

June 2, 2025

Submitted via electronic mail to regulations@coppa.ca.gov

California Privacy Protection Agency
Attn: Legal Division - Regulations Public Comment
2101 Arena Boulevard
Sacramento, CA 95834

Re: Public Comment on CCPA Updates, Cybersecurity Audits, Risk Assessments, ADMT, and Insurance Companies

To the California Privacy Protection Agency:

On behalf of the Network Advertising Initiative (“NAI”),¹ thank you for the opportunity to comment on the modified proposed regulations regarding CCPA Updates, Cybersecurity Audits, Risk Assessments, Automated Decisionmaking Technology (“ADMT”), and Insurance Companies under the California Consumer Privacy Act (the “Proposed Regulations”).² The NAI appreciates both the continued commitment the California Privacy Protection Agency (the “Agency”) has shown to provide transparency and the opportunity to submit written comments throughout this rulemaking. The NAI is generally supportive of the changes the Agency has made to date for the Proposed Regulations, including the following: (1) removing the “Behavioral Advertising” definition from the Proposed Regulations as this decision will avoid confusing consumers without limiting their ability to opt out of Cross-Context Behavioral Advertising; (2) removing references to “extensive profiling”; (3) removing the “remains deleted” language as doing so avoids inconsistencies with existing deletion-request requirements to permanently and completely erase data; (4) removing language that would require an ADMT opt-out be treated as a deletion request; and (5) adding language to clarify that businesses must evaluate their use of ADMT to ensure it does not *unlawfully discriminate* based on protected characteristics.³ The NAI

¹ The NAI is a non-profit, self-regulatory association dedicated to responsible data collection and use for digital advertising. The NAI has been a leader in this space since its inception in 2000, promoting the highest voluntary industry standards for member companies, which range from small startups to some of the largest companies in digital advertising. The NAI’s members are providers of advertising technology solutions, and include ad exchanges, demand side platforms, supply side platforms, as well as other companies that power the digital media industry. Our member companies help digital publishers generate essential ad revenue, advertisers reach audiences interested in their products and services, and ensure consumers are provided with ads relevant to their interests. Earlier this year, the NAI launched its new Self-Regulatory Framework Program (the “NAI Framework”) to promote strong privacy practices for NAI members engaged in behavioral advertising. See *NAI Self-Regulatory Framework*, <https://thenai.org/self-regulatory-framework/>.

² California Privacy Protection Agency Proposed Text, Cal. Code Regs. tit. 11 (updated May 9, 2025) (hereinafter “Proposed Regulations”).

³ See Proposed Regulations at § 7001(g) (removed “Behavioral Advertising” definition); § 7150(b)(3)(B)(iii) (removed “Extensive Profiling”); § 7022(b)(1) (removed “remains deleted” language); § 7221(n)(1) (removed

provided comments on several of these topics and appreciates the Agency's willingness to engage with constructive comments.⁴

We now offer additional comments before the Proposed Regulations are made final, set out in more detail below.

- The Agency should further streamline consumer disclosures by clarifying that the pre-use notice may be presented as part of the notice at collection.
- The Agency should align its proposed definition of "sensitive location" with established treatments of that concept in Federal Trade Commission (FTC) enforcement actions and the NAI's self-regulatory standards.

I. The Proposed Regulations should clarify that the information required for an ADMT "pre-use" notice may be presented through a link that meets the CCPA's existing "notice at collection" requirements.

Consumers benefit most from transparency into how businesses process personal information about them—whether through ADMT or otherwise—when that transparency is provided in a way that is as simple and streamlined as possible.⁵ When consumers are presented with multiple notices through different links, there is a significant risk that consumers may be confused or overwhelmed and, as a result, forgo reading important disclosures that could impact how they choose to exercise their privacy rights. As initially proposed, the regulations would have introduced this risk by requiring businesses to post an ADMT pre-use notice separately from the notice at collection already required by CCPA.⁶

The Proposed Regulations now under consideration ameliorate that risk, as they appear to permit businesses to bundle the information the Proposed Regulations would require in an ADMT Pre-use notice with the information businesses are already required to include in a "notice at collection" under the CCPA,⁷ as consumers are best served by a single, easy-to-read notice that explains the data processing taking place.⁸ The NAI is supportive of this change.

language requiring ADMT opt-out be treated as a deletion request); § 7152(a)(6)(A) (added "unlawfully discriminate" language).

⁴ The Network Advertising Initiative, Comment Letter on Proposed Rule on CCPA Updates, Cybersecurity Audits, Risk Assessments, ADMT, and Insurance Companies (Feb. 19, 2025), <https://thenai.org/nai-comments-on-ccpa-updates-cyber-risk-admt-and-insurance-regulations/>.

⁵ See generally Cal. Code Regs. tit. 11 § 7003(a) ("Disclosures and communications to consumers shall be easy to read and understandable to consumers. For example, they shall use plain, straightforward language and avoid technical or legal jargon.").

⁶ California Privacy Protection Agency Proposed Text, Cal. Code Regs. tit. 11 (proposed Nov. 22, 2024) § 7220(b)(2) ("The Pre-use Notice must... [b]e presented prominently and conspicuously to the consumer before the business processes the consumer's personal information using automated decisionmaking technology[.]") (emphasis added).

⁷ See California Consumer Privacy Act of 2018, Cal. Civ. Code § 1798.100(a) (hereinafter "CCPA"); Cal. Code Regs. tit. 11 § 7012.

⁸ See Proposed Regulations at § 7220(a).

However, the Agency can avoid potential ambiguity that remains under the Proposed Regulations concerning the pre-use notice requirements by further clarifying that the information required in a pre-use notice can be presented in a manner consistent with the existing CCPA requirements regarding notice at collection.

The existing CCPA regulations provide illustrative examples of how a business may make the *notice at collection* readily available to consumers, including one example indicating that a business may “post a conspicuous link to the notice on the introductory page of the business’s website and on all webpages where personal information is collected.”⁹ These illustrative examples are extremely helpful for businesses seeking to comply with the CCPA’s notice at collection requirements; however, comparable illustrative examples are absent from the Proposed Regulations for a pre-use notice. If the Agency’s objective is to permit businesses to include the information that will be required for a pre-use notice through a link that already satisfies the CCPA’s requirements for *notice at collection*, providing illustrative examples for how a business may achieve this would be useful. One illustrative example the Agency could include is the following:

“When a business uses ADMT as set forth in section 7200 and has posted a conspicuous link to its Notice at Collection on the introductory page of the business’s website and on all webpages where personal information is collected, the business may provide a Pre-use Notice in its Notice at Collection.”

The NAI recommends that the Agency adopt this illustrative example, or another that aligns with the Agency’s intentions as to how a business may satisfy the pre-use notice requirement.

II. The Proposed Regulations should align the definition of “Sensitive Locations” with the NAI’s definition of “sensitive points of interest.”

Not all location data carries the same level of sensitivity to consumers. In some cases, using location data to associate a consumer with a particular location or point of interest (POI) may create a heightened risk of harm if those data are misused. The NAI therefore supports the Agency’s inclusion of a definition for *Sensitive Locations* in the Proposed Regulations and the associated requirement for businesses to conduct a risk assessment when associating a consumer with a Sensitive Location.¹⁰

However, the NAI recommends that the Agency amend the definition of Sensitive Locations in the Proposed Regulations to align it more closely with the NAI’s existing definition of “sensitive POIs”¹¹ as

⁹ Cal. Code Regs. tit. 11 § 7012(c)(1).

¹⁰ See Proposed Regulations at § 7001(aaa) (“Sensitive location means any of the following physical places: healthcare facilities including hospitals, doctors’ offices, urgent care facilities, and community health clinics; pharmacies; domestic violence shelters; food pantries; housing/emergency shelters; educational institutions; political party offices; legal services offices; union offices; and places of worship.”) (quotations removed); § 7150(b)(5) (requiring a business to conduct a risk assessment when “Using automated processing to infer or extrapolate a consumer’s intelligence, ability, aptitude, performance at work, economic situation, health (including mental health), personal preferences, interests, reliability, predispositions, behavior, or movements, based upon that consumer’s presence in a sensitive location.”).

¹¹ See NAI *Precise Location Information Solution Provider Voluntary Enhanced Standards* (2024), <https://thenai.org/wp-content/uploads/2025/03/NAI-Precise-Location-Information-Solution-Provider-Voluntary-Enhanced-Standards.pdf> (hereinafter, “NAI Enhanced Standards”).

well as the definitions of Sensitive Location used by the FTC in connection with recent enforcement actions dealing with location data.¹² Amending the definition in the Proposed Regulations would promote two important objectives. First, it would tailor the definition more closely to risks of harm. As it stands, the proposed definition is both too broad when it includes locations that are not likely to increase the risk of harm; and incomplete when it omits categories of locations that may pose those risks. Second, it would promote uniformity and help businesses adopt a common standard for when a location or other point of interest is sensitive.

1. *Aligning the definition of “Sensitive Location” in the Proposed Regulations with the NAI’s definition of sensitive POIs will more closely track the risk of harm.*

The NAI has been a longstanding leader in promoting strong location data privacy practices across the digital advertising industry. Since 2022, the NAI has encouraged adoption of its *Precise Location*

¹² See Federal Trade Commission, *In the Matter of X-Mode Social, Inc. and Outlogic, LLC*, F.T.C. Docket No. C-4802, Decision and Order (April 11, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/X-ModeSocialDecisionandOrder.pdf, (“Sensitive Locations means locations within the United States associated with: (1) medical facilities (e.g., family planning centers, general medical and surgical hospitals, offices of physicians, offices of mental health physicians and practitioners, residential mental health and substance abuse facilities, outpatient mental health and substance abuse centers, outpatient care centers, psychiatric and substance abuse hospitals, and specialty hospitals); (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations of entities held out to the public as predominantly providing education or childcare services to minors; (6) associations held out to the public as predominantly providing services based on racial or ethnic origin; or (7) locations held out to the public as providing temporary shelter or social services to homeless, survivors of domestic violence, refugees, or immigrants.”); *In the Matter of InMarket Media*, F.T.C. Docket No. C-4803, Decision and Order (April 29, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/InMarketMedia-DecisionandOrder.pdf, (“Sensitive Location means: (1) sexual and reproductive health care providers, offices of mental health physicians and practitioners, residential mental health and substance abuse facilities, outpatient mental health and substance abuse centers, psychiatric and substance abuse hospitals, offices of oncologists, and offices of pediatricians; (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations held out to the public as predominantly providing education or childcare services to minors; (6) locations held out to the public as predominantly providing services to LGBTQ+ individuals such as service organizations, bars and nightlife; (7) locations held out to the public as predominantly providing services based on racial or ethnic origin; (8) locations held out to the public as predominantly providing temporary shelter or social services to homeless, survivors of domestic violence, refugees, or immigrants; or (9) locations of public gatherings of individuals during political or social demonstrations, marches, and protests.”); *In the Matter of Gravy Analytics, Inc. and Venntel*, F.T.C. Docket No. C-4810, Decision and Order (Jan. 13, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/212_3035_-_gravy_analytics_final_consent_package_without_signatures.pdf, (“Sensitive Locations means locations within the United States associated with: (1) medical facilities (e.g., family planning centers, general medical and surgical hospitals, offices of physicians, offices of mental health physicians and practitioners, residential mental health and substance abuse facilities, outpatient mental health and substance abuse centers, outpatient care centers, psychiatric and substance abuse hospitals, and specialty hospitals); (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations of entities held out to the public as predominantly providing education or childcare services to minors; (6) associations held out to the public as predominantly providing services based on racial or ethnic origin; (7) locations held out to the public as providing temporary shelter or social services to homeless, survivors of domestic violence, refugees, or immigrants; or (8) military installations, offices, or buildings.) (quotations removed) (hereinafter “ Relevant FTC Decisions.”)

Information Solution Provider Voluntary Enhanced Standards, which includes restrictions on processing location data associated with Sensitive Points of Interest (“SPOIs”).¹³ The NAI’s goal in putting forth categories of POIs that count as sensitive was to enable responsible uses of location data while limiting or eliminating certain uses of location data that pose a heightened risk of harm if misused. In developing categories of SPOIs, the NAI relied a set of key factors that weigh the risk of harm, especially: (1) the reasonable privacy expectations of consumers; (2) the risk of harm to consumers (including both likelihood and severity of harm); and (3) the risk of societal harms, even when individual consumers may not be affected.

In weighing these factors, the NAI determined that the following POIs should be considered sensitive:

- Places of religious worship
- Correctional facilities
- Places held out to the public as involving engagement with explicit sexual content, material, or acts
- Places held out to the public as predominantly providing education or childcare services to minors
- Domestic abuse shelters, including rape crisis centers
- Welfare or homeless shelters and halfway houses
- Dependency or addiction treatment centers
- Medical facilities that cater predominantly to sensitive conditions, such as cancer centers, HIV/AIDS, fertility or abortion clinics, mental health treatment facilities, or emergency room trauma centers
- Places held out to the public as primarily providing refugee or immigrant services, such as refugee or immigration centers and immigration services
- Credit repair, debt services, bankruptcy services, or payday lending institutions
- Military bases
- Temporary places of assembly such as locations or venues at the time(s) when political rallies, marches, or protests are taking place
- Places held out to the public as primarily serving individuals who identify as LGBTQ+, including gender-affirming care and transgender-specific medical services

Notably, some of these categories of SPOIs are absent from the definition of “Sensitive Location” in the Proposed Regulations. For example, the NAI determined that data associating a consumer with a point of interest that holds itself out as primarily serving individuals who identify as LGBTQ+ poses a heightened risk of harm to the consumer, and hence qualifies as an SPOI. This has been borne out in specific cases where location information about an individual has been used to associate that individual with gay bars, leading to adverse impacts to that individual.¹⁴ Updating the proposed definition of “Sensitive Location”

¹³ See NAI Enhanced Standards at 3.

¹⁴ See, e.g., *Pillar Investigates: USCCB gen sec Burrill resigns after sexual misconduct allegations* (Jul. 20, 2021), <https://www.pillarcatholic.com/p/pillar-investigates-usccb-gen-sec> (“According to commercially available records of app signal data obtained by The Pillar, a mobile device correlated to Burrill emitted app data signals from the location-based hookup app Grindr on a near-daily basis during parts of 2018, 2019, and 2020 — at both his USCCB

to include locations held out as serving LGBTQ+ populations and other categories of POIs classified as sensitive by the NAI will increase the likelihood that businesses conducting risk assessments will identify circumstances where their processing of location data could result in an increased risk of consumer harm.

However, the Agency should also consider cases where an overbroad classification of benign points of interest as “Sensitive Locations” unnecessarily burdens businesses without mitigating any meaningful risk of harm. For example, the proposed definition of Sensitive Location currently includes all *educational institutions*.¹⁵ This may include locations that do not appear to pose any special risk of consumer harm, such as universities and professional schools that serve populations of adults. However, the NAI recognizes that some educational institutions serve children – a more vulnerable population – and that associating a particular consumer device with presence at that type of location could be used to infer that an individual is a child. To account for this risk, the NAI determined that while treating *all* educational institutions as SPOIs would be overbroad, including as SPOIs all “[p]laces held out to the public as predominantly providing education or childcare services to minors”¹⁶ accounts for the relevant risk to children. This is true not only for educational institutions for children (such as elementary schools) but also for daycare facilities or amusement facilities that are intended to be occupied by children.

By adopting these more nuanced distinctions, the Proposed Regulations can promote a risk analysis framework that balances the need to protect consumers with the goal of preserving beneficial uses of location data and avoiding undue burden to businesses. While we recognize that adopting the NAI’s categories of SPOIs would in some cases narrow which locations would be considered “sensitive” (such as the example above for educational institutions), the Agency should also keep in mind that consumers would still retain the baseline protections and rights afforded to consumers by the CCPA, including the right to limit the use of sensitive personal information when precise geolocation information is being used.¹⁷

The FTC enforcement actions dealing with sensitive locations also align with the NAI’s definition of SPOIs on many of these categories, further demonstrating their utility to address the risk of consumer harm.¹⁸

office and his USCCB-owned residence, as well as during USCCB meetings and events in other cities.”) (“an analysis of app data signals correlated to Burrill’s mobile device shows the priest also visited gay bars.”).

¹⁵ See Proposed Regulations at § 7001(aaa).

¹⁶ See *NAI Enhanced Standards* at 2.

¹⁷ See, e.g., CCPA at § 1798.121 (consumers’ right to limit use and disclosure of sensitive personal information); § 1798.140(ae) (defining “Sensitive personal information” to include precise geolocation).

¹⁸ The following categories are defined as “sensitive locations” or cited as “prohibited uses” of location data by both the NAI *Enhanced Standards* and the relevant FTC enforcement actions: places of religious worship; correctional facilities; locations held out to the public as predominantly providing services to LGBTQ+ individuals such as service organizations, bars and nightlife; locations of public gatherings of individuals during political or social demonstrations, marches and protests; medical facilities providing treatment for substance abuse and mental health; family planning centers; domestic violence shelters; homeless shelters; refugee or immigration centers; and locations held out to the public as predominantly providing education or childcare services to minors. See *NAI Enhanced Standards* at 2; Relevant FTC Decisions, *supra* note 12.

2. *Aligning the definition of “Sensitive Location” in the Proposed Regulations with the NAI’s definition of sensitive POIs will promote a uniform standard.*

This Agency has a unique opportunity to craft definitions and rules that will be used as guideposts for other regulatory bodies and policymakers around the world. As with all privacy concepts that will be applied in laws and regulations across jurisdictions, uniformity helps promote business adherence to those rules and to set consumer expectations for how their personal information will be handled by businesses. By updating the definition of “Sensitive Location” in the Proposed Regulations to more closely align with treatments of that concept by the FTC and the NAI, the Agency can help promote those important goals.

The tables included at the end of this comment letter as Exhibit A illustrate how the definition of Sensitive Location as currently proposed diverges from other treatments of the concept discussed above.

When treatments of the same concept diverge widely across jurisdictions, this makes it difficult to set consumer expectations for privacy and increases the cost and complexity for businesses building compliance programs to address those concepts, including for sensitive locations. We therefore recommend the Agency align its definition of Sensitive Locations with the existing NAI categories of SPOIs.

In summary, the NAI supports the requirement in the Proposed Regulations for a business to conduct a risk assessment if the business profiles a consumer based on presence at a Sensitive Location. However, the Agency should update its definition of Sensitive Location to align with the NAI’s categories of SPOIs to better track the risk of harm presented by associating a consumer with a given point of interest, and to promote uniformity for businesses implementing safeguards around the processing of personal information that may be used to associate consumers with particular points of interest.

III. Conclusion

Thank you for your continued commitment to public involvement and transparency in this important rulemaking process concerning automated decisionmaking technology. If we can provide any additional information, or otherwise assist your office as it continues to engage in the rulemaking process, please do not hesitate to contact Tony Ficarrota, General Counsel, NAI (tony@thenai.org); or David LeDuc, Vice President, Public Policy, NAI (david@thenai.org).

Respectfully submitted,

Leigh Freund
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Network Advertising Initiative (NAI)

Exhibit A

Identity and Association-Based Locations						
Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewalla	FTC Gravy	CPPA ADMT Draft Regulations
Places of religious worship, religious organizations	✓	✓	✓	✓	✓	✓
Places that could infer an LGBTQ+ identification (e.g. locations held out to the public as predominantly providing services to LGBTQ+ individuals such as service organizations, bars and nightlife)	✓	✓	✓	✓	✓	
Venues that Could Infer Engagement with Explicit Sexual Content, Material, or Acts	✓					
Correctional Facilities	✓	✓	✓	✓	✓	
Identity and Association-Based Locations						
Sensitive Point of	NAI VES	FTC Outlogic/X	FTC InMarket	FTC Mobilewalla	FTC Gravy	CPPA ADMT Draft

Interest		-Mode				Regulations
Labor Union Offices		✓	✓	✓	✓	✓
Racial/Ethnic Service Organizations		✓	✓	✓	✓	
Temporary places of assembly (such as political rallies, marches, or protests) during the times the rallies, marches, or protests take place; political activity	✓	✓	✓	✓	✓	
Military Bases, Installations, Offices, or Buildings	✓			✓	✓	
Political party offices						✓

Health-Related Facilities						
Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewalla	FTC Gravy	CPPA ADMT Draft Regulations
Medical facilities (in general)						
Medical facilities/ doctor's offices		✓	✓	✓	✓	✓
General medical and surgical hospitals		✓		✓	✓	✓
Specific types of medical facilities						
Specialty Hospitals		✓		✓	✓	
Locations treating substance abuse disorders (e.g. Offices, Residential, Outpatient, Hospitals, Dependency or Addiction Treatment Centers)	✓	✓	✓	✓	✓	
Offices of physicians		✓		✓	✓	✓
Offices of Oncologists/ Cancer Centers	✓		✓			
Health- Related Facilities						

Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewalla	FTC Gravy	CPPA ADMT Draft Regulations
Specific types of medical facilities						
Offices of Pediatricians			✓			
Facilities catering to HIV/AIDS	✓					
Family Planning Centers (e.g. sexual and reproductive health care providers, fertility or abortion clinics)	✓	✓	✓	✓	✓	
Mental Health-Related Facilities (e.g. Offices, Residential, Outpatient, hospitals)	✓	✓	✓	✓	✓	
Emergency Room Trauma Centers	✓					
Urgent Care Facilities						✓
Community health clinics						✓
Pharmacies						✓

Facilities Serving Vulnerable or Protected Populations						
Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewall a	FTC Gravy	CPPA ADMT Draft Regulations
Domestic Abuse/ Violence Shelters (including rape crisis centers)	✓	✓	✓	✓	✓	✓
Homeless Shelters (including welfare shelters and halfway houses)	✓	✓	✓	✓	✓	
Refugee or Immigration Centers and Immigration Services	✓	✓	✓	✓	✓	
Locations held out to the public as predominantly providing education or childcare services to minors/ Places primarily intended to be occupied by children under 16	✓	✓	✓	✓	✓	
Food pantries						✓
Housing/ emergency						✓

shelters						
Facilities Serving Vulnerable or Protected Populations						
Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewall a	FTC Gravy	CPPA ADMT Draft Regulations
Educational institutions						✓
Legal services offices						✓

Financial Vulnerability Indicators						
Sensitive Point of Interest	NAI VES	FTC Outlogic/X-Mode	FTC InMarket	FTC Mobilewall a	FTC Gravy	CPPA ADMT Draft Regulations
Credit repair	✓					
Payday lending institutions	✓					
Debt services	✓					
Bankruptcy services	✓					