

Digital Content Next

Legal and Legislative Committee
March 10, 2020

DCN Survey re CCPA Compliance

Federal Consumer Privacy Legislation

New Mactaggart California Ballot Initiative

EARN IT Act

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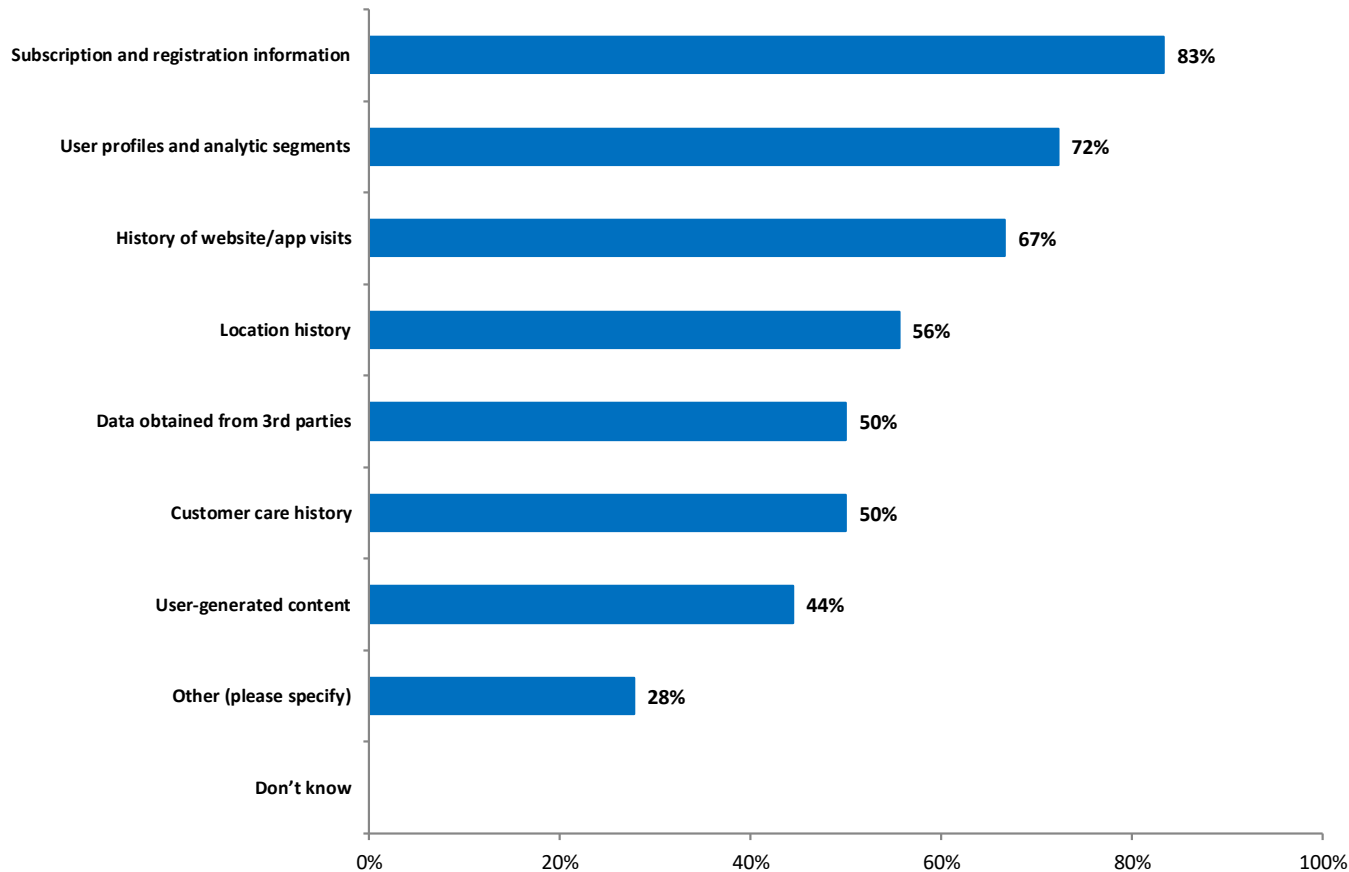
March 2020

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SURVEY OBJECTIVE

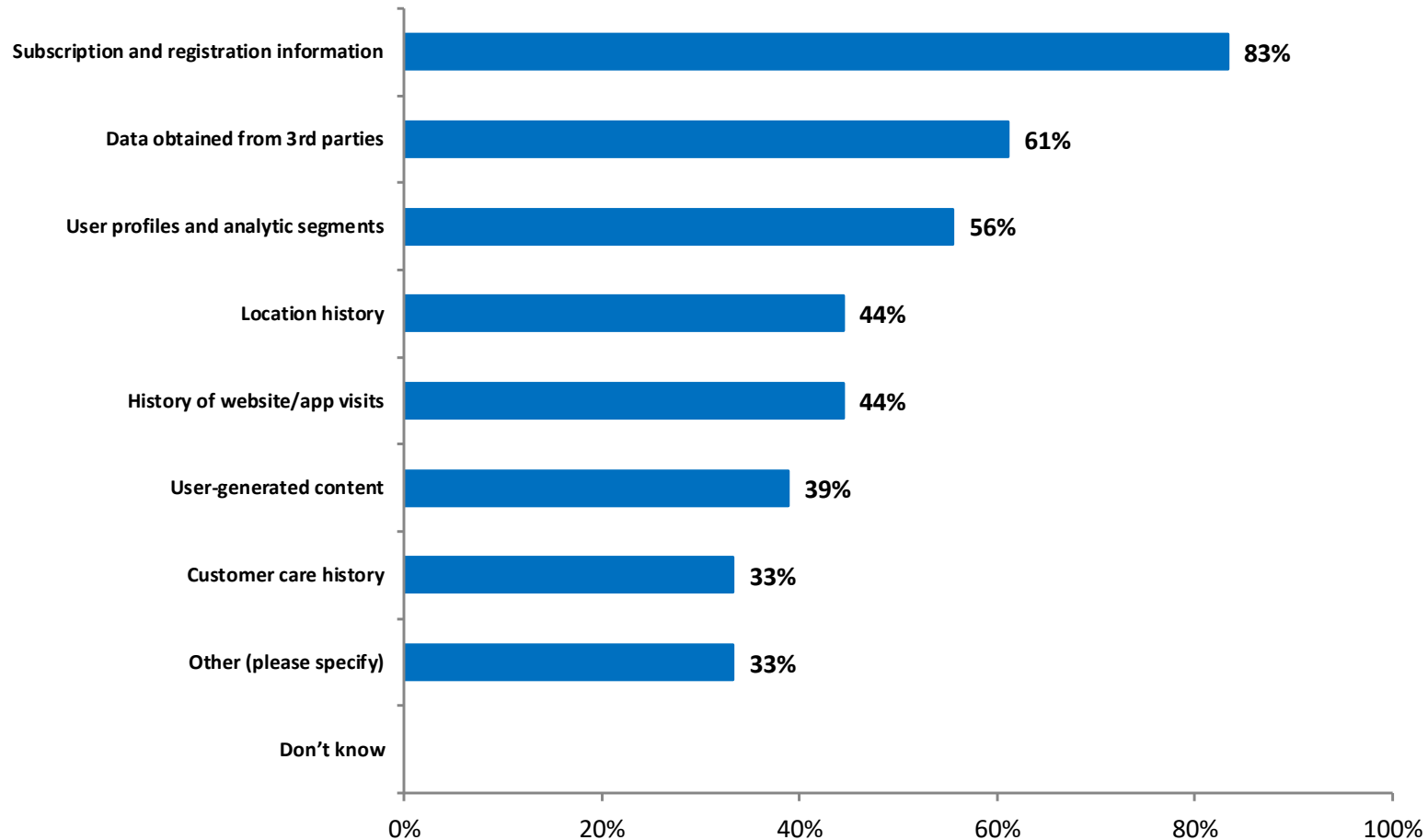
- DCN conducted the DCN Survey re CCPA Compliance to gather intelligence on how DCN members are complying with various elements of the CCPA.
- The online survey was sent to Legal and Legislative Committee members in March 2 – 9, 2020.
- 18 committee members completed the survey -- a response rate of 35%.
- The results have been aggregated to ensure individual member confidentiality.

What type of data does your company provide in response to consumer data access requests? Select all that apply



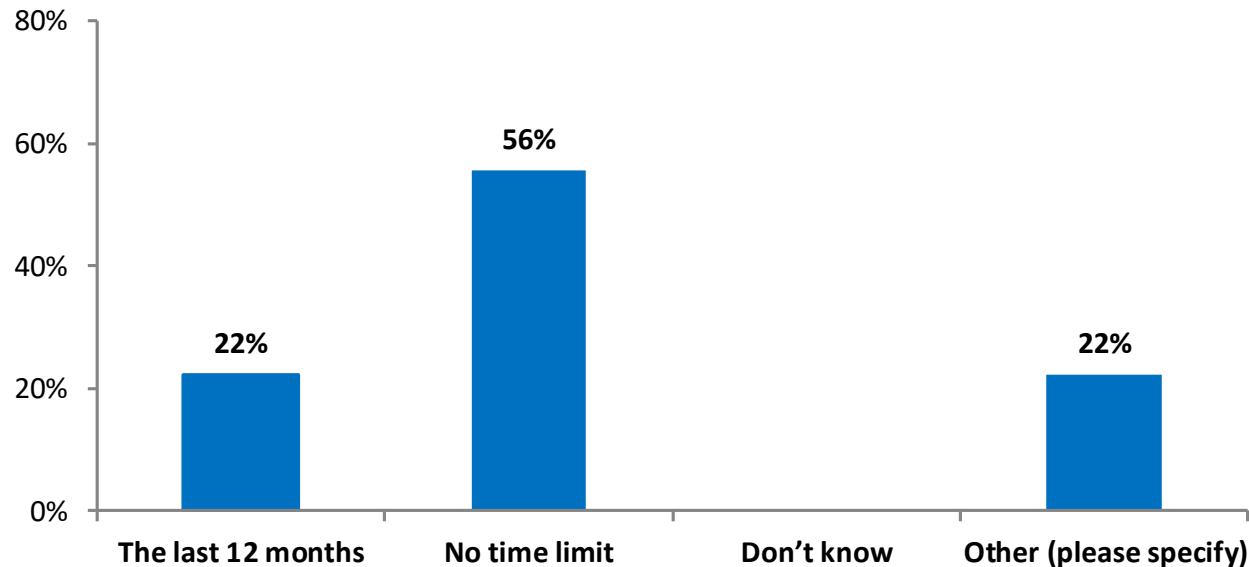
Other: Personal data unless an exemption applies, purchase history, type of data is dependent upon whether consumer is a subscriber and we have not received any CDAR.

What type of data does your company delete in response to consumer data deletion requests? Select all that apply.



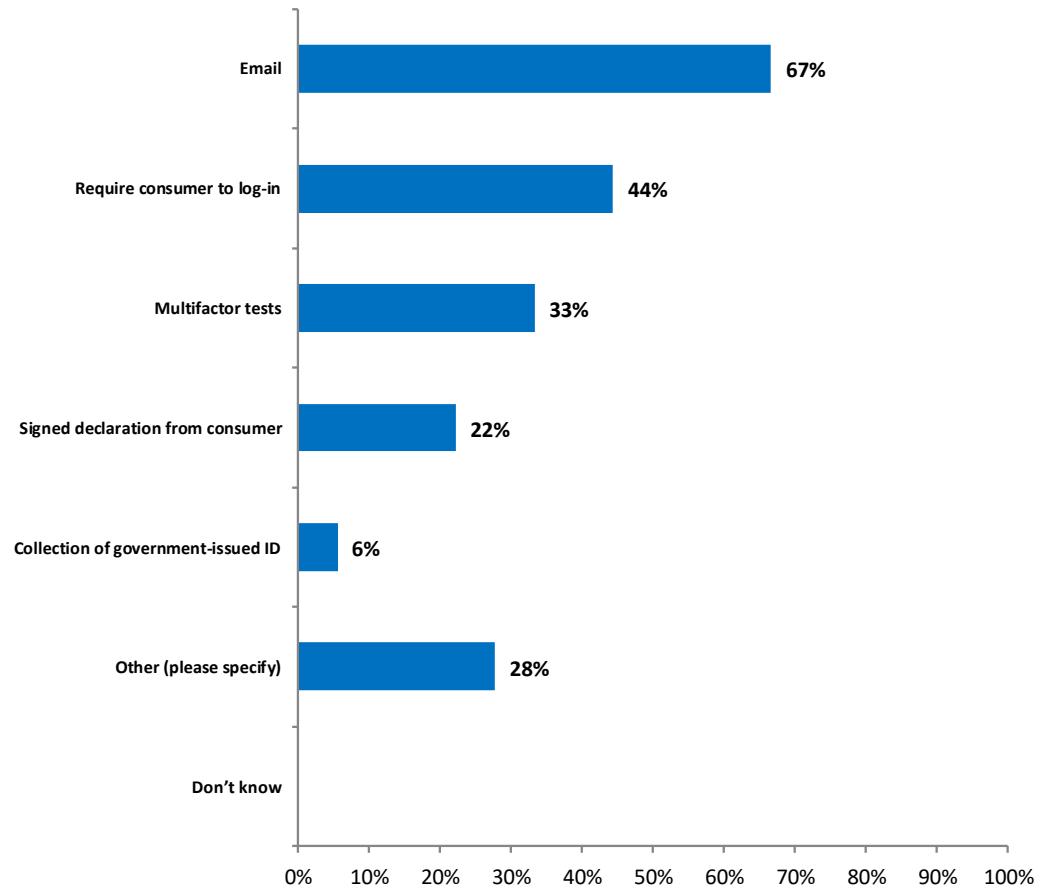
Other: All personal data unless we are required to keep it for legal reasons, it depends on the purpose of the data; if it's for internal analytics and it's a CCPA request, we're keeping basically everything not related to external sales, for GDPR, we're wiping everything, purchase history, type of data deleted is dependent upon whether consumer is a subscriber and no request to date (x2).

For access and deletion requests, does your company limit the scope of the data to:



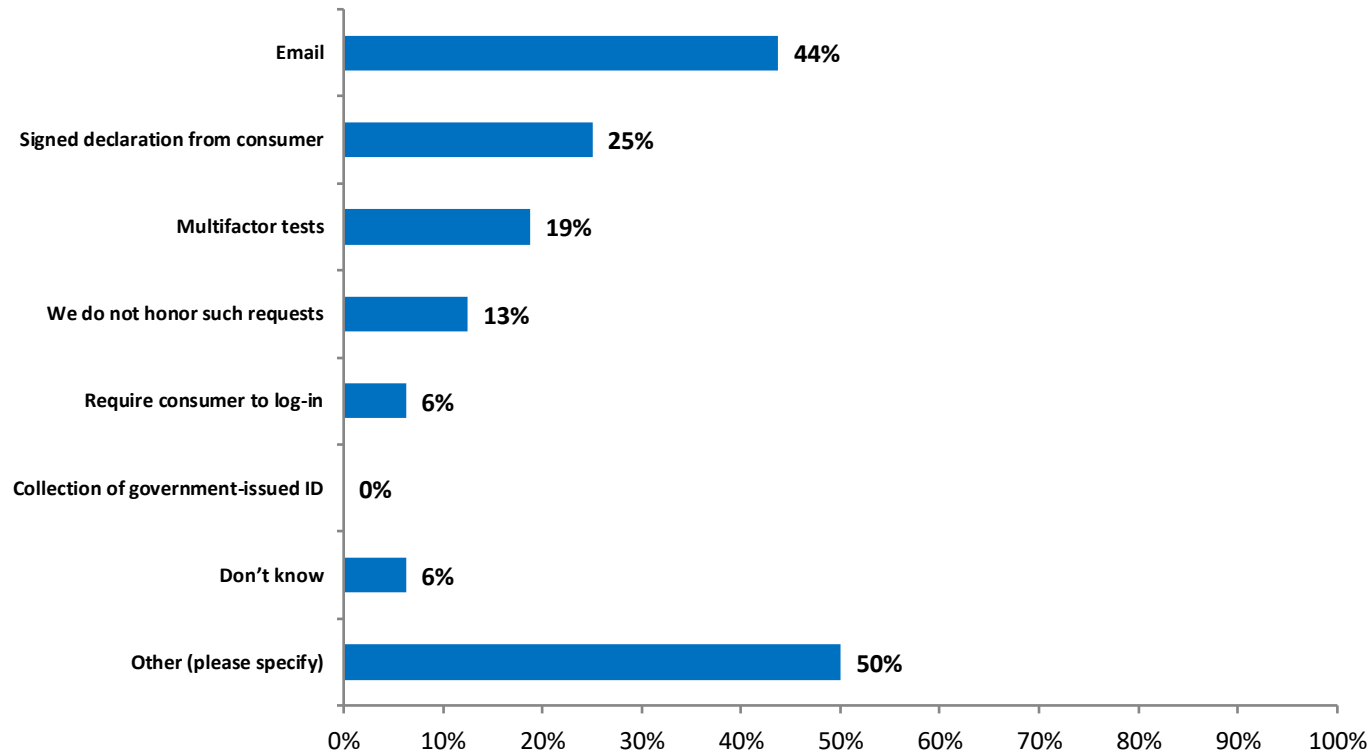
Other: We have not received any, but we are working on compliance measures with the CCPA and other state laws to fulfill their specific requirements, 12 months for access requests; no necessarily limited for deletion, GDPR: lifetime; CCPA: 1Y and no valid CCPA requests have been received to date.

For consumers with whom your company has an established relationship, how does it verify their identity before honoring access or deletion requests? Select all that apply.



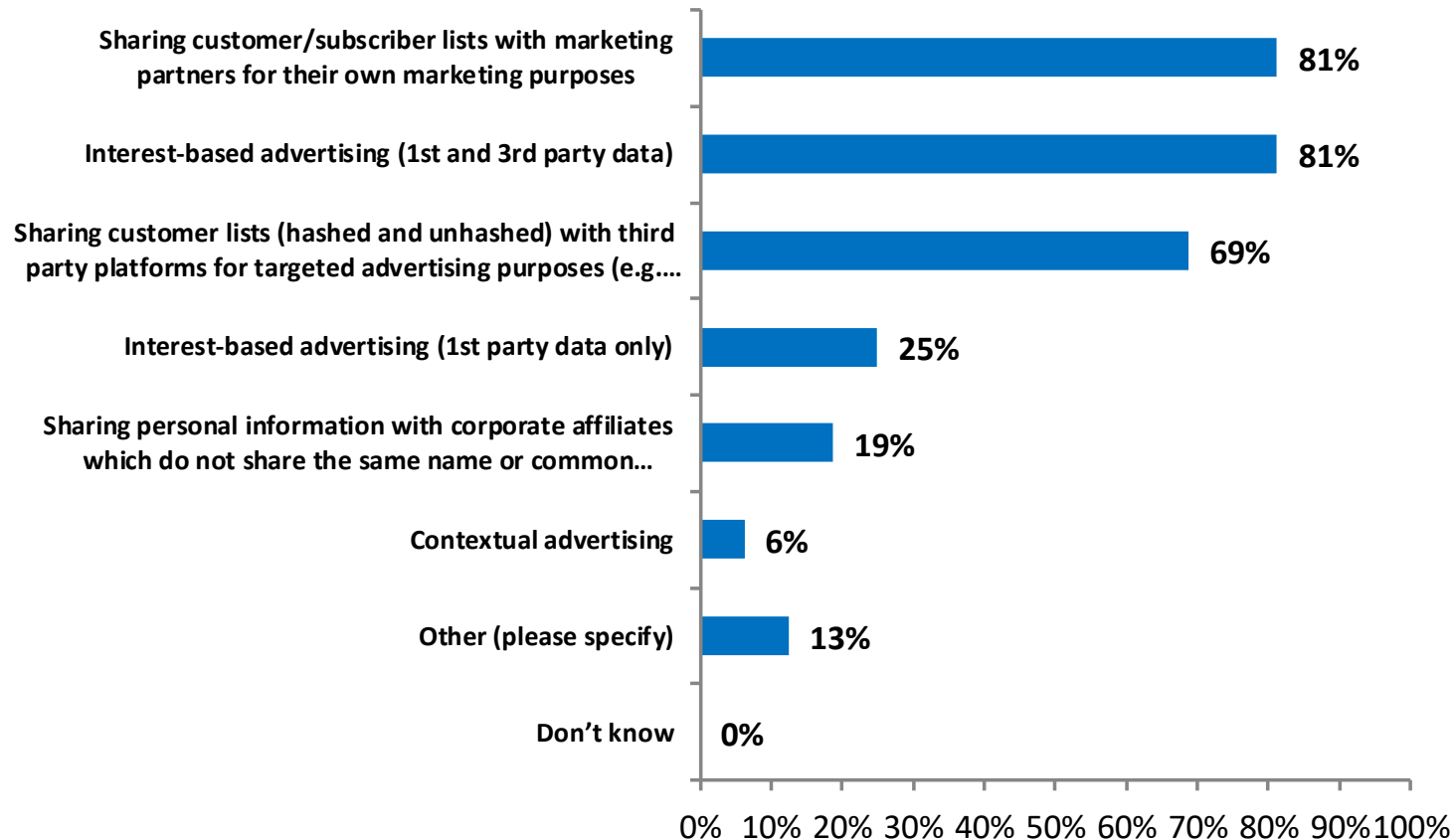
Other: Proportionate piece of identification, video verification and verification of location for CCPA (require CA resident).

For consumers with whom your company does not have an established relationship (e.g. anonymous, not logged-in), how does your company verify their identity before honoring access or deletion requests? Select all that apply.



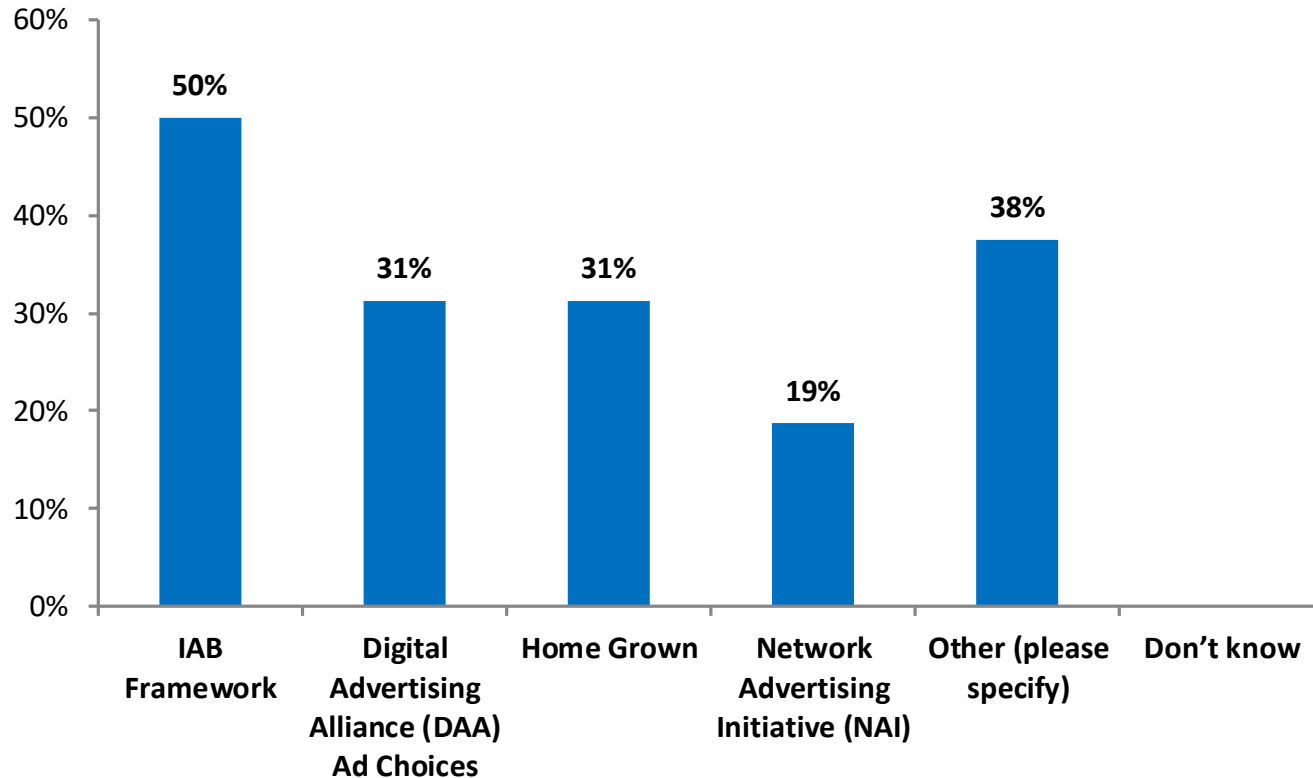
Other: We generally run a check against an email address. If results indicate no records, we provide instructions on how requestor can access and/or delete activity information. n/a anonymized data is not within the scope of a request, video verification and using our first party cookie id (infinity id), if available and presented by the user.

Of the following, which does your company consider a “sale” under the CCPA? Select all that apply.



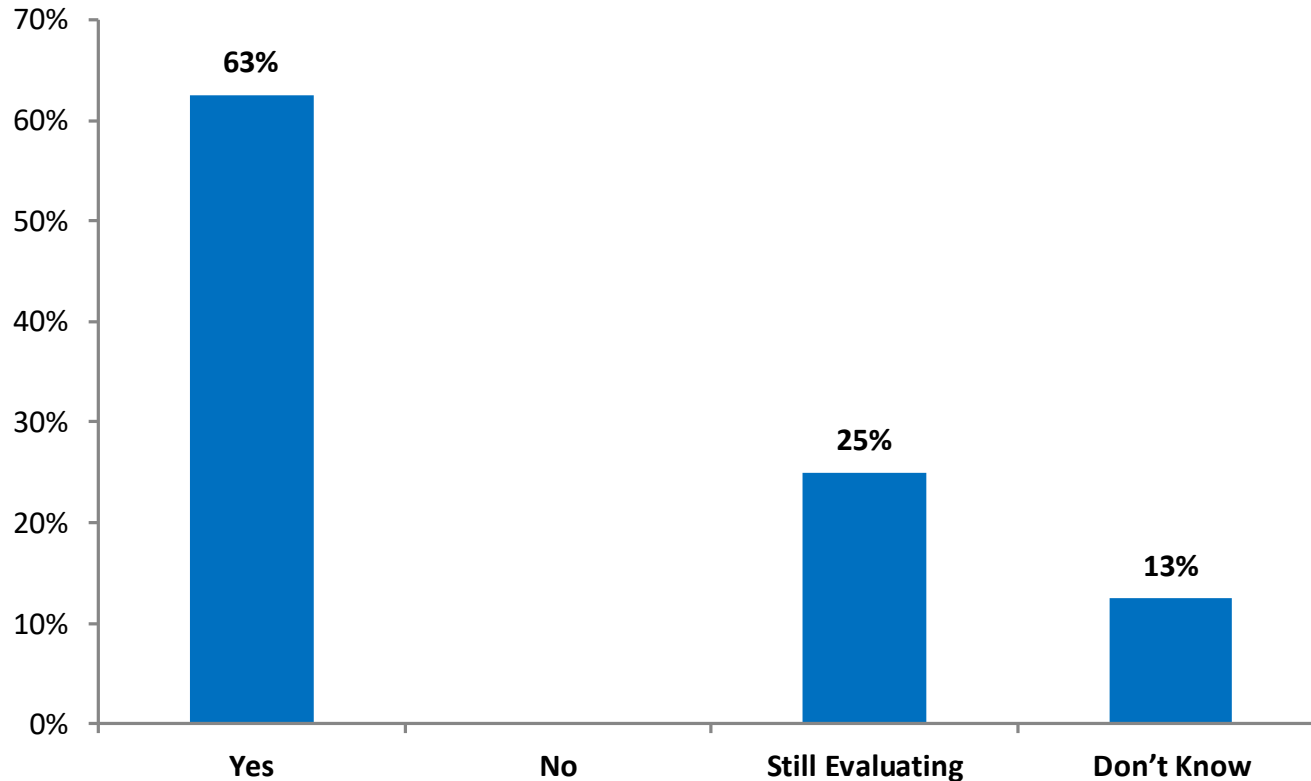
Other: We consider none of these to constitute a sale, but in order to comply with CCPA we treat all of the above checked behaviors as a sale and This is a very fact determinative question that depends upon whether parties with whom we disclose data are "service providers" or "third parties"

How does your company honor consumer Do Not Sell requests? Select all that apply.



Other: Google's restricted data processing setting, We are still working on this, but intend to use the IAB framework and OneTrust, OneTrust, Multifaceted approach: Industry solutions, private company signals, and self blocking of cookies/sdk's and sourcepoint model.

If your company does not currently use the IAB Framework, do you anticipate the company will use it in the future?



Questions?




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	The Consumer Online Privacy Rights Act (Cantwell)	The United States Consumer Data Privacy Act (Wicker)	House Energy and Commerce Committee Draft Bill	GDPR	CCPA	California Privacy Rights Act (Proposed Amendment to CCPA)
DOES THE BILL PROVIDE ACTIONABLE RIGHTS ON:						
Right to data portability	✓	✓	✓	✓	✓	—
Right to deletion	✓	✓	✓	✓	✓	—
Differentiates between sensitive and nonsensitive covered data	✓	✓	✓	✓	✗	✓
Right to opt-in to sensitive covered data transfers	✓	✓	✓	✓	✗	—
Right to correct	✓	✓	✓	✓	✗	✓
Right to withdraw consent	✓	✓	✓	✓	✓	—
Employee data being covered data	✗	✗	✗	✓	✓	✗
DOES THE BILL REQUIRE COVERED ENTITIES TO:						
Provide notice of covered data transfer	✓	✓	✓	✓	✓	—
Not waive users' data control rights	✓	✓	✓	✓	✓	—
Publish publicly, in their privacy policy or otherwise, how they use users' data	✓	✓	✓	✓	✓	—
DOES THE BILL INCLUDE RULEMAKING AND ENFORCEMENT REGULATIONS REGARDING:						
Giving individuals a private right of action	✓	✗	Not Included	✓	✓	—
Broad and ongoing FTC authority	✓	✗	✓	N/A	N/A	N/A
New FTC Bureau to oversee privacy	✓	✗	✓	N/A	N/A	N/A
Empowering state attorneys general	✓	✓	✓	N/A	N/A	N/A
Federal policy preempting all state policy	✗	✓	Not Included	N/A	N/A	N/A

 Expressly included in bill
  Expressly excluded from bill
  Unchanged from CCPA

Federal Privacy Bill Talks Stalled

Tension Points in Order of Difficulty to Overcome:

1. Private Right of Action

Democrats have insisted on its inclusion in some form.

2. State Preemption

Sharing with State AGs may be a path forward.

3. FTC Rulemaking Authority

Broad v. prescriptive authority.

4. Children and Teen Privacy Protections

Raise the age of COPPA v. additional protections

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- Activist and architect of CCPA
- New ballot initiative: **California Privacy Rights Act (CPRA)**
- Amendments to CCPA:
 - Differentiates between sensitive and non-sensitive data.
 - Provides a right to correct and protections for children under 16.
 - Differentiates between employee data and regular data.
 - Creates agency to enforce privacy law.
 - Includes “switch” language that DCN supports
 - When business relays consumer opt-out preference, all 3rd parties must revert to role of service provider; absolves publisher from liability

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- Introduced by Sens. Graham (R-SC) and Blumenthal (D-CT)
 - Cosponsors: Feinstein (D-CA), Hawley (D-MO), Jones (D-AL), Ernst (R-IA), Casey (D-PA), Whitehouse (D-RI), Durbin (D-IL) and Cramer (R-ND).
- Takes aim at Section 230
 - Forces companies to “earn” immunity related to preventing dissemination of child sexual abuse material by complying with a set of best practices.
 - Best practices set by a commission of government officials and privacy stakeholders.
- Opposed by a number of lawmakers, industry groups, and civil liberties organizations.

Other

- Hearing today at Senate Judiciary Subcommittee on Antitrust
 - “Competition in Digital Technology Markets: Examining Self-Preferencing by Digital Platforms”
 - Witnesses include Public Knowledge, Open Markets Institute, Clemson University, The App Association, and Yelp
 - Purpose: to examine self-preferencing by platforms and whether there are anticompetitive effects
 - DCN to provide read-out
- DCN Webinar “Implementing Privacy Law” on 3/16 11 AM EDT
 - Intended audience: personnel focused on product management, design and/or development
 - Agenda: high-level summary of federal privacy law debate and opportunity to provide feedback based on experience implementing GDPR and CCPA

Questions?

Other Issues?