Yes. You've been unmuted now. You have five minutes to speak. Your time begins now.

MR. KABATECK: Okay. Wonderful. Thank you. Thank you, Chair, and thank you, board members. I appreciate being with you this morning. My name is John Kabateck. I had head of -- actually the California state director for the National Federation of Independent Business, also known as the NFIB. We represent about 15,000 small businesses here in California, about 300,000 nationwide.

I here -- I'm here today on behalf of NFIB and nearly eighty small and medium-sized business organizations that have been working together on privacy and other important state issues, especially to make sure we have the best outcomes related to these privacy rules. Our groups are -- definitely believe in good outcomes here, but we're highly consider would the newly proposed regulations and the impact it could have on Main Street businesses.

California's ever-changing privacy laws are creating confusion, uncertainty, and compliance problems, both for

consumers and the business community, especially small business. The proposed regulations are highly technical, and there hasn't been a significant level of outreach, we believe, to provide compliance assistance to the business community.

In addition to that, we believe there will be increasing costs for small business to hire staff and implement compliance measures, which will ultimately trickle down to the consumer. These costs were shared in the agency's economic and fiscal impact statement, but we're deeply concerned that it underestimates the financial burden.

As was noted in the letter that our group had submitted to the agency, which was cosigned by nearly eighty organizations in California, it states, and I quote, "The economic and fiscal impact statements by the agency contradicts the independent economic impact assessment prepared for the Office of the Attorney General, which found that the total initial cost of compliance of the California Consumer Privacy Act for businesses in California was estimated to be at 55 billion.

"In stark contrast, the CPPA recently submitted the economic and fiscal statement that stated its proposed regulations are going to have an initial compliance cost

of $128 for each of the 66,076 California businesses that are impacted by the newly created data privacy regulations. The difference between these two cost estimates on businesses is extremely troubling, and it really creates an additional layer of confusion for small businesses", and I end -- I end that quote.

And so in summary, given the business challenges from the pandemic, the global shipping and supply chain challenges, soaring fuel and energy costs, and now inflation, it's very, very difficult to expect the small business community and the job-creating community to manage the uncertainties and the high costs of CC -- CPPA regulations. So we urge you as the Board and the agency to consider the impact that these proposed regulations will have on small businesses and provide compliance assistance.

Lastly, since there has been a delay in finalizing the regulations, we respectfully request that the Board would delay the enforcement of the date of January 1st, 2023 to allow our businesses to have enough time, sufficient time to review and develop a plan of action for compliance. We definitely want good outcomes here, but we believe in its current form, there are a lot of problems, challenges, and I think small businesses and consumers deserve to have a thoughtful pathway here.

So I thank you for your time, and small business does, and I appreciate everything. We look forward to keeping the door open and being a resource for you as well. Thank you.

MR. SOUBLET: Thank you very much.

Ms. Hurtado, please call our next speaker.

MS. HURTADO: Yes. Our next speaker is Andrew. Andrew, you've been unmuted. You can unmute your microphone. You have five minutes to speak, and your time begins now.

MR. ALSOP: Thank you. Good morning. My name is Andrew Alsop (ph.), and I'm a privacy-conscious California citizen. I would like to join others in expressing my support for the regulations requirements that businesses respect global opt-out preference signals such as GPC as a valid way for consumers to express their privacy preferences to all the businesses that they interact with online.

I would, however, like to express concern that businesses under the proposed regulations may be allowed to introduce an unreasonable amount of friction for users who wish to utilize these opt-out preference signals on websites which choose to include manual, do-not-sell links. I hope that additional language can be added to prevent excessive additional friction, whether in the

form of fees, a degraded user experience, excessive pop-ups, or other strategies intended to force consumers to unwillingly allow the sale of their personal information.

Aside from that, I would also like to express my full support for the requirement that businesses must forward opt-out and deletion requests downstream to the service providers and third parties. This is a fairly common-sense requirement as often data is sold or shared nearly instantaneously with third parties, while opt-out or deletion requests can mysteriously take weeks to process. In this situation, there's no reasonable way for consumers to even know, let alone opt out, of their data being collected and sold by third parties that they may have never even heard of.

Lastly, I would like to take a moment to address businesses who argue that the regulations are too confusing. I would argue that the simple decision not to sell consumers' personal information for the purposes of invasive and privacy-violating, cross-context behavioral advertising is quite a simple decision to make. Thank you.

MR. SOUBLET: Thank you. Ms. Hurtado, if you could please call our next speaker.

MS. HURTADO: Yes. The next speaker is Lucy Chinkezian. Ms. Chinkezian, you're -- you've been

unmuted. You have five minutes to speak. Your time begins now.

MS. CHINKEZIAN: Good morning. My name is Lucy Chinkezian, C-H-I-N-K-E-Z-I-A-N, and I am counsel at Civil Justice Association of California, also known as CJAC. We would like to thank the agency for the opportunity to comment on the proposed regulations and commend your significant efforts in drafting them. CJAC has submitted detailed written complaints to the agency, so for purposes of the hearing today, we would like to highlight some of our overarching concerns.

First, a major concern with the rulemaking for businesses is CPPA's enforcement deadline of July 1, 2023. Even before the CPRA's adoption, businesses were struggling with the implementation of the CCPA. CPRA's added layer has meant even more complexity and questions, and the agency's rulemaking adds significant new obligations for businesses.

Businesses will need substantial time to consult with experts, build and modify national and global systems, and add numerous staff and contractors to implement the final rulemaking. We urge the Agency to extend the enforcement deadline by twelve to eighteen months from the adoption of the final rulemaking, which is consistent with the time frame originally contemplated

by the statute in which enforcement of the CPRA regulations was suspended until twelve months after the final rulemaking.

Second, we are very concerned about provisions in the regulations that conflict directly with or exceed the plain language of the statute, for example, the proposed mandatory universal preference signal. The plain language of the CPRA clearly states several times that honoring global opt-out preference signals is one of two options for businesses to elect; yet, proposed Section 7025 makes mandatory.

The proposed rulemaking instead states that the choice businesses have is whether to process the universal opt-out signal in a non-frictionless or frictionless manner. This conflicts with the statute and should be eliminated. The agency should also revise the rulemaking to fully address the specifications set forth in the statute and respond to business' concerns about whether universal preference signal technologies can reliably and securely indicate consumer choice.

Our third overarching concern is that many of the rules are unnecessarily burdensome and do not adequately take into account business operations or functions, and in some instances even interfere with consumer choice and interests. For example, several requirements around

displaying customer opt-out choices on company websites are unwork -- unworkable and will be difficult for consumers to use. The Agency should instead allow companies more flexibility to provide functional links that allow consumers to go to an area of the company's website where they can make all their privacy choices.

Overall, we respectfully request the agency to take the time to work with all stakeholders, including the business community, to address the issues we have raised orally and in our written comments. This will facilitate compliance and implementation, which is in everyone's best interest. Again, thank you for the opportunity to comment and for considering our concerns.

MR. SOUBLET: Thank you for your comment.

Ms. Hurtado, can you please call our next speaker?

MS. HURTADO: Ms. Chinkezian was the last speaker that raised their hand.

MR. SOUBLET: Okay. We're just going to wait for a few minutes to see if there are other people who are either attending online or have come here in the room that would like to speak. So don't -- it'll be quiet for a few minutes, but we're just going to wait and make sure that we provide an opportunity for those that are watching us online. If they would like to speak, we want to hear their comments.

MS. HURTADO: We do have another commenter online. Mr. Ben Hayes. Mr. Hayes, you've been unmuted. You have five minutes to speak. Your time begins now.

MR. HAYES: Okay. Thank you. My name is Ben Hayes. I'm the chief privacy officer of Zeta Global and have served in chief privacy officer roles for over twenty years for a variety of other companies as well. I am speaking to express concern about the proposed regulations.

One potential effect of the regulations as currently drafted is to lower the availability and effectiveness of cross-contextual advertising. Cross-contextual advertising produces a higher rate of return on investment, which funds much of the content and services which consumers enjoy for free online. It provides revenue for local and regional media outlets without which they cannot continue to function.

Contextual advertising, as opposed to cross-contextual advertising, simply does not produce the same results per dollar spent on advertising as cross-contextual advertising. It is not an economically viable replacement for cross-contextual advertising.

The current estimated impact of CPRA is 55 billion dollars. I would suggest that the proposed regulations could significantly expand that impact, particularly on

smaller businesses or businesses operating on tight margins that rely on advertising revenue and that the regulations should be delayed until independent economic studies can determine the true impact, both of -- of the implementation, but of -- of loss of ad revenue over time and that the final regulations be crafted to minimize those impacts as best they can within the confines of the CPRA statute. Thank you.

MR. SOUBLET: Thank you. Ms. Hurtado, any other speakers?

MS. HURTADO: No. There are no other speakers at this time.

MR. SOUBLET: Okay. Since we're scheduled for today, I just want to -- we're going to be here with the record open for just a little while and make sure that we don't miss anyone who would like to comment today. So although you may not hear us speaking right now, we're just going to keep that -- keep it open so that we can facilitate any speakers who may jump in now.

(Pause)

MS. HURTADO: We have another commenter. Alexis Carmichael (ph.), you've been unmuted. You have five minutes to speak. Your time begins now.

MS. CARMICHAEL: Hi, there. Good afternoon. My name is Alexis Carmichael, and I am owner and operator of

19 Meadow (ph.) in San Bernardino region. I am concerned about the lack of input of for the minority-owned business leaders look myself in the stakeholder process. Every morning -- every moment that we take to monitor this week's stakeholder meetings is time away from serving our customers and taking care of our employees, and the COVID-19 pandemic has put us through the ringer, but we're able to use social media to communicate directly with our customers to stay in business.

I also advertise online to reach perspective customers and to build my business' reputation in the community. Protecting the privacy of my customers is critically important, and I respect the efforts being made to ensure the privacy of all Californians is protected, but it is also important that small businesses like mine, which are the backbone or our community, can compete and survive.

There must be a balance between these two important priorities, and the CPPA has itself acknowledged the importance of striking this balance. Not all business owners are able to take time away from their day-to-day operations to log onto three days of stakeholder meetings to ensure that their voices are heard as the CPPA put these crucial regulations. The CPPA needs to do more to reach small business owners where they are. These

regulations will drastically impact how we do business, and we should have a seat at the table in establishing fair, equitable, and practical regulations. Thank you.

MR. SOUBLET: Thank you.

MS. HURTADO: There are no -- no other commenters at this time.

MR. SOUBLET: Okay. I see it's now 11 a.m. We're going to close the record for the hearing today, but this is not -- does not close the opportunity to -- to speak and provide additional comments. We will resume the hearing again tomorrow morning at 9 a.m., both here present and online, and so if you've missed the opportunity to speak today, you will have an opportunity to speak tomorrow when we go back on the record.

I'd like to thank those of you that are -- took the time to come here and be present and provide your comments this morning. We greatly appreciate it. I would also like to thank those of you who are online who have provided comments to us today. We appreciate your input. Again, we will be back on the record at 9 a.m. tomorrow morning. Thank you.

(End of recording)

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