

Enforcement Actions with Privacy Focus

Regulators that enforce privacy laws in the US, California, and around the world:

State Attorneys General

State regulatory departments (e.g., CPPA, CDPH)

Federal Trade Commission (FTC)

Federal Communications Commission (FCC)

Federal Consumer Financial Protection Bureau (CFPB)

Department of Health & Human Services (HHS)

Securities and Exchange Commission (SEC)

International Authorities (e.g., GDPR's Data Protection Authority)



State Attorney General: California

California State Office of Attorney General (OAG)

Website	https://oag.ca.gov/privacy https://oag.ca.gov/privacy/privacy-enforcement-laws-legislation
Role and Scope of Enforcement	OAG operates a Department of Justice, Privacy Unit that enforces state and federal privacy laws ¹ including: <ul style="list-style-type: none">• California Consumer Privacy Act (CCPA), as amended by the California Privacy Rights Act (CPRA)• California Online Privacy Protection Act (CalOPPA)• Confidentiality of Medical Information Act (CMIA)
Process of Enforcement	OAG enforcement includes: <ol style="list-style-type: none">1) Filing an action in state and federal district court2) Educating consumers and businesses
Enforcement Trends	OAG maintains a list of enforcement actions ³ and CCPA enforcement case examples ³ including: <ul style="list-style-type: none">• The OAG's first enforcement action related to CCPA took place in September 2022 against Sephora, Inc. agreed to pay \$1.2M to resolve allegations that alleged that it failed to disclose to consumers that it was selling their personal information, and to process user requests to opt-out of sale via user-enabled global privacy controls in violation of the CCPA• OAG sent letters of non-compliance to mobile app businesses that fail to comply with the CCPA⁴

1 - <https://oag.ca.gov/privacy/privacy-laws>

2 - <https://oag.ca.gov/privacy/privacy-enforcement-actions>

3 - <https://oag.ca.gov/privacy/ccpa/enforcement>

4 - <https://oag.ca.gov/news/press-releases/ahead-data-privacy-day-attorney-general-bonta-focuses-mobile-applications%E2%80%99>



CA State Regulatory Departments: California Privacy Protection Agency (CPPA)

California Privacy Protection Agency (CPPA)	
Website	https://cppa.ca.gov/
Role and Scope of Enforcement	The California Privacy Protection Agency (CPPA) was established by the CPRA and may bring enforcement actions related to the CCPA and CPRA.
Process of Enforcement	CPPA will bring enforcement actions before an administrative law judge. The OAG continues its civil enforcement. The CPPA in its formation stages and provides regular updates. ¹
Enforcement Trends	The CPPA will begin enforcement on July 1, 2023.

1 - <https://cppa.ca.gov/announcements/>



CA State Regulatory Departments: California Department of Public Health (CDPH)

California Department of Public Health (CDPH)	
Website	https://www.cdph.ca.gov/
Role and Scope of Enforcement	The California Department of Public Health (CDPH) enforces: <ul style="list-style-type: none">• Health and Safety Code (HSC) section 1280.15.
Process of Enforcement	CDPH may issue administrative penalties to facilities that breach patients' confidential medical records and can assess Medical Breach Administrative Penalties up to \$250,000.
Enforcement Data	The CDPH maintains a list of penalties, most recently in 2018. ¹

1 - <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/MedicalBreaches.aspx>



State Attorney General: States with Comprehensive Privacy Laws

Five other States have recently adopted comprehensive data privacy laws

Colorado	<ul style="list-style-type: none">• Colorado Privacy Act (CPA), July 7, 2021, effective on July 1, 2023• Enforcement: Implementation managed by the Colorado Department of Law
Connecticut	<ul style="list-style-type: none">• Connecticut Data Privacy Act (CTDPA), May 10, 2022, effective July 1, 2023• Enforcement: The CT AG has exclusive authority to enforce violations of the Act
Utah	<ul style="list-style-type: none">• Utah Consumer Privacy Act (UCPA), March 24, 2022, enforceable December 31, 2023• Enforcement: Managed by the Personal Privacy Oversight Commission
Virginia	<ul style="list-style-type: none">• Virginia Consumer Data Protection Act (VCDPA), March 2, 2021, enforceable Jan. 1, 2023• Enforcement: The VA AG has exclusive authority to enforce violations of the Act
Iowa	<ul style="list-style-type: none">• Iowa Consumer Data Protection Act (ICDPA), enforceable January 1, 2025• Enforcement: The IO AG has exclusive authority to enforce violations of the Act



State Attorney General: Other Privacy Enforcement Examples

Example: Massachusetts

Website	https://www.mass.gov/data-privacy-and-security-division
Role and Scope of Enforcement	<p>The Massachusetts State Attorney General's Office operates a Data and Privacy Security Division to enforce:</p> <ul style="list-style-type: none">• General Right to Privacy Law, §1B of Chapter 214 of Title I of Part III of the Mass. Gen. Laws• Standards for the Protection of Personal Information of MA Residents, CMR 17.00, ("Safeguards Regulations").

Example: Nevada

Website	https://ag.nv.gov/About/Consumer_Protection/Bureau_of_Consumer_Protection/
Role and Scope of Enforcement	<p>The Nevada State Attorney General's Office operates a Bureau of Consumer Protection that enforces NRS: Chapter 603A – Security and Privacy of Personal Information which allows Nevada citizens the right to opt-out of the sale of their personal information.</p>



Federal Trade Commission (FTC)

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Website	https://www.ftc.gov/
Role and Scope of Enforcement	<p>The FTC enforces laws relating to privacy including:</p> <ul style="list-style-type: none">• Section 5 of the FTC Act, which bars unfair and deceptive acts and practices in or affecting commerce• Other federal laws relating to consumers' privacy and security (Truth in Lending Act (TILA), CAN-SPAM Act, Children's Online Privacy Protection Act (COPPA), Equal Credit Opportunity Act (ECOA), Fair Credit Reporting Act (FCRA), the Fair Debt Collection Practices Act, and Telemarketing and Consumer Fraud and Abuse Prevention Act
Process of Enforcement	<p>The FTC enforces primarily by bringing enforcement actions to stop law violations and require companies to take affirmative steps to remediate the unlawful behavior.</p>
Enforcement Trends	<p>The FTC maintains a current list of settlements agreements.¹ Some recent cases include:</p> <ul style="list-style-type: none">• \$275M fine against Epic Games for violating children's privacy law and changing default privacy settings• \$7.8M fine against BetterHelp for revealing consumers' data, Including sensitive mental health info) to third parties for targeted ads• \$1.5M fine against GoodRX for sharing consumers' sensitive health info for ads



1 - <https://www.ftc.gov/news-events/topics/protecting-consumer-privacy-security/>

Federal Communications Commission (FCC)

Federal Communications Commissions (FCC)

Website	https://www.fcc.gov/enforcement
Role and Scope of Enforcement	<p>The FCC enforces laws relating to privacy including:</p> <ul style="list-style-type: none">• The Telephone Consumer Protection Act (TCPA) re: unwanted communications• Sections 201(b) and 222 of the Communications Act re: how telecommunications carriers protect the privacy and security of their customers' information
Process of Enforcement	<p>The FCC enforces in two primary ways:</p> <ol style="list-style-type: none">1) opening an investigation, gathering information via a Letter of Inquiry (LOI) and taking appropriate action if violations are found2) resolving disputes between industry participants via mediation or settlement, or adjudicating formal complaints
Enforcement Trends	<p>The FCC maintains a list of FCC Robocall and Robotext Enforcement Actions Since 8/1/2016. This list has 52 actions with often millions of dollars in fines.¹ 24 of these were in 2022 alone. Two notable 2022 enforcement actions include:</p> <ul style="list-style-type: none">• \$116M fine against Thomas Dorsher, ChariTel Inc, Ontel Inc, and ScammerBlaster Inc• \$45M fine against Gregory Robbins, Interstate Brokers of America LLC, and National Health Agents

1 - <https://www.fcc.gov/enforcement/areas/unwanted-communications>



Department of Health & Human Services (HHS)

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Website	https://www.hhs.gov/
Role and Scope of Enforcement	<p>The HHS' Office for Civil Rights (OCR) enforces laws relating to privacy including:</p> <ul style="list-style-type: none">• Health Insurance Portability and Accountability Act (HIPAA) and its Privacy and Security Rules
Process of Enforcement	<p>The HHS' OCR enforces in four ways:</p> <ol style="list-style-type: none">1) investigating complaints filed with it,2) conducting compliance reviews to determine if covered entities are in compliance3) performing education and outreach to foster compliance4) working with the DOJ to refer possible criminal violations of HIPAA
Enforcement Trends	<p>The HHS' OCR maintains a highlight of enforcement results current as of the last month.¹ As of February 28, 2023, since the compliance date of the Privacy Rule in April 2003, OCR has received over 322,579 HIPAA complaints and has initiated over 1,160 compliance reviews. OCR also maintains a repository of case examples organized by covered entity and by issue² and a repository of resolution agreements.³ A notable enforcement action in 2021 included:</p> <ul style="list-style-type: none">• \$5.1M fine against Excellus Health Plan related to a breach affecting over 9.3 million people

1 - <https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/data/enforcement-highlights/index.html>

2 - <https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/examples/index.html>

3 - <https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/index.html>



Federal Consumer Financial Protection Bureau (CFPB or The Bureau)

Federal Consumer Financial Protection Bureau (CFPB or The Bureau)	
Website	https://www.consumerfinance.gov/
Role and Scope of Enforcement	<p>The Bureau enforces laws relating to privacy including:</p> <ul style="list-style-type: none">• Gramm-Leach-Bliley Act of 2009, Sections 502 through 509 re: privacy of consumer financial information• Fair Credit Reporting Act (FCRA) re: companies that assemble dossiers on individual consumers, including credit reporting companies, tenant screeners, and other data brokers• Consumer Financial Protection Act (CFPA) re: safeguarding sensitive consumer information
Process of Enforcement	<p>The Bureau enforces in two primary ways:</p> <ol style="list-style-type: none">1) filing an action in federal district court2) by initiating an administrative adjudication proceeding
Enforcement Trends	<p>The Bureau maintains a list of enforcement actions through 2022.¹ This list is not limited to actions related to privacy. A notable enforcement action from 2019 joined the Bureau with the FTC and states (including California):</p> <ul style="list-style-type: none">• \$700M fine against Equifax, Inc. re: allegations that the credit reporting company's failed to take reasonable steps to secure its network

1 - <https://www.consumerfinance.gov/enforcement/enforcement-by-the-numbers/>



Securities and Exchange Commission (SEC)

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Website	https://www.sec.gov/page/enforcement-section-landing https://www.sec.gov/securities-topics/cybersecurity
Role and Scope of Enforcement	<p>The SEC enforces laws relating to privacy including:</p> <ul style="list-style-type: none">• Securities Act of 1933, Sections 17(a)(2) and 17(a)(3): antifraud provisions• Securities Exchange Act of 1934, Section 13(a): reporting provisions and Rule 13a-15(a): disclosure controls provisions• The SEC has also its own proposed Cybersecurity Disclosure Rules.
Process of Enforcement	<p>The SEC is empowered to conduct investigations and pursue enforcement by:</p> <ol style="list-style-type: none">1) filing an action in federal district court2) initiating an administrative adjudication proceeding
Enforcement Trends	<p>The SEC maintains an extensive and organized list of enforcement actions,¹ not limited to privacy actions. A recent enforcement action from March 2023:</p> <ul style="list-style-type: none">• \$3M civil monetary penalty against Blackbaud for filing a misleading quarterly report that omitted material information about the scope of a cyber attack. <p>An investor's guide to the SEC is also available: https://www.investor.gov</p>

1- <https://www.sec.gov/page/litigation>



International Authorities: GDPR & European Data Protection Authorities

Each European Union country must designate its own GDPR Data Protection Authority (DPA)

Website	Directory: https://edpb.europa.eu/about-edpb/about-edpb/members_en
Role and Scope of Enforcement	<p>The DPA is the agency within each European Union country that is responsible for General Data Protection Regulation (GDPR) assistance and enforcement. GDPR countries:</p> <ul style="list-style-type: none">• Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.• United Kingdom is no longer within the EU but maintains its own DPA. (See next slide)
Process of Enforcement	<p>A DPA reviews data breach reports, mediates issues like data subject access requests and works to educate its country about best practices in keeping digital data secure. An initial issue to determine is the identification of which country has jurisdiction. Fines can be up to €20 million or 4% of worldwide turnover for the preceding financial year, whichever is higher.</p>
Enforcement Trends	<p>Many law firms maintain GDPR enforcement trackers.¹ Some recent notable examples:</p> <ul style="list-style-type: none">• Spain - Agencia Española de Protección de Datos: https://www.aepd.es/es. The AEPD opened investigations in April 2023 into ChatGPT-maker OpenAI.²• Finland - Office of the Data Protection Ombudsman: https://tietosuoja.fi/en/home. The Office assessed a fine of EUR 750,000 in 2022 for failure to respond to requests to access personal data.³

1 – <https://www.enforcementtracker.com/>

2 - <https://techcrunch.com/2023/04/13/chatgpt-spain-gdpr/>

2 - <https://finlex.fi/fi/viranomaiset/tsv/2023/20231683>



International Authorities: The UK's Data Protection Authority

The UK Data Protection Authority: The Information Commissioner's Office (ICO)

Website	https://ico.org.uk/
Role and Scope of Enforcement	<p>The ICO enforces the following laws relating to privacy¹:</p> <ul style="list-style-type: none">• The GDPR in the UK• Privacy and Electronic Communications Regulations• Data Protection Act of 2018
Process of Enforcement	<p>The ICO reviews complaints and provides suggestions for compliance. If the review reveals a serious failure to comply with the law, the ICO may also take enforcement action and impose a monetary penalty of up to £17.5 million or 4% of an infringer's total worldwide annual turnover, whichever is higher.</p>
Enforcement Trends	<p>The ICO maintains a list of enforcement actions.² Most recently:</p> <ul style="list-style-type: none">• An imposition of a £130,000 (\$161,655.00) fine against an online recruitment firm for sending 107 spam email messages.• A reprimand pursuant to Article 58(2)(b) of the UK General Data Protection Regulation (UK GDPR) against a company for inappropriately disclosing personal data.

1 - <https://ico.org.uk/about-the-ico/what-we-do/legislation-we-cover/>

2 - <https://ico.org.uk/action-weve-taken/>



International Authorities:

Other International Jurisdiction Examples

Requires research on a country-by-country basis. Some examples include:

Australia	<ul style="list-style-type: none">• The Australian Privacy Act 1988 (APA), with Notifiable Data Breach Scheme (Feb 2018)• Data Privacy Authority: Office of the Australian Information Commissioner (OAIC) - https://www.oaic.gov.au/• Cross-Border Application: Reasonable steps to ensure recipient will meet APA or analogous privacy laws that an Australian could enforce.• Penalties up to AU\$444k (individual) or US\$2.2M (corporations)
India	<p>No general data privacy laws</p> <ul style="list-style-type: none">• Proposed: Personal Data Protection Bill (2022, earlier predecessors in 2018 and 2019).¹• Data Protection Authority: If passed, would establish the Data Protection Board of India (DPB)
Philippines	<ul style="list-style-type: none">• Data Privacy Act (2012)• Data Privacy Authority: National Privacy Commission (NPC) - https://www.privacy.gov.ph/• Cross-Border Application: Applies to data within or outside of the country if by a Philippines established entity or entity with links to Philippines, is about a Philippines citizen/resident or processing occurs in the Philippines.• Penalties up to PHP 5M (US \$95,000) and/or 6 years imprisonment including on responsible corporate officers. Civil remedies available.

¹ - <https://techcrunch.com/2023/03/09/india-proposes-to-replace-its-two-decades-old-it-law/>

