Philip Laird
California Privacy Protection Agency
2101 Arena Boulevard
Sacramento, CA 95834

September 20, 2024

Dear Mr. Laird:

Thank you for submitting the Standardized Regulatory Impact Assessment (SRIA) and summary for the proposed regulation on the California Consumer Privacy Act, as required in the California Code of Regulations, title 1, section 2002(a)(1). Comments are based upon the SRIA and other publicly available information.

The proposed regulation would (1) update existing California Consumer Privacy Act (CCPA) regulations; (2) clarify when insurance companies must comply with the CCPA; (3) establish requirements to complete cybersecurity audits ("CSA"); (4) establish requirements to prepare risk assessments ("RA"); and (5) operationalize consumers' rights to access and to opt-out of businesses' use of automated decision-making technology ("ADMT"). The proposed regulation would be effective beginning in 2027 and is expected be fully implemented by 2036. Between 13,000 and 52,000 businesses would be required to comply with some or all of the proposed regulation, based on if they meet any of the following criteria in the preceding calendar year: 1) derived 50 percent or more of their annual revenue from selling or sharing personal information, or 2) had annual revenue of greater than $27,950,000, or 3) buy, sell, or share the personal information of 100,000 or more consumers or households per year. The estimated total direct cost of the proposed regulation in the first year of implementation is $3.5 billion, before declining to an annual average of $1 billion across the first ten years following implementation. The proposed regulations are anticipated to generate $1.5 billion in benefits in the first year primarily due to avoided costs associated with fewer cybercrimes, before averaging $18.6 billion in avoided costs annually across the first ten years following implementation. State government is estimated to see a one-time fiscal impact of $44,625 due to new staff and additional workload at the CPPA and Department of Justice, with an ongoing fiscal impact of $66,035 annually. Additionally, the regulations are estimated to result in a state tax revenue decline of $2.7 billion in the first year of implementation before resulting in an increase of $6.1 billion by the end of the implementation period in 2036. The proposed regulation also estimates employment to decline by up to 126,000 in 2030 before increasing by 241,000 in 2036.

Finance generally concurs with the methodology in the SRIA, with the following exceptions. First, the SRIA should clearly identify the state revenue baseline used. The SRIA projects state tax revenue impacts to range from a decline of about $3 billion (or -0.13 percent, as stated in the SRIA) to an increase of $6 billion (0.3 percent) over the implementation period. However, these percentage estimates understate the projected state revenue impact, as $6 billion accounts for roughly 2 percent to 3 percent of the state's revenues, while the percentages estimated in the SRIA, imply a state revenue baseline of roughly $2 trillion. Second, the SRIA is currently lacking critical disclosures and justification regarding impacts to the state's economy and budget including the following: 1) The estimated impact on Gross State Product (GSP) ranges from a decline of nearly $30 billion to an increase of $280 billion across the implementation period. Moreover, the ratio of GSP to state tax revenues averaged about 16-to-1 from 2017 to 2023, however, the projected ratio in the SRIA ranges from about 10-to-1 through 2031 before increasing significantly to 46-to-1 by 2036. The SRIA should further explain and justify the substantial change in the ratio of GSP to state revenues and why it is projected to rise significantly over the implementation period. 2) The SRIA describes the initial negative impact of the regulations on state investment as "small", at -5.5 percent of total state investment in 2027. Investment in all sectors (including those not directly affected by the regulation) across the state is subsequently projected to increase by $257 billion, or nearly 36 percent, by the end of the implementation period in 2036. The SRIA should explain why investment is assumed be this significantly impacted, both initially and cumulatively over the ten-year window. Finally, the SRIA projects employment to decline by up to 126,000 in 2030 before increasing by 241,000 by the end of the implementation period in 2036. As the proposed regulation is expected to disproportionately impact higher earners across the state in the information and professional, scientific, and technical services industries, which together account for about 10 percent of the state's total employment, the SRIA should discuss the disparate employment impacts by industry to the extent possible.

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment if a SRIA is required. The SRIA, a summary of Finance comments, and any responses must be included in the rulemaking file that is available for public comment. If any significant changes to the proposed regulations during the rulemaking process result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Somjita Mitra Digitally signed by Somjita Mitra
Date: 2024.09.19 18:56:14 -07'00'

Somjita Mitra
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Mr. Ashkan Soltani, Executive Director, California Privacy Protection Agency