

# Show Me the Money: How the CCPA Provides a Mechanism for Consumers to Monetize Their Personal Data

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Under section 1798.125(b) of the California Consumer Privacy Act of 2018 (CCPA), "[a] business may offer financial incentives, including payments to consumers as compensation, for the collection of personal information, the sale of personal information, or the deletion of personal information. A business may also offer a different price, rate, level, or quality of goods or services to the consumer if that price or difference is directly related to the value provided to the consumer by the consumer's data." Accordingly, this provision of the CCPA offers consumers a mechanism to monetize their personal data, and time will tell regarding how this provision will work in application once the statute becomes effective on January 1, 2020. Nevertheless, in an era that continues to emphasize privacy rights, the CCPA attempts to give bargaining power to consumers and align their economic interests with the businesses that collect such personal information.

Historically speaking, companies have monetized personal data in a number of ways. Per the MIT Sloan Management Review, "There are two primary paths to data monetization. The first is internal and focuses on leveraging data to improve a company's operations, productivity, and products and services, and also enable ongoing, personalized dialogs with customers. The second path is external and involves creating new revenue streams by making data available to customers and partners." With respect to the former, it is not uncommon to see privacy policies whereby the users of an application or website consent to their personal data being analyzed to improve a platform or enhance a user experience. But with respect to the latter, companies also sell such personal data to a variety of third parties, including other businesses, marketing firms, and data brokers.

As stated by Tim Sparapani, former director of public policy at Facebook and former privacy lawyer with the American Civil Liberties Union, "Most retailers are finding out that they have a secondary source of income, which is that the data about their customers is probably just about as valuable, maybe even more so, than the actual product or service that they're selling to the individual. So, there's a whole new revenue stream that many companies have found." As a result of this, a variety of marketplaces have been created for businesses to buy and sell data, which can exclude any type of financial remuneration for the consumer (and on a related note, because of this booming industry with little oversight, Vermont is an example of a state that has begun regulating data brokers, and the public can see a list of companies that are transacting with consumers' personal information).

Refocusing on California, until the CCPA goes live, it is hard to envision how section 1798.125(b) will be used by consumers and whether it will actually incentivize them to sell their personal data. Last year, the BBC investigated this very question of "Can you make money selling your data?" and the economic returns did not seem significant from the methods that were deployed. Notwithstanding those efforts, it is possible that future technology platforms and shifting regulatory environments (as well as the overall evolution of the internet) will change that. If such change happens, consumers might be able to sell their personal data for higher returns and cut into the revenue streams that are currently being dominated by businesses, data brokers, and other third parties.

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