

# MSF CLIENT ALERT

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## Data Privacy Client Alert

November 2022

MSF is actively working with our clients to prepare for upcoming implementation of the California Privacy Rights Act (CPRA), the Virginia Consumer Data Protection Act (VCDPA), the Colorado Privacy Act (CPA), the Connecticut Privacy Law, known as An Act Concerning Personal Data Privacy and Online Monitoring (CT DPA), and the Utah Consumer Privacy Act (UCPA). [See our Privacy & Data Security Practice for more information](#)

State Law	Effective Date
California Privacy Rights Act (CPRA) (amendment to the California Consumer Privacy Act (CCPA))	January 1, 2023 (12 Month Look-Back)
Virginia Consumer Data Protection Act (VCDPA)	January 1, 2023
Colorado Privacy Act (CPA)	July 1, 2023
Connecticut Privacy Law, known as An Act Concerning Personal Data Privacy and Online Monitoring (CT DPA)	July 1, 2023
Utah Consumer Privacy Act (UCPA)	December 31, 2023

**Wondering if these laws apply to your business? Complete the questionnaire below:**

**Y N**

- Do you own a business?  
  Does your business have a website?

*Please Note: In some states, the mere operation of a website accessible to the residents of that state will constitute "doing business" in that state.*

**If you answered YES to both of the above, please continue on to the following sections.**

### CALIFORNIA

**Y N**

1. Is your business organized or operated for the profit or financial benefit of its shareholders/owners and does it do business in California?  
  2. Does your business have annual gross revenues \$25 million or more?  
  3. Does your business annually buy, sell, or share Personal Information\* of 100,000 or more California residents or households?\*\*\*  
  4. Does your business derive 50% or more annual revenues from selling or sharing Personal Information?\*\*\*

**If you answered YES to Questions 1 and any of Questions 2-4, you may be subject to CPRA.** Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.

\*"Personal Information" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Personal Information excludes de-identified data and publicly available information. "Publicly Available Information" is "information that a business has a reasonable basis to believe is lawfully made available to the public by the consumer or from widely distributed media, or by the consumer."  
\*\* Increased from 50,000 under the earlier Californian Consumer Privacy Act (CCPA).

\*\*\* "Selling or Sharing" means selling, sharing, renting, releasing, disclosing, disseminating, making available, transferring, or communicating personal information for monetary or other valuable consideration. Behavioral advertising constitutes a sale.

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## VIRGINIA

**Y N**

- 1. Do you conduct business in Virginia or produce products or services targeted to Virginia residents?
- 2. If YES to Question 1, does your business process the Personal Data\* of 100,000 or more Virginia residents during a calendar year?
- 3. If YES to Question 1, does your business derive revenue or receive a discount on goods or services from the sale\*\* of Personal Data, and processes personal data of 25,000 or more Virginia residents?

**If you answered YES to Questions 1 and either of Questions 2 or 3, you may be subject to VCDPA.** Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.

**\*\*Personal Data** means information that is linked or reasonably linkable to an identified or identifiable individual. Personal Information excludes de-identified data and publicly available information. **"Publicly Available Information"** is "information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience."

**\*\*Sale** means the exchange of personal data for monetary consideration.

## CONNECTICUT

**Y N**

- 1. Do you conduct business in Connecticut or produce products or services targeted to Connecticut residents and during preceding calendar year?
- 2. If YES to Question 1, in the previous year, has your business controlled or processed Personal Data of 100,000 or more Connecticut residents, *excluding personal data controlled or processed solely for the purpose of completing a payment transaction*
- 3. If YES to Question 1, in the previous year, has your business controlled or processed Personal Data of 25,000 or more Connecticut residents and derived 25% or more of gross revenue from the sale\*\* of Personal Data?

**If you answered YES to Questions 1 and either of Questions 2 or 3, you may be subject to CTDPA.** Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.

**\*\*Personal Data** means information that is linked or reasonably linkable to an identified or identifiable individual. Personal Information excludes de-identified data and publicly available information. **"Publicly Available Information"** is "information that (A) is lawfully made available through ... government records or widely distributed media, and (B) a controller has a reasonable basis to believe a consumer has lawfully made available to the general public."

**\*\*Sale** means the exchange of personal data for monetary or other valuable consideration.

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## COLORADO

**Y N**

- 1. Do you conduct business in Colorado or produce products or services targeted to Colorado residents?
- 2. If YES to Question 1, does your business process Personal Data of 100,000 or more Colorado residents during a calendar year?
- 3. If YES to Question 1, does your business derive revenue or receive a discount on goods or services from the sale\*\* of Personal Data, and process Personal Data of 25,000 or more Colorado residents?

**If you answered YES to Questions 1 and either of Questions 2 or 3, you may be subject to CPA.** Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.

**\*\*“Personal Data”** means information that is linked or reasonably linkable to an identified or identifiable individual. Personal Information excludes de-identified data and publicly available information. **“Publicly Available Information”** is “information that is lawfully made available from federal, state, or local government records and information that a controller has a reasonable basis to believe the consumer has lawfully made available to the general public.”

**\*\*\*“Sale”** means the exchange of personal data for monetary or other valuable consideration.

## UTAH

**Y N**

- 1. Do you conduct business in the state or produce products or services targeted to Utah residents, for your business or on behalf of a customer or client?
- 2. If YES to Question 1, does your business have annual revenue of \$25,000,000 or more?
- 3. If YES to Question 1, does your business control or process Personal Data\* of 100,000 or more Utah residents or derive 50% or more of gross revenue from the sale\*\* of Personal Data and control or process Personal Data of 25,000 or more Utah residents?

**If you answered YES to Questions 1 and either of Questions 2 or 3, you may be subject to UCPA.** Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.

**\*\*“Personal Data”** means information that is linked or reasonably linkable to an identified or identifiable individual. Personal Information excludes de-identified data and publicly available information. **“Publicly Available Information”** is “information that a person (a) lawfully obtains from a record of a governmental entity; (b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or (c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.”

**\*\*“Sale”** means the exchange of personal data for monetary consideration.

**IMPORTANT; PLEASE NOTE:** This client alert and the content contained herein is for informational purposes only and is not intended to provide legal advice. The above checklist is intended only to provide a quick reference for businesses to aid in the determination of whether the business is subject to the data privacy laws referenced above.

Please contact Katherine E. Lewis at [kel@msf-law.com](mailto:kel@msf-law.com) to determine the applicability of the above data privacy laws to your business.