

## 3COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

California Privacy Protection Agency

on

Delete Request and Opt-Out Platform (DROP) Audits

May 7, 2026

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The Electronic Privacy Information Center (EPIC) submits these comments in response to the invitation of the California Privacy Protection Agency (“Agency” or “CalPrivacy”) for preliminary comment on data broker audit requirements for processing deletion requests, published on April 7, 2026.<sup>1</sup>

EPIC is a public interest research center in Washington, D.C., established in 1994 to secure the fundamental right to privacy in the digital age for all people through advocacy, research, and litigation.<sup>2</sup> EPIC has previously provided comments on the California Consumer Privacy Act (CCPA),<sup>3</sup> published a detailed analysis of the California Privacy Rights Act before its approval by

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<sup>1</sup> Invitation for Preliminary Comments: Delete Request and Opt-Out Platform (DROP) Audits, Cal. Privacy Protection Agency (Apr. 7, 2026).

<sup>2</sup> *About Us*, EPIC, <https://epic.org/about/> (2025).

<sup>3</sup> Comments of the Electronic Privacy Information Center (EPIC) and the Consumer Federation of America (CFA) in Response to the California Privacy Protection Agency’s Proposed Rulemaking Regarding Cybersecurity, Risk Assessments, and Automated Decisionmaking Technology (Feb. 19, 2025), <https://epic.org/documents/comments-to-the-cppa-on-proposed-regulations-regarding-cybersecurity-risk-assessments-and-admts/>; Comments of Consumer Reports, Electronic Frontier Foundation (EFF), Electronic Privacy Information Center (EPIC) and Privacy Rights Clearinghouse (PRC) In Response to the California Privacy Protection Agency’s Invitation for Preliminary Comments On Proposed Rulemaking Under Senate Bill 362 (June 25, 2024), <https://advocacy.consumerreports.org/wp-content/uploads/2024/06/Comments-of-Consumer-Reports-In-Response-to-the-California-Privacy-Protection-Agency-Invitation-for-Preliminary-Comments-On-Proposed-Rulemaking-Under-Senate-Bill-362.pdf>; Comments Of The Electronic Privacy Information Center, Center For Digital Democracy, and Consumer Federation Of America, to the California

California voters,<sup>4</sup> and presented oral testimony to the Agency to encourage the strongest protections for Californians.<sup>5</sup> Further, EPIC has advocated for best practices in algorithmic assessment requirements submitted to California regulators.<sup>6</sup>

EPIC commends the Agency's work to regulate data brokers, especially in light of recent evidence<sup>7</sup> that reports submitted by brokers are potentially unreliable or inaccurate. Robust independent third-party audit requirements are a crucial step towards oversight and limiting the harms that sale of sensitive data poses to consumers. EPIC believes that, in order to establish an effective audit process, the Agency should establish requirements and processes that ensure: (1) that auditors independently verify brokers' conclusions and should require detailed explanations of the compliance process given brokers' demonstrated inability to accurately self-report; and (2) that brokers implement additional audit requirements when they use AI systems. The Agency should also

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Privacy Protection Agency (Mar. 27, 2023), <https://epic.org/documents/comments-of-the-electronic-privacy-information-center-center-for-digital-democracy-and-consumer-federation-of-america-to-the-california-privacy-protection-agency/>; Comments of EPIC to Cal. Privacy Prot. Agency (Nov. 20, 2022), <https://epic.org/wp-content/uploads/2022/11/EPIC-CPPA-Comments-Nov-20.pdf>; Comments of EPIC et al. to Cal. Privacy Prot. Agency (Aug. 23, 2022), <https://epic.org/wp-content/uploads/apa/comments/EPIC-CCPA-Feb2020.pdf>; Comments of EPIC et al. to Cal. Privacy Prot. Agency (Nov. 8, 2021), <https://epic.org/wp-content/uploads/2021/11/PRO-01-21-Comments-EPIC-CA-CFA-OTI.pdf>; Comments of EPIC to Cal. Office of the Att'y Gen. (Feb. 25, 2020), <https://epic.org/wp-content/uploads/apa/comments/EPIC-CCPA-Feb2020.pdf>; Comments of EPIC to Cal. Office of the Att'y Gen. (Dec. 6, 2019), <https://epic.org/wp-content/uploads/apa/comments/EPIC-CCPA-Dec2019.pdf>.

<sup>4</sup> EPIC, California's Proposition 24 (2020), <https://epic.org/californias-proposition-24/>.

<sup>5</sup> EPIC Calls Out CPPA as Board Votes to Adopt Weak Risk Assessment, ADMT, and Cybersecurity Regulations, EPIC (July 24, 2025), <https://epic.org/cppa-votes-to-adopt-weak-cybersecurity-risk-assessments-and-admt-regulations/>.

<sup>6</sup> Mayu Tobin-Miyaji, et al., *Assessing the Assessments: Maximizing the Effectiveness of Algorithmic & Privacy Risk Assessments*, EPIC at 37-38 (June 2025), <https://epic.org/wp-content/uploads/2025/06/Assessing-the-Assessments-Report.pdf>.

<sup>7</sup> Justin Sherman, *The Data Brokers Selling US Data to Foreign Actors, According to California*, EPIC (Mar. 25, 2026), <http://epic.org/the-33-data-brokers-selling-us-data-to-foreign-actors-according-to-california/>; *Privacy Policy: California Data Broker Registry Reveals Dozens of Brokers Selling Consumers' Data to Foreign Actors, Law Enforcement, Federal Government*, Capitol Forum (Apr. 1, 2026), <https://thecapitolforum.com/privacy-policy-california-data-broker-registry-reveals-dozens-of-brokers-selling-consumers-data-to-foreign-actors-law-enforcement-federal-government/>.

consider the experiences and lessons learned from the technical framework from Europe's GDPR right to be forgotten.

Audit requirements should prevent auditors from rubber stamping or accepting as true conclusions from brokers. A robust audit process requires independent verification of the claims being submitted by data brokers. It is not sufficient to take these data broker submissions at face value.<sup>8</sup> Independent testing and inspection by an auditor is necessary to ensure accuracy in the registry data. CalPrivacy should require each broker to provide a detailed explanation of the compliance process it followed when self-reporting information for the registry. Brokers cannot reliably represent that they've deleted all applicable data if they have not at least gone through the de minimis data mapping required by the registry process. Accordingly, this information should be made available to auditors for inspection.

EPIC suggests that when a data broker uses AI or agentic AI systems that there should be additional audit requirements to review those AI systems. Data brokers should be required to submit the factors and logic of any algorithm used, the kinds of data that the AI system collects or processes, the source of the training data in the underlying model of the system, the processing context for such data, and the results of testing for bias, inaccuracy, reliability, disparate impact, and data security.<sup>9</sup> Brokers that use AI systems should also submit evidence about the how the quality of the input is maintained and how the system will be free from inaccuracy, unreliability, bias, or disparate impact in the future, including by providing metrics to measure the system's performance and its known limitations.<sup>10</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> See Mayu Tobin-Miyaji, et al., *Assessing the Assessments: Maximizing the Effectiveness of Algorithmic & Privacy Risk Assessments*, EPIC at 37-38 (June 2025), <https://epic.org/wp-content/uploads/2025/06/Assessing-the-Assessments-Report.pdf>.

<sup>10</sup> *Id.*

EPIC suggests that the Agency consider the technical infrastructure requirements needed to execute erasure effects under the European Union General Data Protection Regulation’s right to be forgotten. These include requiring entities to build technical infrastructure for: data mapping to know where personal information resides across platforms; search capabilities to location individuals’ personal information; mechanisms for deletion that can remove information without disrupting system integrity; and audit trails to document erasure actions.<sup>11</sup> Importantly, building this technical infrastructure also requires building the technical ability to remove personal information while retaining it in backup archives with sufficient safeguards to protect against reintroduction.<sup>12</sup> The Agency should implement similar requirements to protect against reintroduction, particularly when partial deletion is appropriate.

EPIC appreciates CalPrivacy’s attention to this important issue. Regulators play a pivotal role in reigning in the harmful practices of data brokers. Robust enforcement requires accurate and complete information in order to be effective. But as we have seen, the data broker industry repeatedly evades regulation, including by failing to accurately and completely provide relevant information to regulators. The Agency should consider this pattern of regulatory evasion when establishing audit requirements and enact stringent requirements to ensure effective audits. We thank CalPrivacy for the opportunity to provide preliminary comment on this topic, and we look forward to working with the Agency in the future to protect the privacy of all Californians.

Respectfully Submitted,

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<sup>11</sup> Kevin Yun, *Right to be Forgotten: Deleting Your Digital Past*, ComplyDog (May 17, 2025), <https://complydog.com/blog/right-to-be-forgotten#practical-steps-for-data-controllers>.

<sup>12</sup> *Id.*

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