

CALIFORNIA PRIVACY PROTECTION AGENCY BOARD

TRANSCRIPTION OF RECORDED PUBLIC MEETING

March 8th, 2024

SACRAMENTO, CALIFORNIA

Present: JENNIFER M. URBAN, Chairperson
LYDIA DE LA TORRE, Board Member
VINHCENT LE, Board Member
ALASTAIR MACTAGGART, Board Member
JEFFREY WORTH, Board Member
ASHKAN SOLTANI, Executive Director
PHILIP LAIRD, General Counsel
ELIZABETH ALLEN, Moderator

KRISTEN ANDERSON, Staff Attorney
NEELOFER SHAIKH, Staff Attorney
LISA KIM, Senior Policy Counsel and Advisor
MEGAN WHITE, Deputy Director of Public and External
Affairs
EDWIN LOMBARD
GRACE GEDYE
PETER LEROE-MUNOZ
MATT SCHWARTZ
RONAK DAYLAMI
EMORY ROANE
DEANA IGELSRUD
ROBBIE ABELON
BRUNO O'NEAL

1 ANNETTE BERNHARDT

2 DANIEL GELLER

3 CAROLINE KRACZON

4 HAYLEY TSUKAYAMA

5 MINSU LONGIARU

6 JULIAN CANETE

7 IVAN FERNANDEZ

8 KARLA ORTIZ

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26 CALIFORNIA PRIVACY PROTECTION AGENCY

27 TRANSCRIBED RECORDED PUBLIC MEETING

28 March 8, 2024

1
2 **MS. JENNIFER URBAN:** Good morning everyone. Welcome to this
3 meeting of the California Privacy Protection Agency Board. It is
4 March 8th, 2024 at 9:05 AM. My name is Jennifer Urban. I am the
5 chairperson of the board, and I'm very pleased to be here in person
6 with the board and some members of the public, and to welcome any
7 of you via Zoom as well. Before we get started with the substance
8 of the meeting, as usual, I have some logistical and legal
9 announcements. First, I'd like to ask everyone to please check your
10 microphone is muted when you're not speaking. Second, I'd like to
11 ask everyone who is here in person to silence or turn off their
12 cell phones to avoid interruption. And I will make sure mine is
13 silenced right now. Thank you. And then third this meeting is being
14 recorded. We strongly encourage everyone to wear masks. If you are
15 attending in person, we're not requiring this, just encouraging it.
16 COVID-19 is, of course, still with us. And we want to avoid
17 exposing vulnerable members of the community or inadvertently
18 making our public meetings less accessible. As you may know, our
19 temporary ability to meet remotely and still comply with Bagley
20 Keene has expired. Therefore, this meeting is in a hybrid format
21 with the board members in person. And the public is welcome to join
22 us in person or in Zoom. That said, the hybrid format is
23 technically complex, so if we have any technical kinks during the
24 meeting, we will pause the meeting and address the issue. Thank you
25 in advance for your patience if any of these issues arise. Also the
26 logistics can be a little bit more complicated within a hybrid
27 format. So bear with me while I go over logistics and meeting
28 participation. Today's meeting will be run by the, according to the

1 Bagley Keene Open Meeting Act as ever and as required by law. We
2 will proceed through the agenda, which is available as a handout
3 here in Oakland and also on the CPPA website. If you are joining us
4 remotely. Materials for the meeting are also available as handouts
5 here and on the CPPA website, you may notice board members
6 accessing their laptops, phones, or other devices during the
7 meeting. We are using these devices solely to access meeting
8 materials. And a few minutes ago, I silenced my phone. After each
9 agenda item, there will be an opportunity for questions and
10 discussion by board members, and I will also ask for public
11 comments on each agenda item. Each speaker will be limited to three
12 minutes per agenda item. We also have a designated item on today's
13 agenda for general public comment. That's agenda item eight, and
14 I'll say a bit more about that in a second. If you are attending
15 via Zoom and you wish to speak on an item, please wait until I call
16 for public comment on the item to allow staff to prepare for Zoom
17 public comment. Then please use the raise your hand function, which
18 is in the reaction feature at the bottom of your zoom screen. If
19 you wish to speak on an item and you are joining via phone, please
20 press star nine on your phone to show the moderator that you are
21 raising your hand. Our moderator will call your name when it is
22 your turn and request that you unmute yourself for comment at that
23 time. Those using the webinar can use the unmute feature, and those
24 dialing by phone can press star six to unmute. When your comment is
25 completed, the moderator will mute you. Please also note that
26 members of the board will not be able to see you, only hear your
27 voice, thus, that it's helpful if you identify yourself. But this
28 is entirely voluntary. And you can also input a pseudonym when you

1 log into the meeting via Zoom. If you're attending in person and
2 wish to speak on an item, please wait for me to call for public
3 comment, then move toward the podium on my right and form a line.
4 You will be called to speak in your turn, as with the Zoom
5 attendees. It's of course helpful if you identify yourself when you
6 would be begin, but this is again, entirely optional and you're
7 free not to give a name or to give a pseudonym. Please speak into
8 the microphone so that everybody participating remotely can hear
9 you. And so your remarks can be recorded in the meeting record.
10 Again, the technical features of a hybrid meeting are somewhat
11 complex. So first I'd like to thank the team who managing the
12 technical aspects of the meeting today, Ms. Trini Hurtado and Mr.
13 Oscar Estrella. Thank you. And second, I'd like to explain what to
14 do if you are attending remotely and you experience an issue with
15 the remote meeting, for example, the audio dropping. If something
16 happens, please email info, I for India, N November, Foxtrot O
17 Oscar@cppa.ca.gov. This will be monitored throughout the meeting.
18 If there's an issue that affects the remote meeting, we will pause
19 to let our technical staff work on fixing the issue. The board
20 welcomes public comment on any item on the agenda, and it is our
21 intent to ask for public comment prior to voting on any agenda
22 item. If for some reason I forget to ask for public comment on an
23 agenda item and you would like to speak on that item, please let us
24 know by using the raise your hand functions and the moderator will
25 recognize you. If you are in person, please raise your hand and let
26 me know I forgot. And I will call you to your podium, to the podium
27 to provide your comment. Remind, relatedly I'd like to remind
28 everybody of some of the other rules under Bagley Keene. Board

1 members and members of the public may discuss agendized items only
2 under those items. If you are speaking on an agenda item, you must
3 contain your comments to that agenda item, whether you're a member
4 of the public or a member of the board. However, there are two
5 additional options under Bagley Keene. First is just for the
6 public. The public can bring up additional topics when the board
7 brings up the agenda item just for that purpose. That is number
8 eight today. However, board members can't respond. We can only
9 listen to you and perhaps consider the items for discussion at a
10 future meeting. Once again each speaker will be limited to three
11 minutes per agenda item. And we will also have an agenda item
12 dedicated to proposals for agenda items at future meetings. We will
13 take breaks as needed today, including one for lunch and one at
14 3:00 PM. I will announce each break and when we plan to return so
15 that members of the public can leave and come back if they wish.
16 Before we begin again, please note that the 10th item today is a
17 closed agenda item, and we will be leaving the room in order to
18 hold the closed session. My thanks to the board members for their
19 service and to everybody working to make the meeting possible. I
20 would like to thank the team supporting us and a team of who have
21 organized the meeting infrastructure. Mr. Philip Laird, who's
22 acting as our meeting council today, Mr. Ashkan Soltani in his
23 capacity here as executive director and several members of staff
24 who would be giving us some really interesting and wonderful
25 presentations. And I would like to thank and welcome our moderator,
26 Ms. Liz Allen. Good morning and ask you now Ms. Allen to please
27 conduct the roll call.

28 **MS. ELIZABETH ALLEN:** Okay, great. Here I'm. Board member De La

1 Torre.

2 **MS. LYDIA DE LA TORRE:** Aye.

3 **MS. ALLEN:** Board member Le? Le present. Board member
4 Mactaggart.

5 **MR. ALASTAIR MACTAGGART:** Aye.

6 **MS. ALLEN:** Yep. Mactaggart present. Board member Worth?

7 **MR. JEFFREY WORTH:** Present.

8 **MS. ALLEN:** Worth present. Chair Urban?

9 **MS. URBAN:** Present.

10 **MS. ALLEN:** Madam Chair Urban present. Madam Chair, you have
11 four present members and one absence.

12 **MS. URBAN:** Thank you very much, Ms. Allen. The board has
13 established a quorum. I'd like to let everybody know we'll take a
14 roll call vote on any action items. With that, we'll move to agenda
15 item number two, which is the chairperson's update. I don't have
16 much of substance in the update. So I will just preemptively thank
17 everyone for all of the really interesting and exciting substantive
18 material that we expect to go over today and move on to agenda item
19 number three, which is an update from our executive director, Mr.
20 Ashkan Soltani. Mr. Soltani, please go ahead when you're ready.

21 **MR. ASHKAN SOLTANI:** Thank you, Chair Urban and thank you board
22 for the opportunity to provide a brief update. I'm going to keep it
23 relatively short and sweet just because I know we have a packed
24 agenda. Couple key updates since last time we met. One, I'm proud
25 to say that the strategic plan, which was discussed in the January
26 meeting, is completed and is on our website. I really appreciate
27 the input from the board and the hard work of SorelloSolutions. The
28 consultant and our team for getting that finished. Staff are now

1 working on the process of implementing the KPIs, which will begin
2 tracking and reporting out as appropriate. I'm also pleased to
3 announce that assembly member Josh Leventhal introduced AB 3048,
4 the bill concept. The board previously supported in our December
5 meeting, which would require browsers and devices to offer
6 consumers the ability to exercise their privacy preferences through
7 opt op preference signals. The board can expect to hear updates on
8 the development of this legislation during the regularly scheduled
9 ledge update in May. I also wanted to plug that we're rapidly
10 growing. We have 16 open recruitments in various stages ongoing
11 right now. I'd really appreciate the board and any of members of
12 the public promoting those positions. It's an incredible
13 opportunity to join this brand new agency, or no longer brand new,
14 but this new agency. And I'm really looking forward to bringing on
15 that staff as well. Also folks that are freezing in the room, we'll
16 be pleased to hear that we've secured the CPUC meeting room for the
17 next, we hope to schedule the next meeting in May in that facility,
18 which is in San Francisco. Lastly, happy to introduce that the data
19 broker registry implementation went off successfully which is a
20 huge accomplishment given that we really only got heads up that we
21 would have to do it on our own in late fall. I'm really kind of
22 proud of the team for how hard they pushed and how they were able
23 to get up, particularly Miss Liz Allen and folks at DCA as well as
24 all of staff for legal, exec staff as well. I've asked Ms. Allen to
25 briefly do a quick demo for the board, just so folks would be
26 interested in seeing that functionality. And bear with us. This is
27 our first screen share, so let's see if it shows up remotely.
28 Great. Perfect.

1 **MS. ALLEN:** Okay, great. So as you know, SB 362 transferred the
2 data broker registry. Let me see if I can make this a little bit
3 bigger. How's that? Yay. The data Broker registry to from the DOJ
4 to the agency in the fall. While this was a compressed timeline, we
5 have been able to launch, we launched the data broker registry up
6 here. You can see the new tab on March 1st. So we successfully
7 processed nearly 500 data brokers and we released this first
8 iteration down here where you can see and search for different data
9 brokers. Because data brokers, by definition do not have a direct
10 relationship with consumers, consumers may not know the names of
11 these companies. Therefore, the registry highlights some important
12 aspects of these firms as per statute. For example whether they
13 collect data from minors, precise geolocation or reproductive
14 healthcare data, and somebody could, for example, search and sort
15 by all the businesses that do collect minor data. Additionally
16 anyone can download the full CSV to see everyone's extended
17 registration, or they can click view and see the full registration
18 and all answers from the data brokers. So the registry will
19 continue to be updated by the agency, including annually per
20 statute. Failure to register or failure to complete their
21 registration may result in civil penalties that increase each day
22 that the data broker fails to register. So we're proud to be able
23 to offer this public, offer the public this much needed, improved
24 transparency around data brokers handling California and consumer
25 data. As Ashkan mentioned, building this system from scratch was a
26 big lift and happened truly in light speed for government time. So
27 I'm happy to answer any questions, but expect this to be updated
28 periodically throughout the year. This team will continue to run

1 the data broker registry, and we have already begun to start
2 research on the accessible delete mechanism, and we'll update the
3 board on that next big project in the near future.

4 **MR. SOLTANI:** Proud of the team for that. Beyond that, I have
5 no other updates. Thank you, Chair Urban and thank you board for
6 the opportunity to just provide this brief update.

7 **MS. ALLEN:** Thank you. Thank you. Thank you, Mr. Soltani and
8 Ms. Allen. Any questions or comments from the board?

9 **MR. WORTH:** Yes, I have one.

10 **MS. URBAN:** Mr. Worth.

11 **MR. WORTH:** Yeah. Thank you. What's the amount of penalties for
12 failure to register?

13 **MS. ALLEN:** In the statute it's \$200 a day.

14 **MR. WORTH:** You said it increases daily or it's—

15 **MS. ALLEN:** It's \$200 per day. So it would increase the number
16 of days.

17 **MR. WORTH:** And how do I understand that it's a requirement.
18 How do I get contacted that it and where to go, what's the process?

19 **MS. ALLEN:** So we, the DOJ has been running the registry for
20 the last, since 2020 essentially. And so we emailed everyone on
21 that list, and the DOJ has an announcement up that's like, you need
22 to go register with the CPPA.

23 **MR. WORTH:** Okay. Thank you.

24 **MS. ALLEN:** Yeah.

25 **MS. URBAN:** Do you have a sense of what percentage of the data
26 brokers who are required to register have registered?

27 **MS. ALLEN:** Yeah, that's a good question. So we're close. So
28 the DOJ had a 550 data brokers registered. We have about 480. And

1 we have more registering currently. So we're still getting
2 registrations in. If you look at the whole universe of every data
3 broker, we don't have that list. But yeah, of course. You know,
4 that would be something that we could enforce on, for example, to
5 try to figure out who isn't registering, who should be, and then
6 try to bring people.

7 **MR. WORTH:** But isn't there 70 already? You said the DOJ at 550
8 and you have 480.

9 **MS. ALLEN:** We have 480, yeah.

10 **MR. WORTH:** So isn't there already 70 that we are missing.

11 **MS. ALLEN:** Well, we've actually gotten some emails from folks
12 being like, we're not, we're either deprecated that because the
13 compliance is high. Or we have less than, we don't think we qualify
14 anymore. So we've gotten about 30 or 40 emails of people being
15 like, we're not going to, we're not, we are registering out of an
16 abundance of caution. We don't think we need to or so.

17 **MR. WORTH:** Thanks.

18 **MS. ALLEN:** Yeah.

19 **MS. URBAN:** Other questions? Thank you Mr. Soltani. I did have
20 a very quick question, which I'm sure comes from the fact that I
21 spend most of my days in academia. What is a KPI?

22 **MR. SOLTANI:** A key performance indicator.

23 **MS. URBAN:** Key performance indicator. Excellent.

24 **MR. SOLTANI:** Sorry for acronyms. Yeah.

25 **MS. URBAN:** Yeah. And thanks to everybody for getting the
26 strategic plan done. That's wonderful. And we look forward to
27 hearing how we are going along the path that we've set out. And
28 yeah, data broker registry is very exciting. Thank you. Any

1 comments or questions from the public, either on Zoom or in person?

2 **MS. ALLEN:** Okay. This is for agenda item number three which is
3 the executive director update. If you'd like to make a comment at
4 this time, please raise your hand using the raise hand feature or
5 by pressing star nine if you're joining us by phone. Again, this is
6 for agenda number three, executive director update. Madam Chair.
7 Okay. Alright. Roane Emory, we are going to unmute you. You'll have
8 three minutes. You may begin now.

9 **MR. EMORY ROANE:** Thank you so much. I want to also extend
10 thanks and congratulations for spinning up the new registry so
11 quickly. It's amazing. We're already seeing some really interesting
12 statics reporting metrics that we've never been able to see from
13 data brokers before, so that's really, really cool. I had a
14 question about one of the categories that is being reported on the
15 registry. It currently reports as healthcare data, but I was
16 wondering if that should instead be reproductive healthcare data?
17 Is that incorrect or a more broad category than the statute
18 required?

19 **MS. URBAN:** Mr. Soltani or Ms. Allen or Mr. Laird? Mr. Laird,
20 thank you, our general counsel.

21 **MR. PHILIP LAIRD:** Hi, good morning. Happy to take it. Yes,
22 under the law, this is reporting reproductive healthcare data. I
23 think on the website we've attempted to streamline some of the
24 reporting information, but I think that's an update we're looking
25 to make.

26 **MR. EMORY:** Oh, really, really, really appreciate that. Thank
27 you so much.

28 **MS. URBAN:** Thank you.

1 **MS. ALLEN:** Okay. Thank you. We have one other comment. Deana,
2 we are going to unmute you. You will have three minutes.

3 **MS. DEANA IGELSRUD:** Hello? Can you hear me okay?

4 **MS. ALLEN:** We can.

5 **MS. IGELSRUD:** Okay. So I actually am a legislative and policy
6 assist advocate with the Concept Art Association. And we're an
7 advocacy organization for artists working in film, television,
8 animation, and video games. And we're working with a group of
9 industry artists from chapters in IASI[Inaudible 18:12 - 18:13] as
10 well as a number of independent artists who have all been sort of
11 victims of having their works, both personal, private, stolen and
12 scraped across the internet. And earlier this month, our group went
13 to Sacramento to meet with legislators to discuss the effects of
14 generative AI on the creative industries. One of the folks that was
15 suggested that we meet with was Mr. Soltani. And we were wondering
16 the best way to possibly get in touch with him. So that, or the
17 best way to work with you because we're a bunch of artists, we're
18 not exactly sure how to do this. So that's really my question is
19 the best way we could connect up to make sure that artists and
20 creators are added as part of this conversation.

21 **MS. URBAN:** Thank you very much.

22 **MR. SOLTANI:** Me to respond.

23 **MS. URBAN:** Sure.

24 **MR. SOLTANI:** Great. Thank you for that comment. We have a
25 contact form on our website. The info at CPPA would be the best
26 contact point. And then that will get routed to me and our public
27 affairs team appropriately. Thank you for that comment.

28 **MS. IGELSRUD:** Thank you.

1 **MS. URBAN:** Very much @cppa.ca.gov. And the comment form is
2 easily findable, but of course let us know if you can't find it.
3 Thank you.

4 **MS. ALLEN:** Yes. Great. If there are any other members of the
5 public who would like to speak at this time, please go ahead and
6 raise your hand using Zoom's raise hand feature or by pressing star
7 nine if you're joining us by phone. Again, this is for agenda item
8 number three, executive director update. Madam Chair, I'm not
9 seeing any additional hands at this time.

10 **MS. URBAN:** Thank you very much, Ms. Allen. And thank you to
11 members of public, the public for the comments. And thank you very
12 much to Mr. Soltani and the staff for all of the amazing work that
13 he was reporting on for us today. With that, we will actually take
14 agenda item five out of order. So we will come back to agenda item
15 number four and move to agenda item number five, which is our
16 annual public affairs update and priorities. This is one of the
17 items on our regularized calendar. It will be presented by Ms.
18 Megan White CPPA's, Deputy Director of Public and External Affairs.
19 Ms. White. Welcome. I know we're all excited to hear your updates.
20 Please do go ahead and I would ask if you wouldn't mind mentioning
21 when you advance the slide so we can see them on this side since we
22 can't see the screen behind you. Thank you.

23 **MS. MEGAN WHITE:** Lovely. Here I am now. Okay, great. Thank you
24 so much board member or Chair Urban and thank you members of the
25 board for having me here today. Again, my name is Megan White. I'm
26 the Deputy Director of Public and External Affairs at the agency
27 and I am so proud to present the annual updates and the priorities
28 for the next 12 months. So first I thought I'd give a quick update

1 since this is the first annual report since public affairs was
2 established. So we can go ahead and do next slide please. So last
3 month or last March, I did not present because I was not part of
4 the agency. I was the first person hired into the public affairs
5 division and I joined mid-April of 2023. I'm so thrilled that the
6 very talented Ms. Nicole Cameron joined me in September of 2023.
7 And so now we're a robust team of two. But that's not to say that
8 communications efforts didn't happen prior to us joining.
9 Definitely Mr. Soltani and Ms. Mahoney did outstanding work in
10 doing their full-time jobs, plus doing all the comms efforts before
11 the public affairs department was formed. But now that we're
12 established, I wanted to give you a really brief overview of what
13 falls under our division. So first, as you're well aware, public
14 education right there at the top. And just a reminder, this is part
15 of the mandate that was Prop 24. In addition, we handle all of the
16 external communications, everything from our websites, social
17 media, interactions with stakeholders, our website, a whole bunch
18 of different things for external, oh, speaking engagements, a whole
19 bunch of things for external communications. In addition, we handle
20 internal communications. That includes updating our intranet and
21 making sure our staff is informed about what's going on at the
22 agency as a remote centric for agency. That's really, really
23 important. And in addition, we handle the board meeting logistics.
24 Moving on. Next slide. I'm excited to share some highlights of what
25 have happened over the past approximately 10 months, 12 months
26 since the public affairs team was first established. So media
27 relations. Number one, our media relations program is really,
28 really important. And over the past 12 months, we've put out

1 approximately a dozen announcements and press releases. Just to
2 clarify, an announcement is something that would go on our website
3 under the announcement page. A press release is what we distribute
4 out to members of the media. Sometimes we also put it on a press
5 wire depending on the reach that we want to get. And every single
6 time we do an announcement or a press release, we meet as an
7 internal team to discuss the reach and who we're trying to get to
8 in this announcement. So every single one has a comms plan behind
9 it. Sometimes we just want the announcement on our website and
10 social media. Other times it involves pitching members of the media
11 to making sure that our story gets out there and reaches a broad
12 audience. To make sure that we're informing members of the media,
13 we establish a press listserv. So now all the reporters that cover
14 us regularly or touch the industries that we touch are on that list
15 and we make sure where they get the press release as soon as it
16 comes out so they can cover it fairly and accurately. Next is our
17 speaking program. So whenever our executive team goes out and they
18 speak, and I'm proud to say they've done more than two dozen
19 speaking engagements over the past 12 months and we're on track to,
20 well surpass that just in 2024. But our team is responsible for
21 writing the talking points, speeches, handling all the logistics,
22 and also working on slide decks for our team. And you're going to
23 see just more and more of this in the coming years as we get out
24 more and more to the community. In addition, we handle recruitment
25 efforts. So our very talented HR team handles the administrative
26 aspect of this and we handle the marketing of positions. So first
27 off, let's start with the fact that we established and grew our
28 team. And we'll continue to grow in 2024, but we've also promoted

1 more than 30 positions at the agency. And this ranges from members
2 of our executive team to people who participate in our internship
3 program. In addition, we've made it easier to apply for a job at
4 the agency by really improving our career opportunities webpage
5 that you'll find on the CPPA website. So this includes creating a
6 careers lister. So people come to the website, they're interested
7 in applying to the agency, but they don't have, they don't see a
8 job that's right for them. They can go ahead and sign up, give us
9 their email, and they'll get a notification as we open new jobs. In
10 addition, we have a lot of people who are really interested in
11 working at the agency, but they've only been in the private sector,
12 they've never worked for the state before. So we updated the career
13 opportunities page to make it really easy for people to know how to
14 apply for a job. So just a few things that we've done there in
15 terms of recruitment efforts. Next slide please. In addition, we've
16 really upped our social media game. So we are currently on LinkedIn
17 and X and we formally known as Twitter and we will continue to do
18 so. So originally we had a lot of social media and it was just
19 around our announcements and job posts. But what you'll notice as
20 you look now is we're really trying to become a thought leader in
21 this space and a reliable, trusted source for the public. So we're
22 starting to promote things that are adjacent to our agency and this
23 includes things like the National Consumer Protection Week. So if
24 you go on our social media channels this week, because it's
25 actually happening this week, you'll see we have a lot of great
26 information out there for the public. In addition, we promote
27 things like Cybersecurity Awareness Month in October, Data Privacy
28 Awareness Week in January. And in addition, we promoted the Data

1 Brokers registry when that launched. So to all your questions that
2 you had earlier, we worked very closely with Ms. Allen to make sure
3 that information was up on our social media channels as well. In
4 addition, we made updates to the CPPA website. So I won't go into
5 the career opportunities page again, but we've done other things to
6 make the website a lot more user friendly. In addition, we added
7 business guidance. Again, I have to point out Ms. Allen's
8 assistance with that, along with Ms. Kim's, they were both very
9 helpful in making sure we had accurate information up there that
10 was visually easy for the audience to understand. In addition, as
11 Mr. Soltani pointed out, we've finalized our strategic plan, which
12 is now on the website as well. And in addition, every single PDF
13 that you see on our website requires remediation. This makes it
14 easier for people with accessibility issues to understand the
15 documents. It's a very heavy lift as you know from the board
16 packets you received. There's a lot of PDFs that are involved every
17 single time we do a board meeting or anything along those lines.
18 And so our team is responsible for making sure those documents are
19 accessible. Prior to this, we relied on an outside department, so
20 I'm pleased that we were able to bring that in-house. And in
21 addition, something that I am really, really excited to share is
22 the [privacy.ca.gov](https://www.privacy.ca.gov) website. So I know Mr. Soltani mentioned this in
23 January and hopefully you've all had the chance to take it, take a
24 look at it. Addition members of the public, I highly encourage you
25 to check out the website. It's incredibly helpful source of
26 information for you. So we worked on everything. And again, I have
27 to point out the talents of Ms. Cameron who wound up being an
28 amazing graphic designer and web designer. And we were able to

1 really utilize her talents to build out the complete website. We
2 built out the architecture ourselves. We did not use consultants
3 for this. We wrote all the text to make sure it's as accurate as
4 possible. We also developed all the images. So in addition, we host
5 the website ourselves. We manage the backend. And so we are able to
6 do this. We're able to make changes to the website incredibly
7 quickly. And from what we were thinking about the privacy website,
8 of course, Chair Urban was instrumental in getting us the URL. So
9 it's not that the website was a new idea, but when we decided we
10 wanted to partner with Senator Dobbs office and launch this with
11 Data Privacy Awareness Week, we had about two months to go from no
12 website to a fully built out version one of the website. And I'm
13 really proud of the work we did there. In addition, over the past
14 12 months, we launched our polling. So I will definitely go into
15 more detail on this, but that set the groundwork for the public
16 education campaign. Next slide please. So let's go ahead and do a
17 deeper dive into the polling. Now first, before we did any polling,
18 we reviewed all the existing research and polling, but we really
19 felt that we needed to do not, and not all, of course, but we went
20 through stacks and stacks of research and we decided it was still
21 really important to do our own because we didn't see any research
22 that had been done since the agency was established that was
23 specific to Californians. So we surveyed more than 500
24 Californians. We performed the survey in three different languages,
25 English, Spanish, and Mandarin. In addition, we administered the
26 survey via a survey vendor that's in line with our privacy
27 philosophy. And this was really, really important. Unfortunately,
28 it added a little bit of time to the polling effort because we had

1 to vet a lot of vendors. And although some may be compliant, they
2 weren't in line with our philosophy. But once we found one, we were
3 able to launch our survey. I'm so glad we did this before we launch
4 the public education campaign because now we forever have a
5 benchmark of what happened before the campaign was launched. And
6 that's just something we couldn't have gotten if we had waited or
7 if we had done it once the campaign has launched. It provides that
8 great benchmark. Now we'll be able to see if our campaign
9 effective. Where are we lacking, where can we grow. It also helped
10 us understand the concerns of Californians. So if we don't know
11 what Californians were most concerned about, we wouldn't know how
12 to prioritize our messaging to them. As you know, people have a
13 very short attention span, so we can't go through every single
14 right and how to exercise that right necessarily. We need to
15 prioritize, especially as we start. And this survey was a great
16 source of information for that. It was also important so we can get
17 our most bang for our buck in terms of advertising dollars. And
18 you'll see as I go into our paid media plan, how we kind of are
19 looking at what we might do. And by surveying Californians and
20 understanding where they get their information, we were better able
21 to adapt our plan to their needs. So once again, even though the
22 polling took a little longer than we like, we really felt that it
23 was a really important first step on the campaign. Next slide
24 please. Okay, so key takeaways. The first and most interesting one,
25 at least to me, and perhaps this was something that other people
26 were anticipating, but I simply was not that there's a u-shape
27 relationship between age and privacy. I thought perhaps the younger
28 generation was more familiar with their rights and how to exercise

1 those rights. And you might see a decline as age goes on. Not true,
2 according to the survey that we did, it's actually a U shape. So
3 you're seeing your younger generation who's more familiar with
4 their rights and how to exercise those rights. And then you're
5 seeing the older generation, senior citizens who are much more
6 aware of their rights and how to exercise their rights than we
7 originally thought. I think this is kudos to a lot of the senior
8 associations such as ARP who've been great about getting the
9 message out. So that was an important piece of information. Now we
10 know that the large majority of people who are not aware of their
11 rights and how to exercise their rights fall between that 30 and 60
12 age range. In talking with our consultant census, they share that
13 generally speaking, these are individuals who are probably in their
14 careers. They have families, they consider themselves really busy
15 and maybe they haven't had a chance to prioritize this. In
16 addition, we found that Californians lack specific understanding
17 around their privacy rights. So they may know about their rights
18 generally speaking, and I'll show you one of the questions we did
19 in just a moment to gauge that. But they don't understand the
20 details of it. And sometimes they get frustrated and they just sort
21 of walk away from the whole situation. Our campaign's going to help
22 them realize how they can do things quite simply that make a big
23 difference. But the wonderful thing that we realized is though
24 almost everyone surveyed was worried about their personal
25 information being shared or stolen. And this is really important
26 because where a lot of agencies have to deal with regulations and
27 things that they're tasked with doing and people just don't care
28 about the topic. We're quite different here at the agency. People

1 really are concerned and want to know how to protect their personal
2 information because they understand that there's a lot of risk
3 involved if they don't. Next slide please. So moving on to the
4 numbers, familiarity with the CPPA, we found that 32% of
5 Californians were familiar with the agency. Now that's a pretty
6 small number, but if you think about the fact that we're relatively
7 new compared to like a Cal EPA, it's going to take a little time to
8 get our name out there, but I have an exciting statistic to share
9 that's not up there of those aware. So that 32%, 70% felt
10 favorable about us, 25% were neutral. So there's a very small
11 percentage of the population who has a somewhat negative or
12 negative feeling about our agency. Why is this important? We don't
13 have to spend a lot of time trying to do, get the public to trust
14 us, to feel good about our agency. For those familiar with other
15 government agencies, many are not as blessed as we. And we take
16 that very seriously. We're proud to have a strong reputation and we
17 tend on to just grow our positive reputation as time goes on. Going
18 down to awareness collection of personal information specifically
19 we asked for this question, when a business collects your personal
20 information, how well do you feel you understand why they are
21 collecting it. You see here, 44% had some awareness related to the
22 collection of their personal information. The next strongest vote
23 getter was 31% with not so well. So people know that their
24 information's getting collected, but they're just a little, they
25 don't seem to know exactly why or the details of why and they
26 really don't know how to exercise their rights. And that goes to
27 the next one we have up here. Have you ever been asked, have you
28 ever asked a business to, we're really getting at, have you ever

1 exercised your rights? As you see right up there, less than half
2 have exercised their rights. So we have a lot of work to do there
3 to encourage people to exercise their rights. So next slide please.
4 Okay, so the next question we asked and we asked numerous
5 questions. These are just the highlights. Top two sources to learn
6 how to protect your personal information. You see right there,
7 number six, 61% is from a .gov website. We're very lucky that we
8 have two wonderful websites, cpa.ca.gov and privacy.ca.gov just to
9 plug it one more time. And they're great sources of information for
10 the general public. Now we understand polling is a snapshot in
11 time. If we had taken this poll maybe six, seven years ago when
12 trusting government was a little bit lower, we wouldn't be afforded
13 this luxury. And that's why we want to stay on top of these trends.
14 But currently we're so happy to see that.gov websites are
15 performing quite well. In addition, people look for articles
16 online. So this speaks to the importance of our media program,
17 media relations program, having good relationships with various
18 reporters writing op-eds, doing white papers. In addition, we'll be
19 adding a blog to the privacy.ca.gov website. Another great resource
20 for people to find articles online. I won't go through all these,
21 but I will touch on the next one at 37% information from a dot org
22 website that just speaks to the importance of grassroots outreach
23 that we'll be doing even more in 2020 or 2024. I'll go into it in
24 just a bit, but obviously partnering with nonprofits and community-
25 based organizations is really important for us to help get our
26 message out. Moving over to the next one, top two sources for
27 understanding technical information, you see at the very top videos
28 are a great way to understand information and we are so excited to

1 hear this because we will be launching a whole bunch of
2 informational videos. Short, easy to understand, likely an
3 animation format because that seems to way be the way people best
4 understand technical information. And we'll be launching so many
5 more of these in the coming years. And the next one, and again, I
6 won't touch on all these, but I would like to touch on the next one
7 briefly. I ask someone I trust. Again, this goes to how people get
8 information. So if you think of information dissemination as a
9 pyramid, at the top, you have those individuals that are maybe
10 really comfortable with tech, really interested in privacy related
11 issues and they might do the research and really get the ins and
12 outs. Their friends know them as the information person to go to
13 related to these topics. And so they're asking them those important
14 questions and hopefully that person received a lot of their
15 information from us, from our websites, our videos, our social
16 media channels. And then they're either educating their friends and
17 family or encouraging their friends and family to go to one of our
18 communication channels so they can get the information too. So just
19 again, really, really important and great way to get information
20 out to the public. As I always say, when you teach one, you teach
21 many. Onto the next slide. So here I'm just going to briefly go
22 through the public affairs campaign. And really when you think of
23 this, you're thinking of our public education campaign. Speaking in
24 broad strokes. Phase one really kicked up in the late summer fall
25 of 2023. And here we did a lot of prep work. We signed our
26 consultant, our creative consultant on census. They joined the team
27 and we started working on the survey, survey questions. Once again,
28 we managed all those questions in-house to make sure they were

1 really, really accurate. Ms. Mahoney was instrumental and Mr.
2 Soltani in helping with the survey questions. So we really got to
3 the root of what the questions were. We also prepped the privacy
4 website in terms of developing content and we started preparing for
5 the creative campaign. Phase two winter 2023. We launched the
6 survey in December. We launched the privacy website in January. We
7 worked with our creative consultants, we provided them a lot of
8 information about our agency, our brand. We provided them examples
9 of what we thought was done well and not well in terms of educating
10 the public in videos. We also worked with our consultant on the
11 media buy plan. They provided us a lot of vendors for us to vet.
12 Again, just like with the survey situation, when we do media buys,
13 we not only want to work with companies that are compliant, but
14 also companies that follow our commitment to privacy. And so we've
15 had to vet through quite a few vendors and we'll continue to do so.
16 We drafted the script for radio and we also worked on out-of-home
17 Ads. When I say out-of-home ads, I'm really talking about
18 billboards, bus signs, bus shelters, posters that you might see at
19 a grocery store, things along those lines. We also recorded the
20 radio scripts and we drafted the informational videos. Moving on to
21 phase three, that's the launch and that's going to be happening
22 spring. So here we are. We'll be launching the radio spots very
23 shortly. We'll be launching the out-of-home advertising very
24 shortly and we'll really move forward with the video development.
25 Next slide please. So in light of that, I'm really excited to share
26 a couple of ad examples. These are the mockups. Again, I have to
27 really tip my hat to the very talented Ms. Nicole Cameron, who as I
28 said, she's an amazing graphic designer and she and I worked on

1 these mockups very closely. We got the rights to use the images
2 from our consultant census so that we can use them in our paid
3 media campaigns. We have many more examples than justice, but I
4 just wanted to give you a quick flavor for what the campaign will
5 look like. When we think about exercising your rights what might
6 the public retain the concept of exercising? I exercise to move my
7 body so I'm healthy. I exercise my privacy rights so I can protect
8 my personal information. And so you'll see the first example on
9 your far left is that an example of a bus shelter. The next one is
10 a poster that you might see at an ethnic grocery store. All of our
11 campaign materials are going to be in both English and Spanish. And
12 we'll be branching out into Mandarin soon, I'm sure. So we'll be
13 including more languages as we go. And then there's a general ad
14 about it being a team sport. So again, this is something that you
15 might see on a billboard, on a bus shelter on the back of a bus.
16 So, and here you see we have ads that are customized to the younger
17 generation. We have ads that are customized to the seniors, but as
18 you can say, because we did that survey result, we realized that a
19 target demographic that we really need to lean into is that 30 to
20 60 year olds. And you see that represented here. So next we're
21 going to play you a little brief sample of one of our radio spots.
22 This is the 30second spot. It's in English. They were done in
23 English and Spanish. Just to note, these are a hair rough. We're
24 just going to be tuning the mixing a little bit more, but it'll
25 give you a flavor for what an ad is going to sound like. So if you
26 please would play.

27
28 **Video: My watch says we've gone three miles. This app is like**

1 having a personal trainer, but those apps collect a lot of your
2 personal data. Aren't you worried? Really? That's creepy. How do I
3 stop that? You should go to [privacy.ca.gov](https://www.privacy.ca.gov) to learn about your
4 privacy rights and get on the best path to protect your privacy. I
5 think they could help us get up this next hill, one step at a time.
6 Californians have the strongest privacy protections in the country.
7 Go the extra mile to protect your information. Learn more at
8 [privacy.ca.gov](https://www.privacy.ca.gov).

9 MS. WHITE: Okay, so that was just a little example of an
10 English ad that you'll be hearing soon on your streaming services
11 and also terrestrial radio. Okay, so going on to the next slide
12 please. Perfect. Okay, so I did cover the radio ads. I won't go
13 through it again. Of course. Happy to answer any questions you have
14 at the end of the presentation. Animation videos. I think I already
15 kind of explained the importance of that and where we're moving
16 forward with that in 2024. So these are all things that you will
17 see in the next 12 months out of home ads launching. As I mentioned
18 before, very soon, digital ads. This is a place where we're really
19 looking for feedback from the board. We've been in discussions
20 about whether or not to do digital ads internally and with our
21 consultant, but I'm really looking to your feedback at the end of
22 this presentation. In addition, we'll be doing a lot more speaking
23 events. So currently we've been really active in speaking at
24 privacy conferences, law conferences. But what I'm really excited
25 to share is over the next 12 months you'll see us at more industry
26 conferences, more community events, more association events, so
27 really getting out and doing more speaking engagements. And in
28 addition, we'll be creating and growing our grassroots community

1 outreach efforts. So this is working with community-based
2 organizations being at community events, and I'm excited to share
3 that. Soon we'll be recruiting for an outreach manager and an
4 outreach specialist. Both of these individuals will be tasked with
5 doing this. In addition, these individuals will be tasked with
6 putting on a roadshow for the stakeholder events to engage the
7 public on our draft approach regulations. They'll also be
8 responsible for developing interest in engagement in advance of
9 rulemaking. So these individuals aren't just working with
10 grassroots organizations. They're also going to be handling the
11 stakeholder outreach as we do the regulation outreach in the
12 future. Onto the next slide please. So, as I mentioned, we're
13 growing our team as I said, really excited to hire an outreach
14 manager and an outreach specialist to help with the grassroots and
15 also the rulemaking efforts. In addition, we'll be hiring a board
16 support role, which I'm sure you're all thrilled to hear. This
17 individual will help with scheduling the meetings. They'll offer
18 you general support as well, coordination and general assistance.
19 So look for that individual to be hired very soon. In fact, we're
20 very close to hiring that person. We'll also be building out our
21 privacy.ca.gov website, so you're going to find more videos,
22 visuals. We'll also be adding the blogs, more information to our
23 existing social media channels. So we'll be staying current on
24 social media trends and just growing our reach on the social media
25 channels. In addition, you'll see improvements to the ccppa.ca.gov
26 website. We're going to make it a lot more user-friendly, and we're
27 hoping to change some things on the backend so we can update things
28 a lot more quickly. In addition, we'll be developing the formal

1 branding and style guidelines of the agency. So you're going to see
2 a nice more refined look coming out of our agency. And, sorry, just
3 to go back, one additional thing with social media, we'll also be
4 updating our YouTube channel, so it's a little bit more user-
5 friendly, and it has informational videos for the public and not
6 just our board meetings. So last slide. Thank you for your
7 attention and listening, but now I'm really excited to hear from
8 you all. Pivoting to the final aspect of the public affairs,
9 updates and priorities. The team would appreciate your feedback on
10 integrating digital ads into the public education campaign. We've
11 not launched this aspect of the campaign yet, and we thought,
12 because we thought it was important to get the board's insights
13 first. Now we do want to reach some of our key demographics and
14 instrumental in that is meeting them where they are. And that could
15 look like doing digital ads. Of course, our out of home has a broad
16 reach, many of us drive, see billboards, things along those lines.
17 But the digital ad might be an important component to add to the
18 mix. We wouldn't do targeted ads in the traditional sense, but we
19 would need to do at least one targeting. And that would be to
20 refine it down to just Californians. We wouldn't want to spend ads
21 on digital buys and have them run in Oklahoma or in another
22 country. So we will have to do a little bit of targeting. Of
23 course, that's legal, but I just wanted to raise that. But it will
24 allow us to get to a broader audience if we choose that approach.
25 So really appreciate the board's insights here. But that concludes
26 my presentation. I look forward to hearing your thoughts, answering
27 any questions you have, and I really appreciate your time and
28 attention.

1 **MS. URBAN:** Thank you so much, Ms. White. That was tremendous.
2 A lot of information there. I will turn to my fellow board members
3 to see if anyone has questions or comments. Mr. Le?

4 **MR. VINHCENT LE:** Yeah. Great work. You know, this is such a
5 big improvement from when, I think Ashkan, Mr. Thompson and I were
6 sending scripts to NPR and other radio stations. So really, really
7 happy with the progress we've made. On the question of digital ads,
8 I think I'm pretty supportive. I don't think I'm anti digital ads.
9 Just want to make sure that folks that don't want to be targeted or
10 want to protect their privacy are able to do that. And so meeting
11 people where they are using contextual targeting California seems
12 to be an effective strategy.

13 **MS. WHITE:** Thank you.

14 **MS. ALLEN:** Thank you Mr. Le. Mr. Mactaggart.

15 **MR. MACTAGGART:** Yeah, great job. Lots of progress. So well
16 done. At the January meeting we were talking about numbers and I
17 asked if we could get an update on the money to be spent. So I
18 think at the, just looking back at the transcript, there's, we're
19 talking about roughly \$12 million, and I wanted a little more
20 granularity on, because I guess some of it needs to be spent by, I
21 don't know, end of the fiscal, this fiscal year. Is it six? And I
22 guess there were sort of one pot for media buys. And so I was
23 hoping to get a little more granularity on timing, how we're
24 spending it. Like, let's literally, like what's going out the door
25 where when sort of we can be as a board comfortable about where
26 this, because this, I think it's \$12 million we're talking about
27 spending. So do we have any, I'd love to see some data on that, if
28 we have any.

1 **MS. WHITE:** Yeah, I'm happy to share in broad strokes. We have
2 \$6.7 million for our paid media campaign. And we are working with
3 forever Evergreen options with our ad, with our media buy
4 consultants, Mr. Soltani, feel free to jump in as well. But, so
5 that money, we feel very confident we will be able to deploy over
6 the following fiscal year. There will not be that concern there. In
7 addition, we have approximately \$7 million to build out our
8 creative campaign too.

9 **MS. URBAN:** Ms. White, could you clarify the fiscal years here?
10 So the 6.7 million starts in July, 2024, or ends in June, 2024.

11 **MS. WHITE:** That's a contract that ends in June, 2024. But
12 we've worked with Census, our media by partner. And we'll be able
13 to extend that money through the following fiscal year.

14 **MS. URBAN:** I understand. And then the 7 million is for 2024.
15 2025.

16 **MS. WHITE:** That is, yes. And that does not expire until July
17 30, 2026.

18 **MS. URBAN:** Oh, okay. So there's two more years on that.

19 **MS. WHITE:** Yeah, exact chunk.

20 **MS. URBAN:** Okay. Sorry, Mr. Mactaggart, I didn't mean to
21 interrupt you.

22 **MR. MACTAGGART:** No, I brought this up in January. I'm just
23 kind of wondering how I can get more than just sort of two lines,
24 6.7 million for this is going to go out and then seven million's
25 going to go out. I mean, can we get an actual budget of where is
26 it, is it going papers, which actual outlets and how it's actually
27 going to get spent. Because it's a \$13 million is a lot of money
28 here. 14 million.

1 **MR. SOLTANI:** Happy to provide that update, as Megan mentioned,
2 we're developing, so we just finished the polling. We're developing
3 some, what we're calling evergreen options. So these are like bus
4 ads, billboards, things that can live on past this June date. And
5 so we think those are really important to extend the value of that,
6 that fund. And that's that first bucket. In addition to those
7 options, we're currently and taking this feedback to go to the
8 consultant based on, for example, are we doing digital ads? Are we
9 doing social media ads? That's going to give us what we essentially
10 our media spend breakdown. And that's essentially something that's
11 ongoing right now that we're working with the consultant. So we
12 could bring that back to the board at some point when we have
13 essentially ready to, or we'll probably have by the next board
14 meeting executed that plan. But we can report out on that plan.
15 Except for example, how much will be radio, how much will be
16 television, how much will be out of home, how much will be digital
17 ads. We're going to have that line by line breakdown and how that
18 will be spent over, basically up until June. And then pieces of it
19 will extend past June because there'll be evergreen, as I said,
20 like billboards. So we'll have that all that, that's clearly
21 ongoing and we'll be happy to report that out. And then as Ms.
22 White mentioned, we also have this other creative contract that
23 we're developing further. And so that we have until 2026, I believe
24 and so, and we can report out on those funds as they get as we
25 start kind of pulling from those funds and deploying those funds.
26 So if it's helpful to the board, we can, once we've essentially
27 pulled the trigger on the media buy, we can report back kind of
28 what allocation we've committed to and what the timing is, or what

1 timeline. Is that what would be helpful?

2 **MR. MACTAGGART:** I just find it such a huge amount of money
3 that it would be, I think, appropriate and interesting for me to
4 actually see where it's being spent and where it's being planned to
5 be spent. And I guess it sounds like we're not going to have the
6 opportunity to weigh in before you've allocated it now. Because I
7 was kind of hoping we'd be able to, I mean, in terms of numbers,
8 right? Like you can say we want more digital ads. We don't know, is
9 that \$200,000? Is it 7 million? You know, I don't have any sense of
10 what these...

11 **MR. SOLTANI:** The percentages and stuff.

12 **MR. MACTAGGART:** What the costs are to reach a certain number
13 of people. And you could have, we could have had a presentation
14 saying, well, we'll reach this many people if we go on digital,
15 this many people, if we go on...

16 **MR. SOLTANI:** That's exactly what we're actually evaluating
17 right now. For example, by not doing certain types of targeting, we
18 may not have that precision. And we are also coming up in an
19 election year, so we're trying to figure out how do we not get into
20 the fray. And things get a lot more expensive. Yeah. Literally,
21 prior to this meeting, we are evaluating the media plan and we
22 weren't ready to go back to the consultant with any feedback until
23 we heard from you all in terms of like, what allocation would we do
24 to digital? But we certainly have a rough sense of what our
25 allocation will be for all the kind of terrestrial TV, radio, that
26 kind of stuff already in our head. And depending on the timing I
27 don't, we would like to get started, but we defer to the board if
28 you'd like to also wait until we bring it back.

1 **MR. MACTAGGART:** Well, I mean, look, you're going to have more
2 knowledge. I don't, you're going to have the right priority.

3 **MR. SOLTANI:** I really make it.

4 **MR. MACTAGGART:** So I'm not going to.

5 **MR. SOLTANI:** Yeah.

6 **MR. MACTAGGART:** But I feel like, well, you, the team are going
7 to have more knowledge, but I feel like I would still love to see,
8 as opposed to just kind of two big numbers, like here's how we're
9 planning to reach how many people where, what parts of the state
10 really kind of a granular, because it, after all, \$14 million of
11 the, people's money is a lot of money. And I just think it would
12 be, I think it would be good for the public to see. I think it'd be
13 good for us to see. So if I could request, maybe in May, could we
14 actually have a really, a much more detailed kind of on the budget
15 of where the money is actually being spent. I just think it would
16 be, for me it would be very, very instructive. And I think it would
17 be useful.

18 **MS. URBAN:** I've put it on my future agenda items.

19 **MR. MACTAGGART:** We're going to get that.

20 **MS. URBAN:** Yeah. Right. No, but I've added details. So that's
21 really helpful. Thank you. Mr. Soltani, I don't want to, I do not
22 mean to put you on the spot in any way, so just feel free to say,
23 this is not something that can be revealed now. But to Mr.
24 Mactaggart's question and understanding that we don't have the
25 allocations yet. Do you have a rough sense of what's like the most
26 expensive thing? Is it the out of home? Is it no.

27 **MR. SOLTANI:** Oh, I mean, by far, television, right.

28 **MS. URBAN:** Television. Television.

1 **MS. WHITE:** Hopefully by advertising at airports. Who knew?

2 **MS. URBAN:** Oh, okay. Alright. That's a lot of people. Yeah. A
3 lot of people see those ads.

4 **MR. SOLTANI:** And this is again, why we're eager about digital
5 as well. So like, billboards are great, but it's hard to read about
6 your privacy rights or change your privacy settings while you're
7 going 50 on the 101, right? Versus like...

8 **MS. URBAN:** Let's hope you don't do that.

9 **MR. SOLTANI:** So airports or if you're sitting and receiving an
10 ad or your social, if you're on social media, if you're on, you
11 know some of the channels that kids are these days, you might
12 receive that informational video. And then from there immediately
13 either link to our website or enable your privacy settings. I mean,
14 global privacy control, et cetera. So that's why we're kind of
15 eager for those other channels, but certainly reach in terms of
16 like non-targeted reach, things like TV and terrestrial radio.
17 Have a very broad reach. But TV this year particularly is going to
18 be not cheap.

19 **MS. WHITE:** Yeah. Those prices do fluctuate as we talk to our
20 media, but so currently they've gone down a lot because the
21 election's over, they're going to pick up tremendously in the fall.
22 So, and that's why we can't give you exact numbers, because once we
23 get a feel for what you want, then they'll price it out and then
24 they can tell us, because it's not like it stays the same cost all
25 the time. It's a bidding situation, as I'm sure you're aware. So.

26 **MS. URBAN:** Okay.

27 **MR. SOLTANI:** But certainly we can come back in May with all
28 our planned, media spend and allocation and in terms of the buckets

1 as well as which kind of we're trying to hit all of California too.
2 So sometimes we'll go broadcast radio, but we'll have to go
3 streaming in like Visalia or something. Yeah, Megan's home town.
4 And so, we can come back with that. What I would say if the boards
5 comfortable is we may want to try to execute on some of those
6 pieces before that meeting, just because we'd like to, we have two
7 pieces here. As Megan laid out. We have some baseline public
8 awareness we'd like to do around bus ads and stuff. And then we'd
9 like to do kind of an educational campaign through animations and
10 videos that we push people to. And that second piece will take
11 longer because we have to develop that content. But that first
12 piece, we might want to just get the ball rolling on, just because
13 I think you know, it's important to drive people and make them
14 aware of their rights. And then as Ms. White also mentioned, we are
15 going to try to do a bit of that grassroots following this meeting
16 and depending on what happens on the ADM rules, we would like to do
17 some of that kind of engagement roadshow, I like to call it, around
18 our engagement of our regulation. So engaging the public in kind of
19 meeting them when they are, and in terms of business communities,
20 different communities and talking through and is encouraging people
21 to come, comment in our rulemaking. So we'd like to get that kind
22 of, that planning underway too. So if the board are comfortable we
23 can give you a rough allocation. I think today you want to just
24 talk about like, how we're thinking about splitting it generally?
25 Are you comfortable saying that.

26 **MS. WHITE:** The percentages generally, I think it really is a
27 linchpin on what we're doing with digital, right? I mean—

28 **MS. URBAN:** So, it would be helpful now for us to thank you Mr.

1 Le for voicing an opinion on digital. It would be helpful for you,
2 Ms. White and Mr. Soltani, if we had a conversation about digital.
3 We'll give you feedback on that. And then perhaps based on what you
4 just said, Mr. Soltani, if we have strong feelings about some of
5 the other formats offer that as well.

6 **MR. SOLTANI:** That'd be great. Yeah, that'd be great. Like,
7 tell you guys we can spend a lot of money on television and reach a
8 really you know, I'm not saying we'll take a Super bowl ad, but
9 reach a broad audience or we can target folks on TikTok, for
10 example. Right. And that's perhaps differs from our philosophy, but
11 it's also the stats show, that's where kids are today. That's where
12 a lot of kind of actually people in the middle age are as well. So
13 there's all these philosophical questions that we'd love to have
14 you all chime in on, and then we can take that back, synthesize
15 that into a media plan, bring back most of it in May, but start on
16 small pieces of it before that, that would be my suggestion.

17 **MS. WHITE:** I agree.

18 **MS. URBAN:** Okay. Well, the U shape suggests maybe TV is lesser
19 or yet, right? I'm not actually sure who watches TV anymore, but—

20 **MS. WHITE:** Yeah. So advertising on streaming services or ads
21 on YouTube, you're right. Because broadcast television perhaps not
22 reaching that demographic that's not as aware because they maybe
23 don't have cable anymore.

24 **MS. URBAN:** Great. Thank you. So thank you Mr. Le for your
25 thoughts, and I will get more if you have them, Mr. Worth?

26 **MR. WORTH:** Yeah, I mean, I think trying to be mindful of the
27 board's role staff's fault, there was a request in January for a
28 real detailed breakdown. I couldn't make a decision on what

1 direction we should go without knowing not only what it costs, but
2 what the fees are to the agencies. Like, how much am I paying
3 somebody to then turn around and just give our money to a radio
4 station? I just, I need to have all of that to make any decision.
5 If it was my own business, first question I'd say is what it's
6 going to cost. And then I need your feedback on what's the
7 viewership, what's the, so I don't know how much you want to spend
8 between now and May, but I would just, but this dollar amount, I
9 think we've got to have a real detailed budget. Right? And I'm
10 saying that it's for us to approve. If you want direction from us,
11 I couldn't give you any of that without a real detailed budget.

12 **MS. URBAN:** Okay.

13 **MR. WORTH:** Personally. So hopefully we don't spend a whole lot
14 between now and the next time we could talk about it personally.

15 **MS. WHITE:** Understood. Yeah. That's great feedback.

16 **MS. URBAN:** Alright, Mr. Soltani.

17 **MR. SOLTANI:** That's a great point. I will just flag this first
18 contract that we're talking about was done through a
19 procurement vehicle, which is a least cost bid. And it was based on
20 the lowest markup, the vendor that could provide them lowest
21 overall markup. So we went through state contracting for this
22 vendor, and the vendor basically, that won the media buy contract
23 was the one that essentially just purely based on the requirements
24 we set out, had the lowest markup. And so that should hopefully
25 address some of the concerns, but certainly we can bring back the
26 breakdown and within both the allocations and then the markup for
27 each channel, essentially. And then—

28 **MR. WORTH:** Okay. Thank you. Yeah.

1 **MS. URBAN:** Alright. Mr. Le.

2 **MR. LE:** Yeah, I mean, I had also considering there's like a
3 June date, I don't know how the timing works. Perhaps meeting with
4 staff beforehand. Because I think they can chat separately with you
5 all about that, that specific budget. And yeah, and we can see it
6 in May as well, but if there is timing issues with like, we need to
7 make the buy, I would recommend that. But yeah.

8 **MS. URBAN:** Yes, Mr. Worth.

9 **MR. WORTH:** I'd be happy. I didn't know what we can and can't
10 do, but I'd be happy to have a meeting individually about that. I
11 just want to get up to speed on it before we start launching that
12 type of spend.

13 **MS. URBAN:** Yeah. That makes a lot of sense. Thank you Mr.
14 Worth. Mr. Mactaggart?

15 **MR. MACTAGGART:** Yeah, just kind of based on what Mr. Worth
16 said, I do think to the extent that you want feedback, I do think
17 it's appropriate with \$14 million kind of on the table, I think it
18 would be good to the extent that you can minimize spending between
19 now and June, you have to do stuff, do it. But bringing it back,
20 and again, just kind of keeping us informed, because I do think it
21 would be useful for us to sort of say, oh, wow, TV, its way cheaper
22 to get to people on social media and the TV we're going to spend
23 40% of budget and we're going to be and that's the kind of thing we
24 all could have a reaction to. And again I don't think it's our
25 business to micromanage, but I do think it's our business to kind
26 of give feedback. And so what my sort of 80/20 would be, do what
27 you have to in the meantime if you're going to lose money, clearly
28 spend it, but at the same time, bring back what you can and give us

1 much more detail about reach, fees, all that, all the rest of it.
2 Like, for example, social media might be a very cost effective way
3 but I don't know. So I just would like to know it. And I think your
4 comments about the election are well, and there may be a window in
5 here before November ramps up that we can spend some money. So.

6 **MS. URBAN:** Yeah. Wonderful. Thank you, Mr. Mactaggart.
7 Welcome. Ms. De La Torre. We're delighted to have you here. We're
8 discussing agenda item number five. And the public awareness
9 effort. I was wondering about the digital ads question because I
10 know even for the purposes of looking at allocating in the budget,
11 you're wondering about our, essentially our substantive guidance on
12 using that format. So like Mr. Le, I'm certainly comfortable with
13 advises that would just target California. That seems fine to me.
14 Are there any other considerations that we should have in mind
15 though? For example, I confess, I'm not actually aware if you can
16 do that on TikTok. Like can you just target California and
17 otherwise have it be contextual? Or kind of, what is the universe
18 of our sort of substantive choices? I guess I'm asking.

19 **MR. SOLTANI:** I can respond and want to add some details. So I
20 think those, so certainly the level of targeting is one of the, so
21 way back up. So even before any questions of targeting, we do a
22 first pass in terms of the vendors. And as Ms. White laid out, it
23 took us some time to do our public affairs polling because we
24 wanted to find a vendor that was in line with our philosophy about
25 how they provided notice to consumers, what choices they offer. So
26 first and foremost, we only work with lenders that really are in
27 line with the agency's philosophy. And quite honestly, enforcement
28 is also a legal and the team, the whole team are comfortable with.

1 So then from there, we, then there's questions of, for example,
2 what level of targeting, whether it's even IP location to target
3 Californians is a level of targeting, but certainly retargeting, if
4 they've been to our website, for example, or if they've expressed
5 interest in digital, I don't know, digital privacy, that's a form
6 of behavioral targeting. And so to what degree we employ any of
7 those techniques is I think a question for the board. And then just
8 simply channels as well. Like, are we comfortable engaging if,
9 let's say we want to do geo-targeting solely with no demographic
10 profiling. And are we comfortable doing that on TikTok if it's
11 possible, for example, are we comfortable doing that on Facebook?
12 Are we doing Instagram? What channels are we comfortable with? So
13 currently we employ LinkedIn and Twitter-X I guess and YouTube as
14 our social media channels. We haven't explored Instagram, we
15 haven't explored TikTok, but we understand that's actually from the
16 consultants. That's where a lot of people are today..

17 **MS. URBAN:** Where the kids are.

18 **MR. SOLTANI:** Not even the kids. It's more the kids are not
19 there, actually kids are like.. [Cross talk 01:04:06 - 01:04:08].
20 Yeah. They're all like, I don't know. Yeah. They're not there, but
21 the adults are. Right. The adults are.

22 **MS. WHITE:** And Tiktok is really strong for that younger
23 generation too.

24 **MS. URBAN:** Okay. Thank you. Mr. Mactaggart? Yep.

25 **MR. MACTAGGART:** Yeah, my 2 cents would be Mr. Soltani, as you
26 recall over the years, and I think you were the first person to
27 explain the difference to me years and years ago. I would urge us
28 to try to do contextual advertising. Because I think it's totally

1 fine targeting that way. Because we've been public about saying
2 that's good targeting, right? You're reading an article about
3 privacy, see something about our website, but not the behavioral
4 targeting. And I think you more than probably anybody understand
5 the difference and can understand the nuance. And so I would just
6 say we should probably lead with our, lead by example. So let's
7 target where it's appropriate and how it's appropriate. And again,
8 this is where I, in terms of the vehicle or the channel, I look to
9 the next presentation to sort of say, wow, it turns out that we can
10 get that, YouTube's way too expensive. Maybe TikTok's much cheaper.
11 I don't know. But I would look to you guys to come back to us.

12 **MS. URBAN:** Thank you Mr. Mactaggart. I 100% agree with that.
13 My question was more, what are the options for ad targeting with
14 these different channels? And I think that's important. On the
15 substance, I absolutely agree with Mr. Mactaggart. I would observe
16 that the wonderful presentation you gave Ms. White. First of all, I
17 was pretty delighted that 49% of people have exercised their opt
18 out rights. We're brand new. It's a brand new law. I think that's
19 pretty good. And obviously we can do a lot better and help a lot
20 more people exercise that right. And there are other rights where
21 I'm going with this is that I think we do want to be careful not to
22 capture just the people who've already shown some interest, because
23 we want to be sure that we are available and open to everyone. And
24 everyone that we're making, we're helping people be aware of their
25 rights, who are not aware now. Other comments or questions. So if I
26 could just briefly summarize a couple of points from the board
27 decision as I understand them. There is a definite interest and
28 desire from the board for more information on the more targeted

1 numbers, sorry, to use a term from a different context, targeted
2 numbers where that up to about \$13 million could go. We can
3 interact with you individually but also we would like more detail
4 in May. And I think if money needs to be spent, it sounds like
5 everybody is fine with the choices staff makes there. But we would
6 like to be updated and to the extent that board members would like
7 to weigh in earlier, we can talk to you individually, but generally
8 we would just like to have some more detail soon. Yes. Mr. Soltani?

9 **MR. SOLTANI:** I want to make sure you have a chance to respond
10 to that as well. Just one clarification.

11 **MS. URBAN:** Sure, sure.

12 **MR. SOLTANI:** So two things. So certainly we, for the first we
13 plan to really focus this around that first contract. So not the 13
14 million, but the six point something. So the media, what we'll come
15 back with in May, we'll be focused around that, those funds and
16 those dollars of how we plan to allocate them. And we certainly
17 would be eager to meet with individual board members. I just
18 checked, I think we would only be able to meet with two board
19 members that. Right. So is that right?

20 **MR. LE:** Sure. Yeah, that's correct. In terms of us delivering
21 kind of unique information to board members, we couldn't provide it
22 to a majority in a private setting, so up to two members. But we
23 could obviously, any information the board members want to direct
24 to us without sort of that private benefit of information we can
25 receive. It would just be the information we share outside of a
26 public meeting is limited. Sure.

27 **MS. URBAN:** Thank you. Yes, Mr. Worth?

28 **MR. WORTH:** So how much would be committed to be spent between

1 now and our next meeting?

2 **MS. WHITE:** We could spend nothing if you would prefer we not.

3 **MR. WORTH:** Well, let me ask differently. How much would you,
4 based on all this feedback, how much would you like to spend
5 between now and the next meeting? I'm not trying to..

6 **MS. WHITE:** Oh no, I think that's fair. I mean, our thought is
7 better to launch sooner rather than later. So we actually did ask
8 our consultants for a phased approach. So something that we could
9 do in the really short term. In terms of hard numbers, I mean, have
10 you thought about how much we'd spend before May? We haven't really
11 had that conversation. I mean, I certainly...

12 **MR. WORTH:** Can get an answer today if you get time to talk to
13 them.

14 **MS. WHITE:** Yeah. I can reach back out to that. I'm happy to
15 share that.

16 **MR. WORTH:** I mean, I understand why, but if only two people
17 could engage on it I would opt out, but I would be useless then.
18 Right? It should be a board discussion. Right? So I'd just love to
19 know that it's not 3.7 between now and may...

20 **MS. WHITE:** No.

21 **MR. WORTH:** I don't know.

22 **MS. WHITE:** No, that's a fair point. No, I don't even see us
23 touching a million. We haven't committed to anything. We're still
24 vetting vendors, to be honest with you, to see whom we can work
25 with. So I would—

26 **MR. WORTH:** What if we said 10%, 670 between now and May?

27 **MS. WHITE:** I think that saying 10%, we would not go above 10%.

28 **MR. SOLTANI:** I'm comfortable with that. The only thing I would

1 like to maybe come back if there's a chance today, is to make sure
2 that we don't have to at least set in motion given the timelines of
3 trying to meet before June. If we don't have to like, my
4 understanding is we can commit to allocation and adjust. But I just
5 want to make sure that we don't have to actually at least set it in
6 motion so that, because the way it works is then the vendor then
7 works with all the radio stations and they start planning and
8 rejecting. And so there may be lead time. So the 10% number or what
9 percentage, I'm happy to not necessarily deploy those funds to
10 whatever the board, but I just want to make sure that we don't need
11 to potentially commit some of those funds into play. So if I may
12 suggest we just briefly bring this back and just provide a kind of
13 a response. But I think my plan would be to take this input with
14 Megan, discuss it, work with the vendor, put together a media buy
15 plan, start. And then the big thing we haven't kind of touched on
16 is the building of the things is actually the time consuming part.
17 They're like the developing of an animation script, like a radio
18 script, animation script. We're going to continue to do that
19 independently because we want to build those materials and we're
20 going to do those independent of what allocation we do, right?
21 We're going to, we want to develop, for example, you've seen our
22 locked presentation, how to limit opt out you know kind of correct
23 delete, et cetera. We're going to develop kind of long form
24 informational animations around that. And that takes quite some
25 time. We'd like to start from that because that's what feeds into
26 the pipeline once we go out and whatever channels we go out. So but
27 certainly for the kind of media buy, we're happy to come back in
28 May before fully deploying those. I just want to get a confirmation

1 from the vendor that like, they're comfortable, they don't need us
2 to start committing before that. So if that's okay, maybe we can
3 just move this.

4 **MS. URBAN:** Well, and if they were able to also give you an
5 idea of what we would be working with, I can, I would be of course
6 happy to recall this agenda item later in the day.

7 **MR. SOLTANI:** Perfect. What I can do chair is if we, so if it's
8 easier, we can just go ahead to commit to this plan. If we find
9 that this is first any reason non tenable because the vendor's
10 like, that's going to not let you deploy by June. I'll mention it
11 to the chair and you can optionally recall it then if, does that
12 makes sense or does that not...

13 **MS. URBAN:** Admit to the plan the 10%.

14 **MR. SOLTANI:** Yeah, so I think we're fine with the 10%. And
15 then the only kind of piece that I don't know is whether delaying
16 till May will cause any issues with regard to fully deploying those
17 funds before the end of the fiscal year, before July, basically. So
18 I'd like to just check in with Megan and the vendor and make sure
19 they're comfortable until after the next board meeting for us,
20 before we can pull the trigger. And if they're comfortable with
21 that and doesn't cause any delays, then I don't think we need to
22 recall it. But if it does, we may want to just have one more
23 clarification once we have some more information from the vendor.
24 Does that make sense?

25 **MS. URBAN:** I think so.

26 **MR. WORTH:** Yeah. No, that makes sense to me. We don't need to
27 talk about it again unless we need to talk about it again.

28 **MR. SOLTANI:** Yes, much more clearly. But thank you.

1 **MS. URBAN:** Any further comments or questions for now anyway?
2 Thanks very much for the really robust discussion and to staff for
3 working to answer our questions. Are there any comments or
4 questions from the public?

5 **MS. ALLEN:** Okay. This is for agenda number five, annual public
6 affairs update and priorities. If you would like to make a comment
7 at this time, please raise your hand using the raise hand feature
8 or by pressing star nine if you're joining us by phone. Again, this
9 is for agenda number five, annual public affairs update. Okay.
10 Alright, Edwin, we see your hand. We are going to unmute you and
11 allow you to speak. You'll have three minutes. You may begin when
12 you're ready.

13 **MR. EDWIN LOMBARD:** Yes, good morning. My name's Edwin Lombard.
14 I'm with ELM strategies. I've been before this board on making
15 public comment for a number of times over the last year and a half.
16 First off, thank you for the great work that you're doing. I think
17 you've done, you've come a long way in a very short period of time.
18 You mentioned the polling that was done. My concern is how much of
19 that went to ethnic communities because I believe the ethnic voices
20 very important here. And also how much of it went to minority small
21 businesses. Because we want to be represented in every phase of
22 what's going on here. And then secondly, you got to, you mentioned
23 the press and media buys. I would highly recommend that you spend
24 money with the ethnic Medias throughout the state. I would highly
25 recommend Regina Wilson with the California Black Media Association
26 as someone you should reach to because we would also like to see
27 this information coming to us through the feeds that we pay
28 attention to. Mainstream media is great, but we don't really get

1 our trusted information from that source. We more likely get it
2 from the local ethnic papers that we receive on a regular basis and
3 through those ethnic channels. And so that's my comments for today.
4 Thank you.

5 **MS. URBAN:** Thank you very much Mr. Lombard. Is there further
6 public comment?

7 **MS. ALLEN:** If there's any other members of the public who
8 would like to speak at this time, please go ahead and raise your
9 hand using Zoom's raise hand feature. We're pressing star nine on
10 your phone. Again, this is for agenda item number five, annual
11 public affairs update. Madam Chair, I'm not seeing any additional
12 hands at this time.

13 **MS. URBAN:** Yes, Mr. Mactaggart, would you like, please go
14 ahead.

15 **MR. MACTAGGART:** I just wanted to address the previous caller's
16 comment that, I just wanted to echo that because I found during the
17 campaign that that was an incredibly cost efficient way of getting
18 the local ethnic papers, especially the black media have papers
19 that are really a very cost effective way of reaching communities.
20 So I think that's a great idea.

21 **MS. URBAN:** Thank you Mr. Mactaggart. And very important, our
22 state is extremely diverse and we want to reach all communities.

23 **MS. WHITE:** And proud to say that we're already in the works
24 with doing just that.

25 **MS. URBAN:** That's excellent. Thank you, Ms. White. Alright,
26 thanks everyone. With that we will move back up if staff are ready
27 to agenda item number four. Thank you. Agenda item number four is
28 discussion and possible action to advance draft regulations to

1 formal rulemaking for automated decision making technology risk
2 assessments and updates to existing regulations. As I'm sure the
3 board recalls, we have discussed the second to in September and in
4 December, and we discussed the updates in December. Please turn
5 your attention to the materials for this agenda item. We have some
6 draft regulations keying off the board discussion last time. And
7 the slide presentation. This item will be presented by attorneys
8 from our legal division and our general counsel, Mr. Philip Laird,
9 we'll start the presentation. So welcome Mr. Laird, and please
10 begin when you're ready.

11 **MR. LAIRD:** Thank you, Chair Urban.

12 **MS. URBAN:** It didn't sound on.

13 **MR. LE:** It didn't sound good.

14 **MR. LAIRD:** Let's see. Can you hear me now?

15 **MR. LE:** Yeah.

16 **MR. LAIRD:** Alright. There we go. Thank you, Chair Urban.

17 Before I turn the presentation over to my colleagues here, I do
18 want to briefly orient us with where we are in this process. I'm
19 aware that to date there may be some confusion from stakeholders
20 and the public generally about where we are in this rulemaking. And
21 so I want to make very clear from the outset that we are not
22 adopting any regulations today. And in fact, we're not even
23 beginning the formal rulemaking process for the proposed
24 regulations today. Instead, we remain in what's been a years long
25 preliminary rulemaking effort. The board made recall that it began
26 preliminary rulemaking on the topics being discussed today,
27 including ADMT opt out rights all the way back in 2021 with the
28 solicitation for written public comments, followed by a series of

1 informational stakeholder and public hearing sessions in 2022.
2 After completing its first major rulemaking the agency then again
3 solicited additional more targeted public feedback on the topics of
4 cybersecurity audits, risk assessments, and automated decision
5 making technology in the spring of 2023. And with assistance of the
6 board's new rules subcommittee staffed developed and presented
7 draft regulations on cybersecurity audits and risk assessments last
8 September and on ADMT in December. And if it's okay, I'm going to
9 use ADMT for auto automated decision making technology just to save
10 half an hour today. The board also considered new updates to the
11 existing regulations in December as well. And at the end of that
12 meeting directed staff to make further revisions to the update
13 regulations, the risk assessment regulations, and the ADMT
14 regulations after considering all board feedback. So where does
15 that leave us now? The board is presented today with a new draft of
16 the update regulations, the risk assessment regulations, and the
17 ADMT regulations. And if the board deems it appropriate to advance
18 this draft of the regulations to the next stage of rulemaking, then
19 I really want to be clear about what that next stage looks like.
20 Direction from the board to advance the draft text to formal
21 rulemaking only means that staff will begin preparing the paperwork
22 necessary, which is quite significant to just file the notice of
23 rulemaking for publication in the state's register. This includes
24 preparation of a detailed statement of reasons for each provision
25 in the regulations, as well as a robust economic analysis of the
26 draft regulations that will be reviewed by the Department of
27 Finance before we can even begin formal rulemaking. And what the
28 board has agreed to is once the paperwork is complete, it will

1 again review the entire notice package one more time before
2 deciding whether to actually begin the formal rulemaking. And at
3 this point, staff anticipates this paperwork would be complete and
4 ready for this board's final review to begin formal rulemaking this
5 summer. Simultaneously, and I should note this is not required
6 under the Administrative Procedures Act. Staff plans to conduct
7 additional stakeholder engagement sessions this spring and early
8 summer to clearly explain the scope and application of these draft
9 regulations to receive further preliminary feedback and to explain
10 to interested parties how they can submit their comments once that
11 formal rulemaking actually begins. And only then will we begin to
12 actually begin formal rulemaking process. So state agencies are
13 required to complete any formal rulemaking within a year of their
14 starting their 45 day public comment period. Coincidentally July,
15 2022 is when the agency began its last formal rulemaking. And so it
16 would not be unreasonable to assume a similar timeline here with
17 rulemaking potentially beginning in July of this year and
18 concluding in 2025. But to be clear, even after the initial 45 day
19 public comment period, the board will have a wide open opportunity
20 to further amend, add, or delete any aspect of the proposed draft
21 regulations being discussed today. And in fact, if the board
22 recalls they did just that with the initial set of regulations, we
23 had at least one modified period of text where a number of
24 provisions changed significantly. And so before I go on, I'd like
25 to pause now to just see if the board has any questions about where
26 we are in this process.

27 **MS. URBAN:** Ms. De La Torre?

28 **MS. DE LA TORRE:** Like clarification because it was confusing

1 to me, but you send me an email to make it clear. Cybersecurity is
2 not in this package because it has already moved forward in the
3 sense of the board approving it, right?

4 **MR. LAIRD:** That is correct. So the unique component is in
5 December, the board did decide that the draft of cybersecurity
6 audit regulations was far enough along that staff could begin the
7 paperwork development for that. But we also discussed submitting
8 this and promoting this as a single rulemaking package. And so
9 nothing will advance there until the full package of what we're
10 discussing today. And the cybersecurity audits come back
11 potentially in July of this year.

12 **MS. URBAN:** Thank you. Oh, sorry. Go ahead, Ms. De La Torre.

13 **MS. DE LA TORRE:** Yes. Just for clarity. So cyber, we will see
14 back at the board when everything is combined and all of the
15 paperwork is ready, right? But not until that.

16 **MR. LAIRD:** That's correct.

17 **MS. DE LA TORRE:** Thank you.

18 **MS. URBAN:** Thank you Ms. De La Torre. Mr. Worth?

19 **MR. WORTH:** Thank you. This could goes back further that I've
20 been involved. So can you give me a sense though, what amount of
21 public comment you received? You know, tell me more about the
22 stakeholder meetings that had already occurred. I'm just trying to
23 get a sense of how wide this...

24 **MR. LAIRD:** Absolutely, yeah. I'm going to let Mr. Soltani,
25 because some of this actually predates my tenure with the board
26 even speak to that.

27 **MR. SOLTANI:** Thank you, Mr. Laird. So that's a great question.
28 So the board had the foresight in September of 2021 to start an

1 invitation for preliminary comments led by chairperson Urban and
2 chairperson De La Torre, but the full board and I was brought on
3 October of 2021, we received something like I believe 1500 pages of
4 comments during that period. If I'm right, I'm looking at Maureen,
5 so on ADMT. So that included both the CCPA roles and ADMT. Got it.
6 We also held two days of stakeholder sessions. So a full day on the
7 CCPA roles and a full day on automated decision making. So this is
8 where the public had a chance to provide comment. Now, that was two
9 years ago. That was in 2022 when that occurred. And we, as Mr.
10 Laird pointed out, we expect to do that again. But overall, between
11 the pre-roll making comments, the stakeholder sessions, and the
12 formal comments we received I think over two or 3000 pages of
13 public comment. I think that's still on our website today. So some
14 of which pertain to the CCPA roles and some of which pertain to
15 ADMT...

16 **MR. WORTH:** Were the stakeholder meetings in person back then,
17 or were they?

18 **MR. SOLTANI:** The stakeholder meetings, the rulemaking hearings
19 were in person, the stakeholder meetings, stakeholder sessions we
20 call them. The two-day stakeholder sessions were done over Zoom and
21 we had but we made, we recorded them all and made that all
22 available to the board as well. In advance of the actual formal
23 rulemaking.

24 **MR. WORTH:** What would be the plan for in the summer, the
25 stakeholder sessions?

26 **MR. SOLTANI:** So, yeah. So prior to July, we and I think Ms.
27 White mentioned that in her update. We plan to do essentially what
28 it's known as a roadshow, which is we plan to take these

1 regulations and Mr. Laird just mentioned that as well. And go
2 across California. We haven't figured out the exact right reach,
3 but we certainly want to reach outside to the previous callers. And
4 outside of just the main power centers and make sure that we're
5 reaching the diverse population of California and use that
6 opportunity to both explain our framework as it's a very kind of, I
7 don't want to say complicated, but it's a very detailed framework.
8 And then certainly we receive feedback at that point and make those
9 that feedback similarly available to the board in the form of
10 recordings and transcripts. In addition, we hoped in that process
11 to also help the public understand how to engage in our formal
12 rulemaking. Because one thing that I've regretfully have seen
13 historically based on the comments that I mentioned we received in
14 pre-roll making and formal rulemaking, the primary, the 90% of
15 those comments were made from lobby groups and some advocacy
16 groups, but a lot of industry groups. And what we hope is to
17 actually receive input from the public that at large, because this
18 is an area that affects everybody, not just businesses, but also
19 consumers and how they experience the world. So we hope to, as part
20 of this kind of road show, to really help people understand what
21 we're doing, help people understand what we're not doing, and then
22 help them understand how to engage with us to give us feedback
23 through the formal rulemaking process. That's the hope, that's the
24 goal.

25 **MS. URBAN:** Thank you, Mr. Soltani.

26 **MR. WORTH:** Right. So yeah, just to clarify, because I think
27 there is some confusion, right? Today is not a final decision and
28 based on your timeline, it's over a year from now when these would

1 be completed.

2 **MR. SOLTANI:** I'd agree with that, yes.

3 **MR. WORTH:** Okay. Alright. Thank you. That helpful.

4 **MS. DE LA TORRE:** Just for clarity, so the road show that we
5 are referring to that will be once the rules move forward into
6 formal rulemaking that's within those 45 days, we will go out or do
7 you plan to do that before?

8 **MR. SOLTANI:** We plan to do that before. So the board will
9 actually have the benefit of anything we've learned as well as the
10 public will have the benefit of better understanding the
11 regulations being discussed by the board by the time this comes
12 back for officially beginning the formal rulemaking process, likely
13 in July.

14 **MS. DE LA TORRE:** So for my reference, it will be similar to
15 what the AG did way back when they issued the first set of rules
16 that they went to different universities and that's something
17 similar.

18 **MR. SOLTANI:** Yeah.

19 **MS. URBAN:** Yes. I think so. They had draft rules that were
20 complete, but draft and they went to various locations. I think it
21 was nine places around the state.

22 **MS. DE LA TORRE:** Yes, they went to several places. I don't
23 think they had the rules at the time, but I remember.

24 **MS. URBAN:** Oh, I'm sorry, Ms. De La Torre, it's supposed to me
25 and I didn't notice. Thank you Mr. Worth. Thank you. Okay. So just
26 one more clarifying, well, others may have more clarifying
27 questions. But one more clarifying question from me, just so I can
28 be clear. So I know we haven't gotten into the three different

1 topics yet today, and they may be slightly in different stages of
2 development, but my under, so if I'm understanding this correctly
3 one decision that we could make today would be analogous to the
4 decision we made for the cybersecurity regulations in December,
5 which means we obviously do not have a formal rulemaking package in
6 front of us. We would be giving staff the ability to prepare that
7 formal rulemaking package and all the pieces that have to go with
8 it. And then in the interim, between this meeting and when it would
9 come back in the summer, that's when the stakeholder sessions would
10 happen. You would gather more information, you being staff in all
11 of these different formats that we were talking about. So do I have
12 that kind of right about our decision making, potential decision
13 making structure today and sort of how that fits in?

14 **MR. LAIRD:** Absolutely. That would be the sequence.

15 **MS. URBAN:** Okay. Does that make sense to everybody? And Mr.
16 Le?

17 **MR. LE:** I have a question. So we, assuming we vote out the
18 rules to prepare for formal rulemaking, what happens if we get a
19 bunch of feedback during those stakeholder sessions and change the
20 regulations? Does that mess up the timeline for July?

21 **MR. LAIRDSOLTANI:** The board in July will have the opportunity
22 to make another decision, and that decision will be whether or not
23 to start formal rulemaking with the draft that we've prepared all
24 that supporting paperwork for or to further update, in which case
25 staff would probably have to go back and make certain changes to
26 that supporting paperwork. I'll mention also to the extent there
27 were significant changes that have an impact on the economic
28 assessment. We'd also have to revisit that component of the

1 preparation of rulemaking. But that's where I emphasize the benefit
2 of the formal rulemaking process is that you start with one thing
3 and it very well can be modified and changed with the benefit of
4 the input. I mean, that's why we talk about the formal process, and
5 that's the minimum process. We're trying to expand greater
6 opportunities for public feedback and public understanding. But the
7 process very much is we start with an idea and then the board can
8 further refine after getting that formal comment.

9 **MS. DE LA TORRE:** Yeah. I have a question. So, assuming that we
10 were voting this to move forward, you mentioned the staff will
11 start preparing paperwork, and you also mentioned that we will get
12 feedback. So isn't that a little potentially not a good use of
13 resources? Because if we get a lot of feedback, then that paperwork
14 that you will immediately start preparing will have to be redone,
15 basically.

16 **MR. SOLTANI:** I just want to clarify one thing. The goal of the
17 roadshow is really to kind of have a meeting of the minds of what
18 we're doing, how to engage with us and what the concerns are and
19 help that inform the formal rulemaking, you know? Like, our hope is
20 that to go ahead and like, what I've seen based on, and this is my
21 personal opinion from a lot of the commentary and letters we've
22 received in this area is a fundamental misunderstanding of what our
23 regulations cover and don't cover, as well as a misunderstanding of
24 the rulemaking process. The one we're just discussing right now.
25 And the goal of the roadshow is to really kind of have a dialogue
26 with the kind of the broad community that is impacted, including
27 all stakeholders, not just business communities, but the public and
28 consumer groups, and kind of every groups that we just talked about

1 earlier in the public affairs campaign and make sure everyone kind
2 of knows what we're doing, knows how we're doing it, and knows how
3 to properly engage us. And to Mr. Laird's point that typically the
4 best way to engage us is through the formal rulemaking process.
5 Because at that point, staff, everyone will have the full set of
6 impacts, costs, the economic analysis will have been done and staff
7 will read and review every comment provided to the agency, which
8 we're actually creating more work for ourselves because we're
9 encouraging broader public input from what the normal groups would
10 be that are engaging with us. But we think this is really important
11 to do because again, it impacts a lot of people's lives and we
12 really want people to understand what we're doing, again,
13 understand how to engage with us. And then when we go to formal
14 rulemaking to provide that input. Now certainly we can receive
15 input in that time period that convinces the board to change the
16 approach in July before. And we can, as Mr. Laird said, make those
17 changes. But again, that would essentially be a decision you all
18 make in July, and that has some impact on the timeline. I think
19 that would probably put us back another four months to do the
20 economic analysis, depending on the scope of the changes. Of
21 course, if the changes don't have a major economic now aspect, then
22 those changes can be made. But if there's kind of changes that
23 fundamentally change the economic analysis, we would then have to
24 redo that analysis. And then Department of Finance would have 60
25 days to review and approve that analysis before we could start
26 formal rulemaking. So for those reasons, we think, again, this
27 spring summer is a great opportunity to really kind of talk it out,
28 talk about this, this stuff, and then help everyone go into formal

1 rulemaking, better informed and ready to understand one another
2 when we receive those comments.

3 **MS. URBAN:** Thank you, Mr. Soltani.

4 **MS. DE LA TORRE:** I just want to repeat back to make sure I
5 understood correctly. Can I do that?

6 **MS. URBAN:** Sure. And then Mr. Worth and Mr. Le and I also—

7 **MS. DE LA TORRE:** So my understanding then is that once we
8 start the work to do the paperwork, basically we do not anticipate
9 that we'll have to modify that paperwork to start the process. Like
10 the paperwork will be done and then the input that comes in, if it
11 was to trigger any change, it will be basically at the board level
12 or once the formal process starts, I just don't want to duplicate
13 paperwork basically.

14 **MR. LAIRD:** That's correct. And that would be the goal again,
15 to have prepared that, make sure the board feels comfortable still
16 with the direction we're going. But then really the board will
17 receive the benefit of, I think, very informed, hopefully public
18 comments as a result through the formal comment period. And then
19 again, we'd be back at that place of, then the board will then be
20 deciding do we get it right or do we need to change things in the
21 text we started with? And that's—

22 **MS. DE LA TORRE:** And then if we have to change this, we have
23 to do the paperwork again, basically.

24 **MR. LAIRD:** Well, and the APA actually contemplates that, there
25 is a concept we'd have to do in our final package called an update
26 to the initial statement of reason. So it is the second wave of
27 paperwork that's inherent to the process...

28 **MS. DE LA TORRE:** But even the initial statement of reasons

1 will have to be modified. The board decides to make a modification
2 in the next meeting, isn't that not correct?

3 **MR. LAIRD:** That's correct, that's correct. Before we start
4 formal rulemaking.

5 **MS. DE LA TORRE:** So we could avoid that potentially if we
6 cannot consolidate all behind the test and we don't make
7 modifications before we move into rulemaking.

8 **MR. LAIRD:** That's correct.

9 **MS. DE LA TORRE:** Okay. Thank you.

10 **MS. URBAN:** Thank you, Mr. Worth. And then Mr. Le.

11 **MR. SOLTANI:** Can we?

12 **MR. WORTH:** Go ahead?

13 **MR. SOLTANI:** Sorry, could I ask the AV team to stop sharing
14 the slides? I just realized we're just showing the slides to the
15 zoom stream rather than the board.

16 **AV:** There we go. Sorry about that.

17 **MR. SOLTANI:** It's okay.

18 **MR. WORTH:** Can we commit to have the road show completed
19 before the July meeting?

20 **MR. LAIRD:** I think we can.

21 **MR. WORTH:** Because we said summer. I just want to make sure.
22 And then by the way, just personally, yeah, if we missed it and we
23 have to add four months to the schedule, I mean, it looks like
24 we've been working on this for three years, four months is not a
25 hurdle that you wouldn't overcome. And I just assume, let's assume
26 you get to July 25, 2 years later, life changes. These aren't set
27 in stone forever. I assume we always will be receiving comment and
28 addressing those comments in perpetuity.

1 **MR. LAIRD:** Absolutely. The board will have full authority to
2 amend, adopt, repeal regulations ongoing.

3 **MR. WORTH:** Okay. Thank you.

4 **MS. URBAN:** Thank you, Mr. Worth. Mr. Le?

5 **MR. LE:** The idea of four more months terrifies me, I'm working
6 on this for so long. But, so I think my question was mostly
7 answered. So by July, we hope to have all the paperwork ready as
8 well as feedback from the roadshow. And if the board approves that,
9 we would just enter formal rulemaking right after that?

10 **MR. LAIRD:** That's correct.

11 **MR. LE:** Okay. And then there will be another chance to take in
12 all the feedback from the roadshow, perhaps, which might not be on
13 the record, and the formal rulemaking, which is on the record,
14 those comments and make any edits to the regulations as you know,
15 the comments and the record shows, right?

16 **MR. LAIRD:** That's correct. And I'll just say in terms of on
17 the record or off the record, there's mandatory components of our
18 rulemaking file, which include all the public comments during that
19 formal rulemaking. But the board is welcome to consider anything in
20 addition, and we anticipate that you all would take seriously
21 anything we bring you from the roadshow.

22 **MR. LE:** Yeah. And for the most part, yeah, I think I heard the
23 roadshow is to get better participation in that formal rulemaking,
24 but things may bubble up that are significant to share with the
25 board.

26 **MR. LAIRD:** That's correct. We'll always be listening.

27 **MS. URBAN:** And to help people understand the scope and size of
28 the rules, and also how the rulemaking process works, which is,

1 it's just simply not intuitive. I think for a lot of folks, and I
2 love California. I'm a proud Californian, and I am very proud of
3 the transparency that our particular rulemaking process creates.
4 But it does mean that and plus Bagley Keene, but it does mean that
5 it can be pretty confusing for members of the public as to sort of
6 what we're doing at any given time. So I know we haven't yet talked
7 about the substance of the draft packages that you gave me today,
8 but this sounds to me like a very solid and thoughtful compromise
9 to what is just essentially a chicken and egg problem. There is a
10 lot of analysis and work that needs to be done in order to prepare
11 a package for formal rulemaking. We need to have that in order to
12 decide whether to put it before formal rulemaking. As Mr. Worth
13 pointed out, it's a rapidly, well, he said in two years things will
14 be different. In two years, things might be, it might look like
15 Mars because things are moving really rapidly. And so we have to
16 find a way to get as much public input as we can, as much
17 information as we can without putting it off indefinitely. So I
18 think this is a really thoughtful plan. And I am very much in favor
19 of getting as much informal public input as we can. I was very
20 proud of all the input that we got in response to our invitation
21 for comments. I know the board has received letters from various
22 interested parties. All of this is really useful. Any information
23 gained and given through the roadshows, I think would be incredibly
24 useful. And so will the formal rulemaking process. So I'm glad this
25 is, staff is putting together such a thoughtful, robust process and
26 I'm looking forward to that pub that, that formal process as well
27 when we get there. So thank you. Other comments or questions on the
28 process? Alright, Mr. Laird, I will turn it back over to you.

1 **MR. LAIRD:** Alright, onto substance. So thank you. And as I've
2 mentioned, there's really what I consider three somewhat distinct,
3 although interrelated. Also components of the regulations that
4 we're discussing today. There is the update regulations, which are
5 updates, modifications, amendments to the existing regulations that
6 are already in effect. There's also then proposal and discussion
7 around risk assessment regulations and ADMT regulations. If it's
8 alright, I'd like to start with the update regulations because the
9 update is, there's not much of an update. Since December a handful
10 of things have been updated from what you all saw back, back at
11 that meeting. One specifically is in the sensitive personal
12 information definition. We embedded the actual knowledge standard
13 that exists under the law as well to make it more consistent. We
14 also did a few things like clarified that homepage was every
15 internet page where PI is collected. We clarified some language in
16 some of the examples in section 7004. And let's see, oh, and also
17 out of provision of that, has businesses tell the consumer how they
18 will reimburse them for a notarization. One addition, however that
19 staff is proposing that is not reflected in the text that's come to
20 our attention is we would further propose to make a revision to
21 section 7015, the alternative opt-out link. And the guidance would
22 be essentially this, that the opt out icon could have, that it
23 would be okay to adjust the icon to make it easier for consumers to
24 see, for example, inverse colors or things like that. It's come to
25 our attention that sometimes strict application of that symbol
26 might mean that it's hard to see on a webpage or not be readily
27 accessible. So it would just be a clarification that modifications
28 could be made.

1 **MS. DE LA TORRE:** So for clarity, that's not in the paperwork
2 that we're looking at?

3 **MR. LAIRD:** That's correct. That was something that came to our
4 attention within since that was distributed.

5 **MS. DE LA TORRE:** In the last few weeks?

6 **MR. LAIRD:** Yes.

7 **MS. DE LA TORRE:** Oh, okay. And which provision is that again?

8 **MR. LAIRD:** It would be in 7015. And I should mention we have
9 available to us via Zoom today. Lisa Kim, who's been instrumental
10 behind all of this and is happy to answer questions if there are
11 further questions about any specific components of this set of the
12 regulations.

13 **MS. URBAN:** Welcome, Ms. Kim.

14 **MS. LISA KIM:** Hi. Thank you for having me.

15 **MS. URBAN:** We're glad to have you with us if virtually.
16 Anything else you wanted to discuss Mr. Laird, before...?

17 **MR. LAIRD:** This would, I would just at this point welcome if
18 the board did have further questions or thoughts about this portion
19 of the regulations, but we've anticipated that the broader
20 discussion will be over the next two portions. So if there are no
21 further comments, we'd be happy to move forward to the next.

22 **MS. DE LA TORRE:** And what page is 7015? I'm just not finding
23 it. The one that we want to add additional language is not here.

24 **MS. KIM:** It's not reflected in the draft because it came to
25 our attention more recently. So this is the example that was given
26 by Mr. Laird saying that there would be one adjustment to the draft
27 that is before the board today.

28 **MS. DE LA TORRE:** So, we are not only not seeing what is

1 adjusted, but we are not seeing the whole provision, right?

2 **MR. LAIRD:** That's correct.

3 **MS. URBAN:** Okay. Because the adjustment is in a section that
4 wasn't in the document.

5 **MR. LAIRD:** Yes. The board doesn't have to move it forward. I
6 can be abundantly clear with that, but it's something staff would
7 recommend. And we apologize. We weren't able to make it into this
8 version of the draft, but...

9 **MS. URBAN:** Understood. Understood.

10 **MR. LAIRD:** We think that opportunity is warranted.

11 **MS. URBAN:** Okay, thank you. I mean, it seems sensible to me.
12 We certainly don't want a regulation that has unintended effects
13 like that. I would like to invite the board to offer any comments
14 or feedback on this portion. Yes, Mr. Le?

15 **MR. LE:** Yeah, I mean, I don't have any substantive changes to
16 ask for. I just, I appreciate the new language on you know, what is
17 consent? And I've already seen an improvement on accepting cookies,
18 denying cookies when going to websites. And I think when you click
19 that X, I never know what happens, right? Did I deny? So putting
20 that in there. And I think the browsing experience will be better
21 in California for it.

22 **MS. URBAN:** Thank you Mr. Le. Mr. Mactaggart?

23 **MR. MACTAGGART:** Yes. Thank you. I've been on a little bit of a
24 mission here a couple of times. I think in May 15th, May, I sent a
25 letter and then in, it's certainly in December I brought up just,
26 it's a small thing, but can you just maybe walk me through Ms. Kim,
27 why? So this is page 11, section 7003. And maybe I'm not
28 understanding it properly, but certainly when I look at the

1 statute, we're talking about the ability to the link to opt out
2 before you download an application. And the language in the regs
3 sort of says it's got to be available within the application. But I
4 would really love consumers to have to see this before and have a
5 chance to say yes or no. And I don't know why we wouldn't write the
6 regulation in that manner, because it doesn't strike me as very
7 complicated to write the regulation in that manner. And I've been
8 sort of on this for a while, and it's, you could think it's a small
9 thing, but actually you're on the go going back to the early
10 discussion. Everybody's got the busy people are, are busy. And it
11 would be nice to know, hey, right before I download this, I'm going
12 to have this notice saying this is what's about to happen. So could
13 you maybe just discuss that? Because I've been seeing this for a
14 while and it doesn't, it keeps on not getting reflected. So.

15 **MS. URBAN:** Mr. Mactaggart, are you talking about 7003D. D for
16 dog.

17 **MR. MACTAGGART:** Oh, I'm sorry. Sorry. Thank you, Chair.

18 **MS. URBAN:** Alright. Ms. Kim, please go ahead. Thank you, Mr.
19 Mactaggart.

20 **MS. KIM:** Yes, I believe we've talked about this before. Just
21 to be clear, notice has to be included prior to download on the
22 download page, there must be a notice that is reflected within the
23 privacy policy, and that is currently existing. This was a work
24 that was done way back by the AG in working together with the
25 Google Play Store as well as the Apple Store, to ensure that a
26 privacy notice is available to consumers prior to download. And
27 what we have done in the regulations even before this, was to make
28 sure that in the privacy policy, that information as to what kinds

1 of rights and what kind of practices are available, is available to
2 consumers. So the notice that collection must be reflected within
3 the privacy policy so that that notice is available to consumers
4 prior to download. The adjustment that has been made with regard to
5 the regulations that we're speaking about now, is requiring also
6 that there is an opportunity for consumers to be able to access
7 their settings within the app itself. And this is something that we
8 thought was useful, because sometimes consumers will see or
9 download an application or a mobile app without really considering
10 their privacy and settings. And then later on maybe see an ad by
11 the CPPA and think, oh, I need to go and double check and do maybe
12 a hygiene check with regard to their data and check and see if
13 their mobile apps are sharing or selling their data and or whether
14 or not they have exercised their rights as it pertains to that
15 mobile app. And so we think it's really important that that level
16 of ability for consumers to check on their apps that they already
17 have is something that is accessible to them, rather than having to
18 go back to the Google Play store or go back to the app store to
19 access the privacy policy and then look for whether or not their
20 privacy, what the privacy practices are and whether or not they
21 have actually exercised their rights using that mobile app. And so
22 this doesn't change the fact that consumers meant, like are
23 businesses are required to give notice to consumers at the time of
24 download through their privacy policy. But it does also require
25 that mobile apps give consumers the ability access them within the
26 app itself. So it gives dual opportunity to the consumer.

27 **MR. MACTAGGART:** Okay, so you feel confident that before I
28 download, I'll see the right to opt out of the sale or sharing.

1 **MS. KIM:** It is required under the privacy policy. And I mean,
2 this may be a discussion for the board in the future, if they want
3 to require something that is not functionally able to be done on a
4 Google place or a privacy, on an app store where you have to have
5 an additional notice in addition to the privacy policy to opt out
6 through an app store. That is not something that we have
7 contemplated or written into the regulations. If this is something
8 that the board wants to discuss, I believe it requires additional
9 discussion and consideration by the entire board.

10 **MS. URBAN:** Thank you Ms. Kim. Mr. Mactaggart. Yeah, go ahead.

11 **MR. MACTAGGART:** Yeah, so I wouldn't, so as you're saying if we
12 wanted to have a separate screen sort of before you down download
13 saying please don't sell or share my information, that would be a
14 separate discussion.

15 **MS. KIM:** Well, what I'm saying is, I believe, perhaps I'm
16 misunderstood you but I was under the impression that you wanted
17 something to be available at the download page so that the consumer
18 can exercise their right prior to download. And that's different
19 than if you download it and have notices pop up as you open and use
20 the mobile app. It's slightly different than that.

21 **MR. MACTAGGART:** Yeah. And I don't want to derail things right
22 now, but I would love it if we could have the discussion at some
23 point about just that architecture, because I think the statute
24 says that, so that before I download or as I'm downloading, I can
25 say, yes, I would like to download the app, and I would like you
26 not to sell my information. Because I think we're all busy and
27 you'll do it and you won't forget it. That's my 2 cents. My kids
28 want me to download some app. really nice to be able to be like,

1 yep, you can have it, but they can't sell the data and it'd be
2 quick, but we don't have to discuss this right now if we have time
3 to bring it back. But I do think that's what I would like in order
4 to effectuate people's privacy choices. It needs to be simple.

5 **MS. URBAN:** Thank you, Mr. Mactaggart. Mr. Soltani, did you
6 want to?

7 **MR. SOLTANI:** I was going to just respond if we're not having
8 the conversation now, we can revisit, there's some architectural
9 challenges with that design, but certainly I think it would
10 dovetail well with the legislation we're considering with regards
11 to global privacy controls as they apply to mobile platforms as
12 well as potentially app stores. So there's some architectural
13 changes, but I think we could discuss it. It's a much kind of more
14 detailed discussion. We'd have to think through.

15 **MS. URBAN:** Thank you, Mr. Soltani.

16 **MR. MACTAGGART:** So maybe the next, if Ms. Kim would just going
17 to calendar that in the next set of times we look at this. And then
18 my second question going back to the thing I've been bringing up
19 for a while also. So if I go to page just 54 of this, which is 70-
20 50, and this time I'll try to remember Madame Chair. A four on the
21 top of 54. And this gets back to the prevent, detect, investigate
22 the data security incidences in my sort of focusing on their words,
23 prevent and investigate. And just given that we spent a lot of time
24 fighting that in the statute, a lot of time trying not to have
25 these big catchall words where I can as a business say I can keep
26 your information for a long time because at some point I may want
27 to be able to go investigate a data security incident. And I'm just
28 kind of wondering why we've kept those two words in to prevent and

1 investigate, especially given that the, oh, the security, in the
2 statute we say detect and resist. And I think that's lots of leeway
3 for businesses to have what they want. And I, again, you could say,
4 well, this is just two words, but as we've seen time and again a
5 small loophole ends up being something you can drive a truck
6 through. So maybe could we just talk about why the staff continues
7 to not want to remove these two words?

8 **MS. KIM:** So I believe that inherent in understanding, I think
9 there's a distinction that is being made here with regard to detect
10 versus prevent. And the clarification that, or the guidance that is
11 being provided to businesses is that sometimes you need to be able
12 to anticipate data security incidents as opposed to detect them as
13 they are happening. And that is the guidance that we are including
14 in this regulation. That said, I do think that there's a reasonable
15 and necessary and proportionate component to this that is also
16 reflected in the regulations themselves as well as the law itself.
17 And also 7002, that if there is a situation in which there is a
18 loophole that is, as you say, having a tow truck being driven
19 through it, I think that that would be reflected and considered
20 from an enforcement perspective. But at this time I understand the
21 concern. I understand that we're concerned that something can be
22 used in a way that is excessive or overly disproportionate. But
23 that said, I'm not aware at the present moment, a really good
24 example, to not be able to give this guidance to businesses that
25 sometimes you need to have this information in anticipation and to
26 prevent a data security incident as opposed to just detect a data
27 security incident. I welcome. I know that this is something that
28 will be reintroduced discussed by Kristen and Neelofer, and I also

1 welcome Mr. Soltani to speak to this.

2 **MR. MACTAGGART:** I have a quick suggestion. One of the things I
3 think you guys did really well, and it was the first time I'd seen
4 him in regulations to have all these examples and potentially this
5 could be addressed by just an example, maybe just saying that this
6 shouldn't be used as a loophole. I don't want to, again, take too
7 much time on this, but I am concerned about it, especially given
8 that we did have a legislative fight in 2018 over just these words,
9 and we were kind of concerned that industry really wanted to have
10 them in. So if we could just maybe have an example that sort of
11 just, you guys have got plenty of them, and then they're very good
12 saying, hey, this means not holding onto all data forever, just in
13 case you get sued in six years and you're going to hold onto my
14 data just, that doesn't feel proportionate to what we're trying to
15 get at here. So could we, could I request that and I'll trust, I'm
16 happy to trust your drafting prowess. Would that be okay?

17 **MS. URBAN:** Yeah.

18 **MR. LAIRD:** I'm not opposed unless Ms. Kim has any concerns
19 with us taking a shot of at least an example. Yeah, I think that'd
20 be helpful.

21 **MS. KIM:** Yeah, that's fine. I can work on that.

22 **MR. SOLTANI:** And I could just share, I'll show you and I know
23 you and I, Mr. Mactaggart, back in 2018, we didn't have an agency
24 with audit authority and we also didn't have a data minimization
25 and purpose limitation function under 7002. And therefore this
26 entire framework still works under 7002. And so if our enforcement
27 team or audit team see this being abused, we certainly would
28 highlight it. But as the industry, the security industry operates

1 today, there are things known as indicators of compromise IOCs,
2 where you might profile an IP address or profile a particular kind
3 of user email address or some sort of login that indicates the
4 fraudulent use or security threat. And those are shared including
5 by the federal government, in fact. And so we wanted to kind of
6 balance what the practice is with some of the concerns around
7 privacy. But we are feeling confident that between our audits and
8 7002, we do have some ability to get at any potential abuse of
9 this. But certainly I think we can find an example if the team are.

10 **MR. MACTAGGART:** Thank you.

11 **MS. URBAN:** Well, and the other big benefit of the audit and
12 enforcement process is that we can learn if somebody is trying to
13 drive a truck through a loophole or if it turns out that, but in
14 any way, I think clarifying example, I agree that's a good idea.
15 Mr. Le.

16 **MR. LE:** Yeah. On that point, yeah, I share the concern with,
17 yeah, this can be a big loophole and it is an exception to the opt
18 out rights, I believe, in the upcoming regulations. So yeah, I
19 think this should be addressed there as well, that companies aren't
20 allowed to collect whatever they want, keep all the data they want,
21 and claim that, oh, we need this to detect violations of our terms
22 of service which could be entirely way too broad. So yeah, just
23 want to double click on that.

24 **MS. URBAN:** And Mr. Le do you think that adding an example and
25 recognizing the audit and enforcement is a good approach to start
26 with?

27 **MR. LE:** Yeah, there's no perfect way to fix this loop pull
28 yet. So I think it's a flag for enforcement perhaps and the auditor

1 when we get that. But just something to monitor as these
2 regulations get implemented and enforced.

3 **MS. URBAN:** Thank you, Mr. Le. Ms. Kim, does that all make
4 sense to you?

5 **MS. KIM:** Yes, it does.

6 **MS. URBAN:** Thank you, Ms. Kim. Other comments, questions on
7 this set? And you can always, if something occurs to you, we can
8 always circle back.

9 **MS. DE LA TORRE:** Are we talking about this provision or
10 everything?

11 **MS. URBAN:** Anything in the update part. The update regs.

12 **MS. DE LA TORRE:** Okay. Mr. Mactaggart.

13 **MR. MACTAGGART:** Yeah. Thank you.

14 **MS. DE LA TORRE:** Okay, so we mentioned 7002. This section
15 establishes the principles of data minimization and purpose
16 limitation for the first time.

17 **MS. URBAN:** Ms. De La Torre, can you speak into the microphone
18 please?

19 **MS. DE LA TORRE:** We mentioned 7002, and that's the section
20 that establishes the principles of data minimization and purpose
21 limitation for the first time in the US when this was enacted back,
22 I don't remember, but it was probably a couple of years ago. There
23 were very, very drastic changes between the draft that was approved
24 by the subcommittee and then the drafts that were presented to the
25 board while we were discussing the rules during the formal process.
26 Mrs. Urban will remember this because she was a member of the
27 subcommittee that approved the initial draft. During those
28 conversations that we had at the board level, I mentioned that the

1 use limitation test that we have included is misaligned with the
2 use limitation test both in Europe and in Colorado. And I ask that
3 it be modified. I had, I think, support from all of the board
4 members at the time, but it was decided that maybe it was not the
5 right timing due to the fact that we were trying to finalize the
6 rules. I am disappointed to see that we are looking at a set of
7 rules where we haven't had the time or maybe dedication to revisit
8 that so that we can ensure that our test is not aligned only with
9 Europe, but also with Colorado because Colorado enact their
10 [Inaudible 01:59:14] their purpose limitation test in a way that is
11 very much aligned with GDPR. So if we could speak as to what was
12 the reason why that decision from the board supported by the board
13 has not been implemented in this draft? And maybe if we have time,
14 perhaps we can make those changes before we go into formal
15 rulemaking this time.

16 **MR. LAIRD:** I'll begin by just saying you know, the process
17 we've sort of taken on as an agency is to revisit the rulemaking
18 priorities and concepts being pursued on a biannual basis. So twice
19 a year. And we've been, this, the updates to this package is based
20 on discussions had by the board last May, and again in November or
21 not November, sorry, December of this year. And so the draft we're
22 seeing today is reflective of those discussions by the board at
23 that point. I don't recall that issue being discussed or supported
24 by the board.

25 **MS. DE LA TORRE:** I can guarantee you that I brought it up.

26 **MS. KIM:** If I could speak to that as well.

27 **MS. DE LA TORRE:** The board members will remember that are
28 here, right? Mrs. Urban and Mr. Le will remember that I brought it

1 up during that conversation.

2 **MS. URBAN:** You definitely, yeah, I certainly remember a
3 discussion when we were considering the formal, when we were in the
4 formal rulemaking. When we were discussing the concepts for this
5 package. Did we talk about it then? I don't recall that.

6 **MS. DE LA TORRE:** I brought it up...

7 **MS. KIM:** If I could.

8 **MS. DE LA TORRE:** I'm a teacher, I teach this every year and I
9 don't understand why we will have a use test. It is really been
10 solid for over 30 years in Europe and Colorado was able to actually
11 create one that aligns with Europe. And it's just one thing that it
12 has more implications than you think, because every use case, I
13 agree that data minimization and purpose limitation as Mr. Soltani
14 mentioned, are one of the strongest principles that we can
15 establish. And every use case has to be run through that test. So
16 I'm just wondering if you didn't make it into this draft, why and
17 what should be our expectations in terms of when will the agency
18 work towards that?

19 **MS. KIM:** If I could speak to this, I believe it was back in
20 May or sometime in the middle of last year when I introduced to the
21 board a list of priorities or a list of topics for the board to
22 consider with regard to rulemaking. And it was during that time
23 that we highlighted a number of different topics and Miss De La
24 Torre, board member De La Torre's topic about purpose limitations
25 was brought up at that point in time. I believe that the direction
26 given to me by the board was not to identify specifically which
27 ones would take priority over other topics. And there was deference
28 given to the staff to determine which ones were doable and which

1 ones were things that based upon the exertion of resources and the
2 timing and the priority, the mandate as well, which ones we should
3 focus on going forward. I don't believe that there was clear
4 direction by the entire board to focus and utilize resources to
5 prioritize this discussion about purpose limitations. If that is
6 something that the board would like to prioritize and put on the
7 top of our list, that is certainly something that we can do based
8 upon the entire board's direction.

9 **MS. DE LA TORRE:** Could we perhaps do that with an indication
10 to fix it between now and the next draft?

11 **MR. MACTAGGART:** Can I suggest probably, because Mr. Worth is
12 probably in the dark here. It could be. So it might be useful Madam
13 De La Torre for you to just refresh.

14 **MS. DE LA TORRE:** Okay. Sure. So I am very good at this. I do
15 it every year. So there's this principle in Europe that when you
16 collect data that data is collected for a specific use and you
17 cannot just take that data and use it for whatever you want, right?
18 So once you have that principle embedded in the law, then the
19 question becomes, well, what is the original purpose? What can't
20 you really do with the data without going back to the data subject
21 and ask for consent? And for that purpose Europe has had since GDPR
22 before a test that goes through basically several factors that tell
23 you, is the new purpose sufficiently connected to the original
24 purpose that you can go ahead and do this without going back to the
25 data subject and ask for consent. So this is something that
26 organizations have to run through every, every, every situation
27 where they're trying to do something with the data that maybe was
28 not completely anticipated at the beginning. Colorado enacted use a

1 purpose limitation and is used test in a way that's identical to
2 GDPR. That's what the organizations have been doing for, for years.
3 And our test just has missing factors. Some of them are in
4 minimization, so I just, I'm asking to align it so that it's just
5 easier for organizations to understand the compliance piece. And I
6 don't think there is any, the treatment for the users at all. I
7 understand that it might be a question of resources, but I am very,
8 very willing to indicate to the agency to put the resources behind
9 fixing this. And if other members are, I'm happy to just leave it
10 with the agency so that between this draft and the next draft, we
11 can see an alignment. It will facilitate the process for
12 organizations in that instead of having to figure out, okay, I have
13 one test for Colorado and something different from California, I
14 just have one that I can do across the world for the US, I can do
15 it for Europe. I think it's solid, the approach in Europe. So I
16 don't want to make it something that we discuss the details here,
17 but if we can clearly indicate to the agency that the board
18 supports this, we can allow them to just dedicate the resources
19 that they might need to fix it between these draft. And I think the
20 next draft might be two, four months out. So, I mean, I could, if
21 you give it to me in a doc, I'll fix it in six hours. So I mean, I
22 understand that there's a lot of legal research that they have to
23 do to think about whether the office of administrative law will
24 approve it and took the language. But I will appreciate the board
25 supporting, asking the agency to revisit this so that we can align
26 it basically.

27 **MS. URBAN:** Thank you Ms. De La Torre, and thank you Ms. Kim.
28 Her description of the May meeting did jog my memory and I just, I

1 apologize. Ms. De La Torre, sometimes I need more context. Yes, I
2 do remember you went through this in May. I do agree with Ms. Kim
3 that my understanding was we ultimately decided that, for them to
4 decide where to put the resources. That said you are telling us now
5 where you'd like to put the resources.

6 **MS. DE LA TORRE:** Yeah, we would agree with the resources being
7 put behind just that alignment.

8 **MS. URBAN:** I mean, I certainly would agree with, I don't know
9 what if staff have looked into it closely. I certainly would agree
10 with them taking that approach. Yeah, absolutely. Perfect. Mr.
11 Worth.

12 **MR. WORTH:** My question was any reaction to...

13 **MS. ALLEN:** We may not be understanding fully what this means.
14 Yeah.

15 **MR. WORTH:** Was it looked into and for that reason were not
16 included? Or was it just something we have to look into now? Sorry.

17 **MS. KIM:** If I could...

18 **MR. WORTH:** Yeah, go ahead. Ms. Kim.

19 **MS. KIM:** Yes. This is something that we did work on. I do not
20 think it could be fixed in six hours. And this is a discussion that
21 we had with the subcommittee probably two years ago. I believe that
22 there is a difference in opinion as to how to structure 7002. And
23 I'd just like to point out that the California law is different
24 than GDPR and the restrictions that are placed or the guidance and
25 the statutory language spoken, like the statutory language does not
26 clearly align with GDPR as to this provision. And so what we have
27 done with regard to 7002 back 2000 2 years ago was do our best to
28 align with GDPR while taking into consideration the statutory

1 framework that we were given under CCPA that differs from GDPR.
2 Now, there is areas in which we can explore further alignment with
3 regard to adding explicitly certain kinds of purpose limitations
4 that may be accounted for in GDPR, but not accounted for
5 necessarily in CCPA, but that would require some significant
6 discussion as well as some background information and discussion by
7 the board as to what to do in those situations. It's not something
8 that can be decided wholly going forward. So just easily. And so I
9 do state, or I do want to give my own personal opinion that this is
10 not something that can be fixed in six hours. This is something
11 that warrants further discussion as well as briefing by staff if
12 that is something that the board would like to explore.

13 **MS. DE LA TORRE:** So I have one suggestion that maybe can be a
14 compromise here. There is two provisions that should be in the use
15 limitation principle that actually are already there, but they are
16 under the wrong section 7002B, two and three have reference to
17 possible negative impacts on consumer. I think that's one thing
18 that should be considered in use limitation. It's in not only GDPR,
19 but Colorado. Colorado is, Colorado 60AC5, and GDPR is 640. The
20 three is existence of additional safe words. For the personal
21 information, I think it's important to consider the additional
22 safeguards when you're thinking about use limitation. Again, GDPR
23 64E, Colorado is 608C7. Could we move those two pieces of language
24 that have already been approved by the Office of Administrative Law
25 and belong with the use limitation to the right section, which will
26 be 7002B, or is that maybe something that needs additional feedback
27 from staff?

28 **MS. URBAN:** Thank you, Ms. De La Torre. Ms. Kim, is that

1 something that my understanding of the way 7002 is structured now
2 is that it captures two mechanisms of the statute, one in A and one
3 in B. So it may be difficult to move, but it may not be. So Ms. Kim
4 may be able to give us a reaction now, or she may need to think
5 about it more.

6 **MS. KIM:** I do not think it should be moved only because the
7 data minimum, so sub to explain, just to take a step back one
8 second, is the way 7002 is structured is that it mirrors the
9 language of the statute in civil code section 1798.100, subsection
10 C. It literally sets forth the three different ways in which a
11 business can find, three different ways in which a business can
12 have confidence that they can use a consumer's personal information
13 in accordance with the law. Those three ways are set forth in
14 subsection B and C and then as well as in E and those subsections
15 are number one, whether or not is reasonably expected by the
16 consumer. Number two, whether it is compatible with the
17 expectations of the consumer, and three, whether consent is
18 provided. Now, subsection D sets forth the components of what is
19 reasonably necessary and proportionate as to those three uses. And
20 that test that is provided in subsection D that Ms. Board member De
21 La Torre is mentioning is a test that applies in every situation.
22 So I do not think it's necessary to move those components of
23 subsection D into subsection B because a business will be going
24 through that exercise of determining both subsection B, is it a
25 reasonable use and is it reasonably necessary and proportionate to
26 fulfill that use. So I don't think there's any reason to combine
27 the two because a business will already be going through that test
28 and already factoring in those negative consequences in every

1 potential way in which they use personal information.

2 **MS. DE LA TORRE:** Okay. I actually want to state that just for
3 clarity for Mr. Worth's benefit when you fail the use limitation
4 test, what you need is consent. However, if you're not compliant
5 with necessity, which is where these two things were moved, you
6 don't need consent. You are potentially subject to enforcement, but
7 you do not need consent. So moving factors away from a test that
8 gives data subjects the strongest position that they can be, which
9 is their consent has to be obtained. It does have an impact on the
10 rights. I don't see it difficult to take two sections and move them
11 over. And I do see a need for it because as I mentioned, and Mrs.
12 Soto knows one of these tests requires consent from the data
13 subject. The other one is subject to enforcement. I will prefer it
14 to have it in the consent one is the strongest position for the
15 data statute.

16 **MS. URBAN:** Thank you, Ms. De La Torre. Mr. Mactaggart?

17 **MR. MACTAGGART:** I might have a little suggestion here which is
18 that I am very mindful that I have two experts here who I don't
19 think they're opposed at all in terms of outcome, but I think
20 there's a disagreement right now in terms of potentially either
21 workability, feasibility or actual substance. And I know a little
22 bit about this law and I'm kind of getting a little bit thinking
23 what I would want to have is more time to consider and more
24 information. So one suggestion if Ms. De La Torre were willing to
25 do this with her time might be for her to produce kind of a memo
26 saying, here's what I would fix and here's why it's important, and
27 here's why I think what we have does not align with Colorado/EU,
28 and here's why I think it would be important, and at least we could

1 see that and read it before maybe the next board meeting it would
2 be a public document, obviously. And if you're willing to do that,
3 at least we could kind of, I just feel like for the other, I mean,
4 you're a law professor Chair, so you may be way ahead of us, but
5 maybe for the rest of us here and Mr. Le's a lawyer, but I just
6 think it would be useful for us to, as opposed to kind of try to
7 spend a bunch of time on this. Because I really don't want to just
8 ignore this discussions. You've been bringing this up multiple
9 times, and I feel like it's very important for me to listen to what
10 you're saying, because I think you're an expert on GDPR, and to the
11 extent that we can align and have one standard for businesses to
12 follow, it's way better and it'll be way more effective for the
13 world. So that might be my suggestion if that were amenable to
14 folks involved.

15 **MS. URBAN:** Mr. Worth?

16 **MR. WORTH:** I think that'd be helpful, but I would also want to
17 see prior to that together a response from Ms. Kim.

18 **MR. MACTAGGART:** I'm saying both. I'm saying Ms. Kim would
19 respond as well.

20 **MR. WORTH:** Right. Or great, if they just come together and...

21 **MR. MACTAGGART:** Agree.

22 **MR. WORTH:** Right.

23 **MS. DE LA TORRE:** Right. And I'm happy to do that. I'm a little
24 reluctant to agree to write the memo without staff support, because
25 that will be my personal time. But I'm happy to take this to a
26 conversation with Mrs. Soto if they a board agrees with the
27 understanding that the next version will reflect the outcome of
28 that conversation.

1 **MS. KIM:** Sorry, who's Ms. Soto?

2 **MR. SOLTANI:** Ms. Kim, you mean?

3 **MS. DE LA TORRE:** Kim. I'm sorry.

4 **MR. SOLTANI:** Sorry, I just want to clarify. It's not just Ms.
5 Kim. It's, I have a team of lawyers here who, and we are in
6 constant consultation with Colorado as well as other regulators
7 internationally. And we, you know, I think our team has come
8 together and taken the position that based on our statute, based on
9 the requirements of Office of Administration/Administrative law to
10 clarify, for example, necessity and proportionality and
11 reasonableness where we have to articulate that our team has
12 essentially taken kind of this work. I'm not sure I can task my
13 team to then try to work on a different legal analysis. That's the
14 challenge. So if Ms. De La Torre, if you'd like to do that, we're
15 happy to review it, but I don't know if I have the resources to
16 then have my team and I know Phil, if you want to respond to that.

17 **MR. LAIRD:** I suppose, yeah, I mean, I think Mr. Mactaggart's
18 point fundamental here would be just to understand sort of where
19 the difference of opinions are and give the board advice onto how
20 we think we can proceed or if there's a problematic issue. We're
21 not going to be able to do that today and happy to continue this
22 conversation, but I do want to kind of remind us where we are with
23 this rulemaking package, because what we're talking today is about
24 potentially moving this text to a position where we would be
25 actually building all the necessary paperwork on the text we're
26 talking about today. So not on sort of this in the air provision.
27 So certainly I think we can continue this conversation, but I don't
28 anticipate we're going to get resolution in a way that'll give

1 staff the way to kind of proceed with preparing anything for formal
2 rulemaking on the subject today.

3 **MS. URBAN:** So I have a suggestion and I don't think this is
4 going to be fully satisfactory, Ms. De La Torre. I don't think it's
5 necessarily going to be fully satisfactory to everybody. So I'll
6 take my lumps as chair with a suggestion. But in May we do have our
7 annual meeting again to talk about concepts. And again, I apologize
8 Ms. De La Torre that I didn't have the whole meeting in my mind as I
9 should have, perhaps we could devote some resources to more of an
10 analysis that could support that discussion. And this is why I
11 think, I'm sure it's not fully satisfactory, Ms. De La Torre
12 because you did bring it up in May of last year for our updates
13 that we would be working on later in the year. So we would go
14 forward with this. But we would commit to everybody having the
15 tools to understand the options and considering them fully. And I
16 realize this is, I do understand the resources question here as
17 well. So this is why I say it may not be the best approach from any
18 one person's perspective.

19 **MS. DE LA TORRE:** Just for clarity, because at the beginning it
20 was mentioned that this was a question of resources, but what I
21 hear right now is that it's not a question of resources, it's just
22 that the experts in the agency don't think that we can align our
23 test to Colorado. That is that what we are doing.

24 **MS. KIM:** So if I could speak to that, I disagree, I
25 fundamentally disagree with Ms. De La Torre as to whether or not
26 our test aligns with Colorado. I believe it does, and I also
27 believe it aligns with GDPR and if it is helpful to the rest of the
28 board for us to provide, I believe we already had a memo that was

1 previously circulated to the board that explained 7002 and how it
2 works. And if that would be useful to you know, this might, I
3 believe this was a legal memo that we had prepared. I believe I
4 could go back and look and make sure that that's something that we
5 can circulate to the board again to explain how 7002 works as well
6 as I can point to our formal rulemaking documentation that explains
7 why we did it the way we did and why it's necessary to have it the
8 way it is, if that would be a useful level setting for the board.

9 **MS. DE LA TORRE:** Right. So I think it's helpful for me to
10 understand now that it's not about resources, but about a
11 disagreement. Basically, the agency believes that my position is
12 incorrect. I do not want to hold back this package because I don't
13 think that that will be wise, but it will have been very helpful to
14 have this conversation maybe a year ago. I'm stepping down, so if
15 you want to move this to me that's fine and the board can have that
16 consideration. But I don't see a point in further delaying the
17 rules on this. I just want to state that it will have been really
18 helpful for the agency to be more transparent about the reasons
19 behind it, because it was clearly not resources.

20 **MS. URBAN:** Thank you, Ms. De La Torre. And I understand, I do
21 think Ms. Kim, that the recirculation of the memo would I'm sure be
22 very helpful for everyone. And so it would help level set, remind
23 those of us who were here and maybe have some holes in our brains
24 and the level set for the folks who weren't here. I think that
25 would be very helpful and I really appreciate that Ms. De La Torre
26 in terms of your process point. Mr. Mactaggart?

27 **MR. MACTAGGART:** Well, and I would still just, I know it's your
28 personal time and all the rest, but I personally would welcome even

1 if it's a short explanation of what the issue is from your
2 perspective, because I think it would be useful of us to see and we
3 may end up not agreeing, so I think it would be useful for me
4 anyway, to see it in more granularity laid out. So.

5 **MS. DE LA TORRE:** I appreciate that. I just have to consider my
6 personal time and the fact that I'm stepping down.

7 **MS. URBAN:** Of course. Thank you, Ms. De La Torre.

8 **MR. LAIRD:** Is there anything more from the board on this set
9 of update regulations? Okay, so with that then what I would
10 recommend as we move on to the next section, portions of the
11 regulations as I mentioned earlier, staff has revised the risk
12 assessment and automated decision making technology regulations
13 since the December board meeting, taking into account feedback
14 received at that meeting, as well as individually from board
15 members following that meeting.

16 **MS. URBAN:** Actually, I apologize for interrupting. Mr. Laird,
17 could we take a five minute break? I need to check on timing for
18 the rest of the agenda. And I don't want to interrupt the
19 presentation in order to do that, I'm just looking at the clock and
20 so five minute break for everyone online, we will be back. But at
21 11:35, unless anybody would like more of a break, we'll get a cup
22 of coffee or something. Okay? So we'll be back at 11:35. Thanks
23 very much. Wonderful. Thanks everybody for allowing us a short
24 break and welcome back. We are actually going to pause the agenda
25 item we were discussing. I will recall it later and we will go into
26 closed session. This is agenda item number 10 on your agenda for
27 today, pursuant to government code section 11126, subdivision E1
28 and 2A. The board will meet and close session to confer and receive

1 advice from legal counsel regarding the following matters,
2 California Chamber of Commerce versus California Privacy Protection
3 Agency et al. California Privacy Protection Agency et al versus the
4 Superior Court of the state of California for the county of
5 Sacramento, California Chamber of Commerce. In addition, the board
6 will meet in enclosed session pursuant to government code section
7 11126 A1 to discuss the executive director's annual review. And I
8 anticipate that we will not return before 12:30, maybe 12:45. So
9 for those of you who are joining us on Zoom and you would like to
10 go and get lunch, we anticipate that we will be away for that long.
11 And with that I will say thank you. See you soon and we will repair
12 to closed session. Welcome back everyone from break and the board's
13 closed session discussion. It is 1:43 PM on March 8th, 2024 and
14 late in the day or it feels sort of slightly late in the day on a
15 Friday. And we are returning to agenda item number four, discussion
16 and possible action to advance draft regulations to formal
17 rulemaking for automated decision making technology, risk
18 assessments and updates to existing regulations. And when we broke
19 for closed session we had discussed the updates to existing
20 regulations and I believe we were about to begin some information
21 from our staff attorneys about the next two sets. But I will turn
22 it back over to Mr. Laird to correct me if I'm wrong and get us
23 going.

24 **MR. LAIRD:** That's all. Let's see, can you hear me alright?
25 Okay, that's all correct and I just have a few more things to say
26 before I turn it over to my staff. One thing is that just to kind
27 of orient us, many of the revisions that you're seeing since
28 December were done with the intention of streamlining the draft,

1 improving overall readability as well as to implement the feedback
2 received from board members. My excellent staff here, Kristin and
3 Neelofer, will be going through the highlights of their revisions
4 in the presentation momentarily and I'd ask that you allow them to
5 explain the whole framework before we ask questions. Obviously, if
6 we need to get into something we can, but I think getting through
7 it, since everything is so interconnected would be helpful. And I
8 will also remind the board that many of the changes in today's
9 texts do reflect suggestions or preferences expressed by board
10 members in December or individually with staff following the
11 meeting. And so to the extent anybody questions the reason or
12 thinking behind some of these changes, I would encourage members
13 who made the suggestions to speak up of why they might've made
14 certain recommendations. And so with no further ado, I will pass
15 things off to Kristin Anderson and Neelofer Shaikh attorneys within
16 the legal division.

17 **MS. URBAN:** Ms. Anderson and Ms. Shaikh, thank you so much. So
18 we understand that we will hear how everything works together and
19 then you'll be available for questions. Would you mind as with
20 other presentations, just letting us know when you're advancing a
21 slide so we can look at our screens and follow along? Thank you.

22 **MS. KRISTEN ANDERSON:** And [Inaudible 02:26:56], you can pull
23 up the PowerPoint please. Thank you. Can you please switch to the
24 next slide? Okay. So our agenda for today's presentation is first
25 to walk you through some key definitions. Next we'll address risk
26 assessments. We'll provide an overview of the risk assessment
27 requirements and then summarize revisions to the thresholds that
28 trigger a risk assessment, the substantive requirements and the

1 submission requirements. Finally, we'll address ADMT providing an
2 overview of the ADMT requirements and then summarizing revisions to
3 the thresholds that trigger the ADMT requirements and to the pre-
4 use notice requirements. We'll then describe how businesses must
5 comply with opt-out requests and the relevant opt-out exceptions
6 and how they must comply with consumers' access requests. We'll
7 then describe the additional notice requirement for access rights
8 where businesses using ADMT to make an adverse significant decision
9 will be required to provide additional notice and will conclude
10 with the requirement for a business to evaluate its use of physical
11 or biological profiling for certain purposes. Can we move to slide
12 four please? So we'll begin with the definition of automated
13 decision making technology. Staff revised this definition in three
14 primary ways. First, we refine the definition to address the types
15 of technologies that are in scope. The revisions clarify that ADMT
16 executes the decision replaces human decision making or
17 substantially facilitates human decision making. And we further
18 define substantially facilitate human decision making to mean using
19 the output of the technology as a key factor in a human's decision
20 making. We also provide an illustrative example of this. So a
21 business using ADMT to generate a score about a consumer that a
22 human reviewer then uses as a primary factor to make a significant
23 decision about that consumer. Second, we added clarifications about
24 the types of technologies that are not in scope. For example, we've
25 listed technologies like calculators and spreadsheets and clarified
26 that provided that they don't execute a decision, replace human
27 decision making or substantially facilitate human decision making,
28 they're not subject to the ADMT requirements. We also clarify that

1 a business must not use technologies to circumvent the ADMT
2 requirements and provide an illustrative example. And that example
3 would be of a business using formulas in a spreadsheet to determine
4 which employees it will terminate. That would be a use of ADMT
5 subject to the ADMT requirements. Lastly, we reorganized the
6 definition and broke it out into several sentences that was not a
7 substantive change, but was intended to improve readability.
8 Finally, we'll note that even if the technology is in scope as
9 ADMT, it is not necessarily subject to the risk assessment and ADMT
10 requirements that we'll discuss later in the presentation. As noted
11 during previous meetings, the ADMT also must be used in certain
12 ways such as for a significant decision concerning a consumer in
13 order for it to be subject to the requirements. Slide five, please.
14 For reference, this is an excerpt of the definition of ADMT, which
15 highlights the key changes we discussed on the prior slide. The
16 full definition is on page two of the draft regulatory text, which
17 is provided and posted as a meeting material. Next slide please.
18 Now we'll discuss the proposed revisions to the profiling
19 definition, specifically to add analysis or prediction of a
20 person's intelligence, ability or aptitude, their mental health and
21 their predispositions. First, I'll note that the CCPA anticipated
22 that the agency would modify the definition of profiling as part of
23 the ADMT regulations. The statutory definition of profiling
24 includes the phrase as further defined by regulations pursuant to
25 1798, 185, A16, which is the delegation of authority to the agency
26 regarding ADMT. Staff proposes the specific additions because
27 intelligence, ability, or aptitude is the type of profiling that
28 may be most relevant in the job application and educational

1 contexts. While performance at work was already covered by the
2 statutory definition, businesses also may seek insight into
3 consumer's intelligence, ability or aptitude for educational or
4 other purposes, including for behavioral advertising. Mental health
5 is already part of the profiling definition under health, but staff
6 recommends adding including mental health as additional guidance
7 for businesses and to clarify that and avoid any doubt that mental
8 health is a part of a person's health. Finally, we added
9 predispositions because analysis of a consumer's tendencies or
10 susceptibility also should be included in the scope of relevant
11 profiling. The addition of these categories also is consistent with
12 a statutory definition of personal information. CCPA specifically
13 includes as personal information, the creation of profiles that
14 reflect consumer psychological trends, predispositions,
15 intelligence, abilities, and aptitudes. Adding these categories to
16 the profiling definition ensures consistency across these statutory
17 definitions.

18 **MS. NEELOFER SHAIKH:** Let's take a brief pause. I think the
19 slide decks formatting just might need to quickly be updated for
20 folks who are tuning in, I just want to make sure that they can
21 read all the texts on the slide. No.

22 **MS. ANDERSON:** Okay. Are we ready? Great, thanks. Could we go
23 to slide seven please? The definition of significant decision.
24 Thank you. So the previous drafts of the risk assessment and ADMT
25 regulations had defined quote, a decision that produces legal or
26 similarly significant effects concerning a consumer. The revised
27 draft instead defines a significant decision and we've revised the
28 substance of that definition in four ways. First, we added language

1 to the beginning of the definition, clarifying that information
2 subject to CCPA's, information level exceptions. For example,
3 exceptions pertaining to CMIA, GLBA and the FCRA is not subject to
4 this definition. In other words, significant decisions are those
5 made with information not exempted by the CCPA. Second, we provided
6 examples of what essential goods or services are as guidance for
7 businesses. Third, we clarified which education or enrollment
8 opportunity decisions are significant, including admissions or
9 acceptance decisions, issuing educational credentials, for example,
10 a diploma and decisions to suspend or expel a student. Finally, we
11 clarified which employment or independent contracting opportunities
12 are significant, including hiring, allocation or assignment of work
13 or compensation, promotion and decisions to demote, suspend or
14 terminate employee or independent contractor. Significant decision
15 is also defined in context both within the risk assessment
16 regulations and the ADMT regulations. And we did that for
17 readability. Slide eight, please. For reference, this is an excerpt
18 of the definition of significant decision, which highlights key
19 changes that we made relative to the December draft. The full
20 definition is on pages six and 20 of the draft regulatory text
21 that's posted as a meeting material. Next slide please. The
22 proposed revisions to the artificial intelligence definition are
23 shown on this slide in blue and they were made intended to
24 harmonize with OECD's updated definition of AI systems. So these
25 revisions are shown in blue for ease of reference, we also
26 reorganized the definition and broke it into shorter sentences just
27 to improve readability and we included examples for clarity and as
28 guidance for businesses. We'll also note that we've been working

1 closely with the agency's policy and legislation experts and the
2 executive team to harmonize with other jurisdictions and will
3 continue to monitor the space to continue to do so. Next slide
4 please. Finally, staff proposes a definition of behavioral
5 advertising. It was necessary for us to define behavioral
6 advertising because the board supported the addition of the
7 threshold of profiling a consumer for behavioral advertising to the
8 risk assessment in ADMT frameworks. The definition makes clear that
9 behavioral advertising is targeting ads to a consumer based on
10 personal information obtained from the consumer's activity, both
11 across businesses distinctly branded websites, applications or
12 services, and within a business's own websites, applications or
13 services. So it includes but is not limited to cross context
14 behavioral advertising. It does not include non-personalized
15 advertising, which is a term that's defined in the statute as long
16 as the information isn't used to build a profile about the consumer
17 or alter their experience outside of their current interaction with
18 the business and isn't disclosed to a third party. For reference,
19 the definition of non-personalized advertising in the statute is
20 1798140T. So contextual advertising and search advertising that
21 don't involve profiles of consumers likely would not be in scope,
22 but such determinations would involve a fact and contact specific
23 evaluation. Next slide please.

24 **MS. SHAIKH:** We'll now turn to risk assessments. We'll first
25 provide just a very brief overview of the risk assessment
26 requirements and then turn to the key proposed revision staff has
27 made to the draft. For time's sake, this does not address every
28 revision made in the risk assessment section, but we are happy to

1 address any questions about any part of the draft. Next slide
2 please. This slide provides a simple overview of each of the
3 sections in the risk assessment requirements. So for members of the
4 public tuning in, we thought that this would be helpful just to
5 understand how to navigate through the regulations. As you'll see,
6 this covers key issues such as when a business must conduct a risk
7 assessment, how to conduct a risk assessment, what additional
8 requirements may apply when training automated decision making
9 technology or artificial intelligence when processing is
10 prohibited, which is specifically when the risks to consumers'
11 privacy outweigh the benefits associated with that processing, as
12 well as an important issue of how to submit risk assessments to the
13 agency. Next slide please. We're now going to turn to proposed
14 revisions to the risk assessment thresholds. In other words, when a
15 business must actually conduct a risk assessment, staff's proposed
16 revisions first include removing the separate threshold that
17 specifically addressed the processing of the personal information
18 of consumers known to be under 16. And this was intended to reflect
19 the board's discussion from the December 8th meeting that the
20 personal information of a known child is sensitive personal
21 information because sensitive personal information has its own
22 threshold, staff proposes removing this duplicative additional
23 threshold. Second, staff added a new term extensive profiling to
24 address instances when profiling would require a risk assessment,
25 specifically worker educational profiling, profiling consumers in
26 public and profiling consumers for behavioral advertising. Third,
27 staff clarified that when profiling consumers in work, in
28 educational settings or in public, the profiling must be conducted

1 through systematic observation to require a risk assessment. And
2 this is a new term that is defined in the proposed text to mean
3 methodical and regular or continuous observation. And the draft
4 provides several examples of what technologies can be used for this
5 type of systematic observation such as Wi-Fi trackers or location
6 trackers. If a business is conducting this type of profiling
7 through systematic observation in worker educational settings or in
8 public, then the business would need to conduct a risk assessment.
9 And lastly, the proposed revisions clarify that when a business is
10 training automated decision-making technology or artificial
11 intelligence using personal information when that business must
12 conduct a risk assessment. As you'll see on the slide, this would
13 be when that ADMT or AI is capable of being used for a significant
14 decision to establish individual identity for physical or
15 biological profiling, which is a term that's defined in the
16 proposed text for generating deep fakes. The term Deep Fakes is
17 also defined in the proposed text or for operating generative
18 models such as large language models. Next slide please. So this
19 slide provides an excerpt of those revised thresholds for ease of
20 reference and it reflects the proposed revisions we've just
21 discussed. These thresholds are in full on pages five through seven
22 of the proposed draft text. And as you'll see under these proposed
23 thresholds, a business would be required to conduct a risk
24 assessment when it is selling or sharing personal information,
25 processing the sensitive personal information of consumers, which
26 now includes the personal information of consumers known to be
27 under 16, apologies, known to be under 16 years of age. Using ADMT
28 for a significant decision. And as Ms. Anderson explained earlier,

1 the term significant decision is defined in the proposed text or
2 for extensive profiling, which refers to worker educational
3 profiling, which is also defined in the proposed text. Public
4 profiling, which is defined in the proposed text or when profiling
5 a consumer for behavioral advertising. And lastly, when training
6 ADMT or AI that is capable of being used for any of the uses
7 identified on this slide, next slide please. Now turning to
8 revisions to the risk assessment requirements. That is how a
9 business must conduct a risk assessment. The first is clarifying
10 which operational elements must be identified in the risk
11 assessment. So for instance, staff added what the relationship is
12 between the consumer and the business, as well as what disclosures
13 a business has made to the consumer about the processing as
14 required operational elements that must be identified as part of
15 the risk assessment because these are elements of the processing
16 that directly go to the nature of the risks associated with that
17 processing. Staff also deleted duplicative language in this section
18 to streamline it overall and improve readability. Staff also
19 clarified which negative impacts to consumer's privacy a business
20 may consider. So these are provided as guidance for businesses when
21 they're conducting a risk assessment. One harm added is disclosure
22 of a consumer's media consumption. So what types of books you've
23 read, what videos you've watched that would chill for instance,
24 their exploration of ideas. This is a harm that animates other
25 consumer privacy laws such as the Video Privacy Protection Act and
26 staff proposes adding it here as well as guidance for businesses.
27 Staff also clarified that reputational and psychological harms that
28 businesses may consider are those that would negatively impact an

1 average consumer and provided examples of what types of processing
2 activities would meet this type of standard. Lastly, staff proposes
3 clarifying which safeguards a business must consider when using
4 automated decision making technology. These are whether the
5 business evaluated the ADMT to ensure it works as intended and does
6 not discriminate and what policies, procedures, and training it
7 implemented to ensure that it works as intended and does not
8 discriminate as a shorthand or will refer to the latter as accuracy
9 and non-discrimination safeguards during this presentation. These
10 requirements are intended to be high level and flexible so that
11 businesses can consider these issues across a variety of contexts
12 and use cases. Next slide please. Lastly, turning to proposed
13 revisions to the submission requirements. Generally, a business is
14 required to annually submit a certification of compliance to the
15 agency, typically signed by the highest ranking executive who is
16 responsible for oversight of the business's risk assessment
17 compliance, as well as an abridged form of each risk assessment. It
18 is conducted during a submission year. Staff proposes the following
19 revisions to this section. First, for bridge risk assessments,
20 staff proposes streamlining this section overall to focus on what
21 processing activities triggered the risk assessment, what the
22 purpose of the processing is and the categories of personal
23 information processed. Staff recommends starting with this
24 information and submissions, and as the agency receives and reviews
25 risk assessments, adding to the submission requirements as
26 necessary. Second, staff recommends clarifying when a business is
27 not required to submit their bridge risk assessment or risk
28 assessment to the agency, there would be two relevant exemptions.

1 First, if the business did not ever initiate the processing subject
2 to the risk assessment, they would not be required to conduct that
3 annual submission of that abridge risk assessment. Second, if the
4 business previously submitted a risk assessment to the agency and
5 there were no material changes made to that processing since
6 submission, in that scenario, the business would not be required to
7 provide an updated risk as updated abridged risk assessment to the
8 agency, but it would still need to provide a certification of
9 compliance. Next slide, please.

10 **MS. ANDERSON:** Okay. We'll now turn to the ADMT draft
11 regulations. Next slide please. This slide provides an overview of
12 the revised ADMT regulations sections. The regulations begin with
13 the uses of ADMT that require a business to comply with the ADMT
14 articles requirements. They then set forth a standalone evaluation
15 and safeguarding requirement for businesses using physical or
16 biological identification or profiling for a significant decision
17 or for extensive profiling. They then set forth the pre-use notice
18 requirements, then move on to the opt-out requirements and
19 exceptions there too. And they conclude with the access
20 requirements. Our presentation will mostly cover these in order
21 with the exception that will cover the standalone evaluation
22 requirement last. Next slide, please. The revised thresholds to the
23 ADMT requirements are consistent with the revisions to the risk
24 assessment threshold, which we just discussed a little earlier. So
25 I'll note simply that the pre-use notice opt out and access rate
26 requirements apply when a business is using ADMT in the ways that
27 are outlined on this slide, specifically for a significant decision
28 for extensive profiling or for processing personal information to

1 train ADMT that's capable of being used for any of the purposes set
2 forth on this slide. Next slide please. The proposed framework
3 continues to set forth three main components of the ADMT framework
4 for as between a business and a consumer. The pre-use notice, the
5 opt out right and the access right. Before a business can use its
6 ADMT with respect to a consumer, it must provide that consumer with
7 a pre-use notice. That notice gives the consumer information about
8 the business's proposed use of the ADMT and about the consumer's
9 rights, so that the consumer can decide whether to opt out or to
10 proceed, and whether to access more information about the
11 business's use of the ADMT. The consumer can then choose whether to
12 opt out or proceed. If the consumer proceeds with the business's
13 use of the ADMT, then once the business used it with respect to the
14 consumer, the consumer can request access to information about how
15 the business used it with respect to the consumer. And when a
16 business receives a consumer's access request, it must provide
17 certain information to help the consumer understand the decision or
18 evaluation that the business made about them and how the business
19 made that decision or evaluation. Next slide, please. Staff
20 proposes several revisions to the pre-use notice requirements.
21 First, the proposed revisions tailor the pre-use notice
22 requirements to the business's specific use of the ADMT. For
23 example, a business that wants to use a consumer's personal
24 information to train ADMT that's capable of being used for one of
25 the four purposes we discussed, it must disclose to the consumer
26 what specifically the ADMT is capable of being used for. So, for
27 example, if the ADMT is capable of being used to generate a deep
28 fake, that level of granularity, and also the categories of

1 personal information, including any SPI that it wants to use to
2 train the ADMT. If the business proposes to use an ADMT solely for
3 these training uses, it also is not required to describe the
4 consumer's right to access. As another example of this tailoring by
5 use case, a business relying upon the human appeal exception, which
6 we'll cover a little bit later, must provide information about the
7 consumer's ability to appeal the decision and how they can submit
8 their appeal rather than providing information about how the
9 consumer can exercise their right to opt out. Second, the proposed
10 revisions at a requirement that the business is prohibited from
11 retaliating against consumers for exercising their CCPA rights.
12 It's important that consumers feel free to exercise their rights
13 without fear of suffering a negative consequence as a result.
14 Third, the proposed revisions add flexibility for businesses in how
15 they provide additional information about how their ADMT works. For
16 example, the revised draft regulations permit, rather than require
17 businesses to provide additional information via a simple and easy
18 to use method, like a layered notice or hyperlink. As another
19 example, the revised draft gives businesses an option to provide
20 consolidated pre-use notices as long as the consolidated notice
21 includes the information required for each of the business'
22 proposed uses of the ADMT. Fourth, the proposed revisions add an in
23 context definition of output, as well as illustrative examples of a
24 business explaining the intended output of its ADMT and how it
25 plans to use it. And we did that to provide clarity and guidance
26 for businesses. For example, if a business proposes to use ADMT to
27 make a significant decision, the intended output of its ADMT may be
28 a numerical score, which a human may use as a key factor to make a

1 hiring decision. Another example would be a business proposing to
2 use ADMT for profiling for behavioral advertising. The intended
3 output of that ADMT may be the placement of a consumer into a
4 profile segment or category, which the business may use to
5 determine which ads to display to the consumer. Finally, the
6 proposed revisions streamline the information that a business must
7 provide in its pre-use notice, for example, they no longer require
8 a business to state in the pre-use notice whether the ADMT has been
9 evaluated for validity, reliability, or fairness, and the outcome
10 of any such evaluation. We'll note, however, that businesses are
11 required to conduct an evaluation of their use of ADMT under
12 certain circumstances. But this slide is just highlighting the
13 revisions to what's required to be in the pre-use notices to
14 consumers. Next slide, please. We'll now turn to how businesses
15 would comply with the revised pre-use notice requirements. Before a
16 business can use ADMT in any of the ways that we've discussed, it
17 must provide a pre-use notice to the consumer so that the consumer
18 can decide whether to opt out or to proceed, and whether to access
19 more information about the business's use of the ADMT. The pre-use
20 notice must include the specific purpose for which the business
21 proposes to use the ADMT and not in generic terms such as to
22 improve our services. It must include the description of the
23 consumer's right to opt out and how they exercise that right, or if
24 the business is relying upon the human appeal exception, which
25 we'll explain later. The consumer's ability to appeal the decision
26 and how they would submit their appeal. The previous notice must
27 also include the description of the consumer's right to access
28 information about how the business uses the ADMT with respect to

1 the consumer and how they can submit their access request that they
2 proceed with the business's use of the ADMT at this phase. Note
3 that for solely training uses of ADMT, the business is not required
4 to provide that notice of their ability to access information. An
5 addition here is that the business is prohibited from retaliating
6 against consumers for exercising their CCPA rights. Businesses also
7 must provide additional information about how the ADMT works and
8 may provide that via the simple and easy to use method like the
9 layered notice or hyperlink. The additional information that's
10 required to be provided is the logic that's used in the ADMT,
11 including the key parameters that affect the ADMT's output and the
12 intended output of the ADMT and how the business plans to use it,
13 including the role of human involvement. Next slide, please. This
14 slide covers the practical requirements of a business. When a
15 consumer requests to opt out of the business's use of the ADMT. If
16 the consumer submits their opt-out before the business uses the
17 ADMT with respect to the consumer, the business is not permitted to
18 process the consumer's personal information using that ADMT. If a
19 consumer does not initially opt out, but later decides to do so,
20 then once the consumer submits their opt-out request, the business
21 must cease processing their personal information using the ADMT and
22 must notify relevant service providers, contractors, or other
23 persons of the consumer's opt-out and instruct them to comply. The
24 business has to cease processing as soon as these will be possible,
25 but no later than 15 business days from when it receives their
26 request. Next slide, please. The revised draft outlines several
27 instances in which a business would not be required to provide
28 consumers with the ability to opt out. The first is not new. It's

1 an exception to the use of ADMT solely for security, fraud
2 prevention and safety. The second is new, the human appeal
3 exception. A business must provide consumers with the ability to
4 opt out from its use of the ADMT unless it provides a method for
5 the consumer to appeal the decision to a qualified human reviewer.
6 The third category, which we're calling the evaluation exception in
7 this presentation, is also new. A business using ADMT for admission
8 acceptance or hiring decisions, for allocation or assignment of
9 work and compensation decisions or for work or educational
10 profiling, may not have to provide an opt-out under certain
11 circumstances. This category addresses instances in which the scale
12 of decision making using ADMT may make providing an opt-out
13 infeasible, for example, an employer relying upon ADMT to screen
14 thousands of resumes for a same day job opportunity or an employer
15 relying upon ADMT to allocate work to hundreds of employees or
16 independent contractors almost instantaneously based upon their
17 performance. Note that even if a business can rely upon one of
18 these exceptions to providing the ability to opt out, it would
19 still need to provide a pre-use notice to the consumer and explain
20 that it's relying upon an exception and that the consumer can still
21 exercise their access right. In addition, none of these exceptions
22 would apply to profiling for behavioral advertising, nor to
23 processing the personal information to train automated decision
24 making technology. A business would be required to provide
25 consumers with the ability to opt out for those purposes.

26 **MS. SHAIKH:** Next slide please. Turning now to the security
27 fraud prevention and safety exception. Businesses who are using
28 automated decision making technology for these purposes are not

1 required to provide an ability to opt out to qualify for this
2 exception, the use of ADMT must be both necessary to achieve and
3 solely used for security, fraud prevention and safety. Next slide,
4 please. Turning to the human appeal decision, this exception is,
5 human appeal exception. This exception is relevant when a business
6 is using ADMT for a significant decision. In that case, they are
7 not required to provide the ability to opt out if they provide a
8 method for the consumer to appeal the decision to a qualified human
9 reviewer. To qualify for this exception, a business must designate
10 a qualified human reviewer with authority to overturn the decision.
11 In addition, the business must clearly describe to the consumer how
12 they can submit their appeal and enable them to provide information
13 for the human to consider as part of the appeal. Additional detail
14 is provided in the proposed regulatory text about what
15 qualifications the human reviewer must have, what the method of
16 appeal must entail, for instance, that it must be easy for
17 consumers to use and not use dark patterns, as well as how
18 disclosures about the method to appeal must comply with section
19 7003 of the existing CCPA regulations. Next slide please. Now,
20 turning lastly to the evaluation exception to the opt-out
21 requirement. This, as Ms. Anderson noted, only applies for
22 admission, acceptance, or hiring decisions for allocation or
23 assignment of work or compensation or for work or educational
24 profiling. In these scenarios, a business would not be required to
25 provide the ability to opt out if it has evaluated its use of ADMT
26 to ensure it works as intended for the proposed use and does not
27 discriminate and implemented appropriate accuracy and non-
28 discrimination safeguards. One thing I will note here is if a

1 business has obtained its ADMT from another person, it would still
2 be able to rely on its exception if it has reviewed that person's
3 evaluation of the ADMT and implemented appropriate accuracy and
4 non-discrimination safeguards. Next slide, please. Now I'll turn to
5 the access right requirements. If a consumer chooses to proceed
6 with the business's use of the ADMT, the business must provide the
7 consumer with access to information about how it used the ADMT with
8 respect to the consumer. So the required information would include
9 the specific purpose for which the business used the ADMT with
10 respect to the consumer, what the output of the ADMT was with
11 respect to the consumer. So if the technology generates scores for
12 consumers, the business would provide the consumer with their
13 specific score. The business would also provide information about
14 how it used the output with respect to the consumer, as well as how
15 the ADMT worked with respect to the consumer, including how the
16 logic as well as the key parameters that affected the consumer
17 applied to the consumer. Lastly, the business would explain that it
18 is prohibited from retaliating against consumers for exercising
19 their CCPA rights and provide instructions for how the consumer can
20 exercise their other CCPA rights, such as the right to correct.
21 Next slide, please. Turning now to additional notice requirements
22 relevant to the access right. When a business is using ADMT to make
23 an adverse significant decision, it would comply with these
24 requirements. As you'll see on the slide, adverse significant
25 decisions are defined as being denied an education credential,
26 having compensation decreased, being suspended, demoted,
27 terminated, or expelled, being denied financial or lending
28 services, housing, insurance, criminal justice, healthcare

1 services, or essential goods or services. In these scenarios, when
2 a business has used ADMT to make an adverse significant decision,
3 it must notify the consumer that the business used ADMT to make the
4 decision that the business cannot retaliate against the consumer
5 for exercising their CCPA rights. That the consumer has the right
6 to access information about the business's use of ADMT and how they
7 can exercise that right. And if the business is relying on upon the
8 human appeal exception, that the consumer can appeal the decision
9 and how they can submit that appeal. The reason behind these
10 additional notice requirements is to ensure that when an adverse
11 significant decision is made with respect to a consumer, that they
12 are aware that they have that access. Right? This can be
13 particularly valuable when there has been a significant amount of
14 time between when the consumer received that first pre-use notice
15 and when the actual adverse decision was made. Next slide please.
16 Lastly, we're going to turn to a requirement for physical or
17 biological identification or profiling. This is when a business is
18 using this type of profiling for a significant decision or for
19 extensive profiling for a consumer. Staff proposes a requirement
20 where a business would be required to conduct an evaluation of that
21 technology to ensure it works as intended for the business's
22 proposed use and does not discriminate, and that it has implemented
23 appropriate accuracy and non-discrimination safeguards. So, for
24 example, oh, actually one additional nuance here. If a business has
25 obtained that profiling technology from another person, it would
26 not have to conduct an evaluation itself, but it would have to
27 review that person's evaluation, including any relevant
28 requirements or limitations on that technology that are relevant

1 for the business's use. So, for example, if a business obtained its
2 facial recognition technology from another person, and that person
3 identified the need for high quality enrollment photographs, as in
4 an effort to ensure that there are less false positive matches, the
5 business must review that information and implement appropriate
6 safeguards. That concludes staff's presentation. We thank you for
7 bearing with us. We welcome for discussion and of course, are
8 available for any questions for staff.

9 **MS. URBAN:** Thank you for a very efficient presentation of a
10 complex and carefully constructed revisions to the regulations.
11 Fellow board members, do you have comments or questions? And I
12 apologize, I had to put on my collar, so I'm going to turn my
13 chair.

14 **MR. LE:** I guess how.

15 **MS. URBAN:** Yes, Mr. Le.

16 **MR. LE:** Yeah, I'm questioning how should we go about this? I
17 mean, I have comments on a couple areas.

18 **MS. URBAN:** I still would suggest we follow their lead and
19 start from the top with the definitions and then the risk
20 assessments, and then the ADMT. But of course, everything's pretty
21 interconnected. So if something is interconnected, maybe pick it up
22 where it first appears. Okay.

23 **MR. LE:** Yeah, I mean, overall, I think you all did a great job
24 in synthesizing a lot of the board feedback from last time into
25 this new draft. You know, I think I'm a little unhappy with some of
26 the changes, but I think that that shows compromise and your
27 efforts to coordinate with everyone else. With that said, I think,
28 well, starting with definitions this substantially facilitate a

1 decision, right? So I think that is a potential loophole. I know
2 you put in language around key factor and maybe some of examples,
3 but I think if this advances to formal rulemaking, this is an area
4 that we really should focus on making sure that this doesn't become
5 a big loophole. Because Companies can just claim that their ADMT
6 didn't substantially facilitate. So whether that's providing more
7 examples maybe thinking through some thresholds rule of thumb,
8 maybe if like four fifths of the decision, kind of comport with the
9 output that's like a signal that this ADMT is being substantially
10 facilitating decisions or perhaps other ways of fleshing out that
11 language is an area of focus. But I don't think that should stop us
12 from you know, maybe pushing this forward for other folks to give
13 comment informal rulemaking.

14 **MS. URBAN:** Thank you, Mr. Le. Shall I come back to you when we
15 get to another section?

16 **MR. LE:** Yes.

17 **MS. URBAN:** Okay. Other comments on the definitions? Yes, Mr.
18 Mactaggart?

19 **MR. MACTAGGART:** Well, thank you all. I know you put a
20 tremendous amount of work into this. I don't know where to start
21 because I actually, I brought this up in December, and I don't feel
22 like we've made much progress in scoping. And so let's just step
23 back a little bit. I want to talk about both risk and ADMT and
24 stepping back, the early section 7002, 03, 04 are primary
25 safeguards with respect to personal information. If we're talking
26 about, I guess we could talk about risk assessments first for me
27 anyway, I have some notes on this. You know, 185, A15 clearly
28 states that the regulations are aimed at businesses whose

1 processing of consumers PI presents a significant risk to the
2 privacy or security of the consumers. And I think what we're going
3 to do here with our broad definition of ADM the way that, and I
4 don't want to take everybody's time and walk through how I think by
5 using ADM for significant decisions concerning the consumer, which
6 is a significant risk. And then with this definition of
7 substantially facilitate human decision making, being a key factor
8 in the human decision making, that means essentially ADM is going
9 to be all software. If you're using software to help you make a
10 decision about something, you're going to be caught. You're going
11 to be caught in this net of having to do a risk assessment. And if
12 it, sort of the same thing, if you go over into the ADM, a huge
13 swath of our economy, we're going to be saying that if you're using
14 software to help you make a decision, the consumer's going to be
15 having the right to opt out. And I mean, literally, it's the exact
16 opposite in my, when I look at it at the Colorado, Colorado says,
17 hey, you have the right to opt out, but if the human's reviewing it
18 and they're using this as an input, then you don't have the right
19 to opt out of the automated decision making process. We see the
20 opposite. If the human's using it as a substantial facilitation
21 device, then you have the right to opt out. And look, I think I
22 don't need to tell anybody how pro privacy I am, but what I am not,
23 also, I'm a little worried about the first do no harm thing. And I
24 think what we are going to do here is just the scope is dramatic. I
25 mean, look at the ADM, ADM has taken the definition of profiling
26 and the wording in 185, A16 is taken directly from recital 71 and
27 Article 22 of GDPR. Now you could say, okay, well that gives the
28 right to consumers to opt out and GDPR when ADM is used when it's

1 based solely on ADM. And you could say, well, that's a loophole. We
2 don't want to say based solely. So then Colorado comes along and
3 says, well, we have this two part test, and we're going to say, if
4 there's a, if you're using that solely kind of to get out of ADM,
5 the net, then you shouldn't be able to do that. But if you are a
6 human being using software to come up with an answer, you, the
7 consumer do not get the right to opt out, we're going way, way
8 further. And we're saying, basically, if you're the human being and
9 you've used this software to make a decision, the consumer can opt
10 out. I don't think that helps privacy, and I don't think that that
11 is what will work. So I'm very much where I was in December, I
12 think these definitions are extraordinarily broad, and I would like
13 to go back to the drawing board and not move these forward right
14 now because I feel like they will be, the impact, we will basically
15 be requiring every covered business to do a risk assessment, which
16 I don't think is what we want to do. Because we should be focusing
17 on really where the heightened risk is. And I think that with the
18 ADM, it'll be very problematic given how the internet and our
19 technology system works in the world.

20 **MS. URBAN:** Thanks, Mr. Mactaggart. Mr. Le?

21 **MR. LE:** Yeah. I guess Mactaggart's point, what is your thought
22 on, I mean, yeah, the definition could be read as broad, but it is
23 narrowed by significant decision. But also for me one of the issues
24 I had was if you have a human in the loop appealing you can appeal,
25 then that opt-out goes away, right? If you have a human reviewing
26 any automated decision, all of a sudden the company doesn't have to
27 process your opt-out. So I thought that we went too far, but I
28 think that addresses kind of your concern about providing consumers

1 or I guess businesses a way out. And that kind of gets at the same
2 thing that Colorado does. And I think to some extent that addresses
3 your concern. Even though I would like just a straight off that,
4 but...

5 **MS. DE LA TORRE:** Yeah, for clarity in the chart that the staff
6 created for us, human appeal only applies to two out of the 1, 2,
7 5, 6 situations where there's an opt-out, right? Just for clarity.

8 **MR. MACTAGGART:** I think the only one, yeah. So to me, I think
9 the exceptions swallow a lot of the opt-outs, right? If you've
10 tested it for bias or anything like that, all of a sudden you lose
11 your opt-out, or if you have a human appeal then you get to not
12 process the opt-out. So the only two areas where what I think is
13 very accessible exceptions we don't have is, yeah, behavioral
14 advertising, which I think we all agreed on, and then the training
15 uses of ADMT.

16 **MS. URBAN:** Which has also been limited.

17 **MR. MACTAGGART:** Yeah. So to me, and I come to it saying like,
18 this opt out may be large, but these exceptions are equally large.
19 And to me, if you're making a decision, a significant decision,
20 right? That determines whether I can get a job or I get fired, you
21 should have a human in appeal or you should have at least tested
22 this for does it actually work? So to some extent, I think the
23 exceptions are quite, quite broad and alleviate. I don't see any
24 business being like, okay, well I don't want to have a human appeal
25 so I'll just allow opt-outs, right? They'll probably put humans in
26 if that's, I think that's something we should encourage, right? In
27 general.

28 **MS. URBAN:** Human appeals or opt-outs.

1 **MR. MACTAGGART:** Human appeals, but I mean, opt-outs generally.
2 But yeah, human appeals and I think this draft has kind of threaded
3 that line pretty well in making sure that this isn't very
4 disruptive. As far as I know, most significant decisions you can
5 have a human appeal. Those processes are already in place. So yeah,
6 just curious if your thoughts on that.

7 **MS. URBAN:** You know, I think the staff are threading, it's not
8 one needle, its multiple needles trying to come up with an approach
9 that is privacy protective, that doesn't have too many big
10 loopholes that one could drive a truck through as we've talked
11 about earlier today. But that also is reasonable, and I think you
12 can construct this in a number of different ways. I am not as
13 concerned as you Mr. Mactaggart. So first of all, let me just back
14 up and say, I think it is devilishly difficult to try to define
15 like what technologies we are talking about here. And staff have
16 dealt with that by first defining what even is the kind of decision
17 that would be covered. And I think that they've been very
18 thoughtful about that. So there are the thresholds of what business
19 is covered by the CCPA. There are thresholds of the definition of
20 the relevant technology, which Mr. Mactaggart, I take your point.
21 I'm just, I'm not sure how you find the right thing without losing
22 technologies that are absolutely being used to make significant
23 decisions about people or are key components of a decision about
24 people that affect them deeply. And then, it's only then that you
25 get, you have all of these nested requirements, which I read as an
26 attempt to create a safety net for consumers, but that also leaves
27 out a lot, we could have debates, Mr. Le and I could have debates
28 about like which ones we think should be covered, which kind of

1 decisions, what kinds of activities, what kinds of technologies.
2 But what staff have done have created like an entire system that in
3 my view, this also tends to feel like it has more loopholes than it
4 did last time. And some of them I am somewhat skeptical about. But
5 I would like to see what kinds of comments we get about this
6 because it's very carefully constructed. And I don't mean that it
7 can't be revised, of course it can be revised. But I think that
8 every time you focus on one definition, you are missing part of the
9 picture and you have to look at the entire system together.

10 **MR. MACTAGGART:** Well, I think I've been focusing on the same
11 definition since December, and I didn't like it then. I don't like
12 it now. I really...

13 **MS. URBAN:** My point is just that other things changed around
14 it as well, so that how these regulations apply and what they apply
15 to, and when you get an opt out to Mr. Le's point, like what the
16 actual requirement that attaches is, if it applies to you have
17 changed and they have been reduced sort of as a whole. I think the
18 definition also has been narrowed, although I recognize, not
19 narrowed in the way that you are proposing, but I think what's
20 really important is all of the other things that were revised
21 around it, if that makes sense.

22 **MR. MACTAGGART:** Yeah. I just, I mean, when I look at it, I
23 think you've got two standards out there, GDPR at Colorado for the
24 one which we talked about in December. And I feel like ours are in
25 a dramatic different direction. And even just the fact that our
26 legal effects include access to, as opposed to denial or provision
27 and what's access to the stuff. Is it, you see an ad? Is it if
28 there's a bank on your corner? I mean, these things are, I think

1 that this is overbroad and I dislike the concept of saying that
2 we're everything, and then we have a large bunch of exceptions
3 here, as opposed to saying, let's tailor this to the issue and
4 which I don't think we've done. So I don't want, I can go through
5 every...

6 **MS. URBAN:** What would be your?

7 **MR. MACTAGGART:** I think that Colorado approach is actually
8 much simpler.

9 **MR. LE:** I mean, our approach with the human appeal exception
10 is essentially very close to the Colorado approach. I don't know if
11 staff could.

12 **MS. DE LA TORRE:** I cannot believe that Colorado addresses
13 training uses of ADMT, profiling for behavioral advertising, public
14 profiling, and definitely not work or education. Where I do agree
15 that we need protections for workers, but that's outside of the
16 scope for Colorado.

17 **MR. LE:** I think the definition of profiling is, well, should I
18 just kind a give to Neelofer or Kristen, you...

19 **MS. SHAIKH:** Oh, sure. Yeah. So Colorado's statute, it does not
20 actually address automated decision making technology. It only is
21 focusing on profiling in furtherance of legal or similarly
22 significant effects. The CCPA delegation specifically says, access
23 and opt-out rights to ADMT, including profiling without necessarily
24 that limitation. That is why we had addressed those additional
25 thresholds in December. And apologies that there was confusion on
26 our part. We had thought that there had been board support for
27 things like profiling, for behavioral advertising, being in scope
28 or in the training uses being in scope. But if there's a board

1 consensus, please let us know that I apologize if we've misheard
2 what the board was saying in December.

3 **MS. DE LA TORRE:** And to be honest, I was not going to whether
4 we should include them or not, but to the point that aligning with
5 Colorado will not include a lining on those items that Colorado has
6 not ruled on.

7 **MR. LE:** Sure. But you know, how Colorado's defined profiling
8 encompasses all these significant decisions. So that's the big one
9 that captures your concern Mr. Mactaggart and then their way of
10 doing the opt out, as far as I understand it is, yeah, if you have
11 a human in the loop, then you don't have to listen to the opt out,
12 essentially ours is the same thing. If you have a human appeal,
13 then you don't have to do the opt out. So I don't think it's that
14 different, but maybe if you talk about the other stuff work in
15 educational public perhaps, but this human appeal exception, plus
16 the significant effects to me reads very similar to Colorado.
17 Because that covers ADM, well processing that includes profiling
18 that implicates legal or sign decisions. So I see them as actually
19 quite similar. I think our difference is you need to have an appeal
20 option versus just having a human in that process somewhere.

21 **MR. MACTAGGART:** And to your point, I think profiling Colorado
22 does cover ADM because it covers it in the context of profiling.
23 And so that's where when you look at the wording in 185, A16, and
24 the definition of profiling, which is taken from GDPR and then this
25 definition of profiling, which is actually larger in these
26 regulations, then either the GDPR or the Colorado definition of
27 profiling. And I think there is a difference in architecture
28 between saying, you know because at the outset of Colorado says

1 there's only this much information, and we say it's this, but then
2 there's this appeal process. And I think that does make a
3 difference. So I think, look, I understand it's a difficult process
4 we're going at, but I think what you're going to end up on the risk
5 assessments is every business is going to have to do a risk
6 assessment. And I think...

7 **MR. LE:** Every business over \$25 million and using ADMT to make
8 decisions. So I guess that is the question.

9 **MS. DE LA TORRE:** But it's not only significant decisions.

10 **MR. LE:** Significant decision.

11 **MS. DE LA TORRE:** I think that the threshold to be fair, is not
12 only on the revenue of the business, but there is also another
13 threshold based on number of records, right? Like even if you don't
14 have that revenue of 25, so long as you have a certain number of
15 records that will trigger the obligation.

16 **MR. LE:** Yeah. My view is most of these significant decisions,
17 right? Insurers, banks, I don't know too much about specific
18 housing decisions. They do have risk management. They have
19 governance teams already doing risk assessments. And I think the
20 use of my data to make a decision about me if that is incorrect or
21 an accurate or biased, that is a risk of my privacy. And these
22 harms should be addressed in a risk assessment. And I think that is
23 how I read the statute. And I think that these draft regulations do
24 get at that. I don't think we should be letting companies process
25 data to make really important decisions about us, and they don't
26 have any obligation to make sure those decisions are accurate. So,
27 I think despite the fact that there's large exceptions here, I
28 think requiring the risk assessment and some form of opt out, even

1 if it really just means you get that human to review that decision
2 is what Californians deserve in the context of significant
3 decisions. And to your point, that access to essential
4 opportunities may be too broad. And that could be an item that we
5 address in the next draft or ask for comment on. Because I do
6 think, yeah, maybe whether or not you see an ad, does there have to
7 be an opt-out there? So I do think maybe there's some tweaking we
8 could do, but in general, I think the structure that staff have
9 created is not too far from what Colorado has and generally
10 encourages human appeal and that responsible use of these
11 technologies.

12 **MR. MACTAGGART:** Well, I think because ADM is basically any, it
13 includes substantially facilitating human decision making, which
14 means using the output of a technology, a key factor in a human's
15 decision making. That means every time a human is looking at
16 software output, we're talking about human, we're talking about
17 significant decision.

18 **MS. URBAN:** Significant decision, not every decision.

19 **MR. MACTAGGART:** But a significant, so owes only the housing
20 financial, education, criminal justice, employment, compensation,
21 healthcare, essential goods and services. You're talking about the
22 economy. So I feel like what we're going to end up doing with the
23 risk assessments is saying everybody who's involved in it, and by
24 the way we're talking for the risk assessments is what's the nexus
25 is privacy and what's the threat to the privacy? And now we're all
26 focused on the fact this ADM, but ADM actually might be more
27 privacy concern, preserving. We just don't know what we're really
28 worried about in A15, in 15 is the privacy and how does this impact

1 on the privacy?

2 **MR. LE:** I see the use of data to make a decision about me as a
3 privacy harm to that extent. But those decisions, those significant
4 things that you've all mentioned are the economy and isn't that
5 where we need to have considering the racial wealth gap in
6 California considering bias in these systems? Isn't that where we
7 should have stronger rights as Californians to know how these
8 decisions are made and to make sure at least there's some
9 requirement that these decisions are accurate? So that's why I
10 think, yes, it is covered a lot of the areas that are important to,
11 especially folks that are trying to move up the ladder and have
12 felt, kept out of the conversation, have felt that these systems
13 have been biased against them. I think California being like,
14 alright, we'll make sure these systems work for you or there's some
15 process in place actually helps businesses in a way because it
16 allows them to identify problems and hopefully leads to better
17 decisions.

18 **MR. MACTAGGART:** Well, I think we're getting very far appeal
19 from privacy. I, look, no one's going to argue that we need to have
20 a more just and equitable society, but we're talking about privacy.
21 That's what the statute says here. So with respect to risk
22 assessments is are you doing something, are you processing
23 information in a way that is going to hurt consumers' privacy? We
24 already have in the regulation 702, 703, 704, the requirement that
25 the, I get to see my information, I get to see what you're basing
26 it on. I get to correct it if it's wrong, I will be able to get
27 information here about the logic. But the question really is,
28 especially for small businesses, the question is, is the software

1 that you're using, what if you're buying software off the shelf for
2 some business how is that hurting the privacy of the consumer that
3 you're talking about? And so...

4 **MS. URBAN:** The [Inaudible 03:25:21] of what you're doing
5 depends on the person's personal information, which is the center
6 of the statute. I think we could certainly, and I'm sure we do have
7 a range of views as to what constitutes a privacy harm. But the
8 statute is focused on personal information, and the use of personal
9 information, personal information by itself presumably has no
10 valence whatsoever. It's when something happens with that
11 information that we have the risk of a privacy harm. So I'm not
12 sure we're going to be able to reconstruct what exactly is a
13 privacy harm here. I completely take your point, Mr. Mactaggart,
14 that you think this reaches too far. I take Mr. Le's point that if
15 this is the way the economy is working in these really important
16 areas, and it all turns on personal information, we need to be able
17 to apply this to those kinds of harms because you see them as
18 privacy harms. I think those are both reasonable positions. I think
19 the statute does direct us to create an opt out. It directs us to
20 include profiling, the staff have defined profiling just as it was
21 already declined in the statute with some additions to help the
22 whole entire framework comport with the plan. I do understand that
23 not everybody likes a construction that has exceptions. But again,
24 I think they're trying to balance all of these different questions
25 and interests in a way that will not end up in either something
26 that reads on every technology. And I would look for input from
27 those who are deploying these technologies when we get to public
28 rulemaking to hear exactly about implementation. And that does not

1 leave, does not, do not become a dead letter because they don't
2 actually apply to the kind of technology and the kind of decisions
3 that affect people's lives. Yes. Mr. Worth?

4 **MR. WORTH:** I'd just like to hear staff's reaction to this
5 conversation.

6 **MS. SHAIKH:** Yes. On the risk assessment obligations, I think
7 one point of clarification that might be helpful of what Colorado
8 does, and again, we're the, agency's delegation is a bit broader,
9 but under Colorado's risk assessment requirements, at least my
10 understanding is that a risk assessment in Colorado would be
11 required regardless of the level of human involvement for profiling
12 and furtherance of legal or similarly significant decisions. And so
13 their, although their opt-out framework has an exemption, I believe
14 their risk assessment requirements, they call it, I believe, a data
15 protection assessment. But generally the same type of concept would
16 apply regardless of the level of human involvement. And I'm sure if
17 I'm incorrect about that, we will get a public comment.

18 **MR. MACTAGGART:** But it's caveated with a much a higher
19 standard in Colorado for the highly, I can't remember the word, but
20 they have a higher standard for that risk assessment.

21 **MR. LE:** Isn't it using profiling or semi legal, semi
22 significant effects?

23 **MS. DE LA TORRE:** I think the threshold, I think Mactaggart is
24 talking about the threshold. So I think the organizations are
25 subject to the obligation.

26 **MR. LE:** As far as I understand it, and please correct me if
27 I'm wrong, it's processing with profiling with legal standing
28 effects that attaches a risk assessment, right? No?

1 **MS. DE LA TORRE:** No. I think that you have to have some form
2 of high risk, like fear and...

3 **MR. LE:** Oh, they have something defined. Oh, yeah. Have higher,
4 they have a higher risk.

5 **MS. SHAIKH:** So theirs is, sorry, I have it up in front of me.
6 So rule 9.06, and I'm sure this is very boring for everyone who's
7 listening, but, so yes, processing of personal data for profiling,
8 if the profiling presents a reasonably foreseeable risk of unfair
9 deceptive treatment or unlawful disparate impact, financial or
10 physical injury, a physical or other intrusion upon the solitude or
11 seclusion or private affairs or concerns of consumers, if the
12 intrusion would be offensive to a reasonable person or other
13 substantial injury. So it's actually a bit broader in some ways.
14 One thing I'll flag is rule 9.06B specifically says profiling under
15 CRS6113092A and covered by the required data protection assessment
16 obligations includes profiling using solely automated human
17 reviewed and human involved automated processing. So at least my
18 reading of that was that regardless of the level of human
19 involvement, if you are using it in furtherance of illegal or
20 similarly significant decision as defined under the Colorado law,
21 you would be conducting a risk assessment. Again, if I'm wrong, the
22 public will likely jump in and let me know.

23 **MS. DE LA TORRE:** We appreciate all of the work that you have
24 done, and we know we are kind of putting you on the spot here, but
25 what I'm referring to is not the rules, but the statute, the
26 Colorado of the statute says that these only are trigger where
27 there is, I think unfair or deceptive practice. I mean, there is a
28 list. It's not the list that you have. Could you help us by finding

1 that? Because that's a limitation that's in their statute, not in
2 their rules.

3 **MS. SHAIKH:** Oh, yes. I'm reading the rules that clarify the
4 statutory obligation.

5 **MS. DE LA TORRE:** But let's read the statute.

6 **MS. SHAIKH:** Absolutely. I will pull that up and I'm happy to
7 refer to it, if the board wants to continue the discussion and then
8 when we have—

9 **MS. DE LA TORRE:** I appreciate it.

10 **MR. LE:** Yeah, Miss, isn't the effect, even if those are the
11 clarification, the effect is if you know that their obligations are
12 substantially similar to these obligations here. No? Of that
13 language, there seems to imply that businesses in Colorado who
14 profile to make some like legal or semi significant effects have to
15 do a risk assessment. I don't think Californians should have lesser
16 rights and obligations.

17 **MS. DE LA TORRE:** I do. Oh, 100%. That Californian shouldn't
18 have less rights than Colorado. But I think that the discussion is
19 kind of where that possible.

20 **MR. LE:** Sure.

21 **MR. WORTH:** But Mr. Mactaggart, so your point though is the way
22 you read it's too broad. Let's put Colorado aside for it. If we
23 determine that theirs is the same as ours, is that going to, I
24 mean, isn't the question I was really asking staff is, can you
25 respond to your concern? That's too broad. Some people here think
26 it isn't. I'd like to hear what staff's view is on that point.

27 **MR. MACTAGGART:** My point for Colorado is more on the ADM side
28 of things. I think our...

1 **MR. WORTH:** I'm going back to your software con. You made that
2 back in December.

3 **MR. MACTAGGART:** Yes.

4 **MR. WORTH:** So, and this came up when I went through all my
5 questions with staff before the meeting and that, I triggered that
6 conversation from December in my head. But can you respond to that?
7 Why do you, or do you disagree with the that reading? Because I
8 like to hear your point.

9 **MS. SHAIKH:** Absolutely. I think for us, it was really
10 balancing, again, like what is meaningful consumer privacy in this
11 space with respect to automated decision making technology and
12 profiling? And one of the things that we've heard, of course, is
13 the concern about the use of ADMT for these types of significant
14 decisions. We did consider how GDPR approaches this issue. We also
15 heard concerns about limiting it to solely automated. We also saw
16 how Colorado approached the issue. And we think that what we have
17 now balances these different approaches, essentially ensuring
18 meaningful opt-out options for consumers with meaningful
19 exemptions. We don't think that the exemptions are too broad or too
20 narrow. We think, as you'll see, one of the pieces of feedback that
21 we had gotten in December was to tailor the exceptions to each use
22 case. And so that's what we've tried to do here. And so we don't
23 think it's necessarily too broad, but if there are specific
24 concerns about the breadth, so for instance, the use of the word
25 access to, that's something that is some, it's something we can
26 either resolve before formal rulemaking or resolve as part of the
27 formal rulemaking process. If there are specific concerns or
28 recommendations like that to help tailor it a little bit more, we

1 are more than happy to take that feedback if there's board
2 consensus on that issue. I will acknowledge we've heard that the
3 definition of ADMT is too broad. We've also heard that it's too
4 narrow. And so we've really tried to balance it. And one of the
5 things that we tried to do to address the concern that this is in
6 capturing all software, is to include that exemption that we have
7 seen in similar frameworks of this does not include spreadsheets or
8 calculators. You can't use those technologies to circumvent the
9 requirements. So don't build a formula in a spreadsheet that
10 determines automatically who gets terminated. But if you're using a
11 spreadsheet to organize information, that should not get captured
12 by this definition. And we think that exception is meaningful, and
13 it does respond, I think, to a lot of the public comments that we
14 got, which was we don't want calculators, we don't want spell check
15 as part of this. And that's why we added that exception to really
16 help sure, make sure that these very basic data processing tools
17 that businesses are using are not inadvertently swept in, I think,
18 the formal rulemaking. To the extent that there should be more
19 types of tools that we just have not seen yet added, we can hear
20 from businesses who are using them to potentially expand that. The
21 other thing that I will say is it's not necessarily that any
22 software is captured. It has to be used in three instances. It has
23 to have replaced human decision making. It has to have executed a
24 decision itself, or it must have substantially facilitated it. And
25 we define that for now as a key factor. And so it's not that you
26 just happen to use any technology to help you make the decision. It
27 really should have played a very meaningful role as part of the
28 decision. That's how we were trying to balance this concern of

1 there are these technologies that consumers are very concerned
2 about with respect to their privacy. At the same time, there are
3 technologies that businesses are using in ways that enable
4 efficiency and benefits for consumers. And we would try to have the
5 ADMT definition kind of address these two, what we don't
6 necessarily think of as rival concerns, but really to harmonize and
7 bridge that gap to make sure that really the technologies that
8 consumers are most concerned about, when they're used, again, only
9 in these limited instances of significant decisions, extensive
10 profiling, that's when they're subject to the risk assessment.
11 That's when there are meaningful pre-use access and opt-out
12 requirements. And again, to the extent that there's specific
13 concerns about breadth, if there's a board consensus on that issue,
14 that really helps us, because we really don't want to swing too
15 hard in one direction and then swing too hard in the other. We're
16 really trying to figure out what is an appropriate middle ground,
17 and this is where we would really appreciate board consensus on
18 these issues.

19 **MR. MACTAGGART:** But that definition would include a comp, a
20 credit report. I got a credit report. That's a key factor in me
21 making a decision about whether to grant a loan. And all of a
22 sudden that's ADM.

23 **MS. SHAIKH:** One thing I'll actually acknowledge here, and this
24 is why we included this, is the CCPA does have an exemption for the
25 fair credit for processing, sorry, for information subject to the
26 Fair Credit Reporting Act, because we know that there could be
27 confusion about how these exemptions apply. That's why we included
28 that specific exemption in.

1 **MR. LE:** And I'll just note, there's already a regulation SR
2 11-9 from the federal, which agency. But that requires quality
3 control standards, essentially a risk assessment in for financial
4 institutions, right? So they're already doing risk assessments even
5 if there may be exceptions for those institutions in our, I don't
6 know actually, but yeah, those risk assessments are already
7 happening. I think California is putting in with this draft was
8 putting in this requirement that financial institutions are already
9 doing, but now maybe fintechs that aren't regulated should be doing
10 that. So everyone's competing on a fair playing field. And again,
11 most regulated businesses that are making over \$25 million, making
12 these types of decisions, as far as I understand it, are doing risk
13 assessments. And if they're not, they're opening themselves up to
14 some harm potential risks.

15 **MS. DE LA TORRE:** I just wanted to go back to the definition at
16 the end where we have that automatization technology does not
17 include the following technologies. And that's where web browsing,
18 no web posting, domain registration, networking, caching websites,
19 it's listed like calculators, databases, spreadsheets are not
20 included. But I was really confused about the example that comes
21 after, because it says, a business must not use these technologies
22 to circumvent the requirement for automated decision making
23 technologies for in these regulations. I understand that, but the
24 example is a business use of formulas without qualification
25 formulas in a spreadsheet to determine which employees it will
26 terminate, constitutes automated decision making. I use a
27 spreadsheet just to figure out how to grade my students. Because
28 it's like 70% the grade and then 30% the participation. Am I using

1 the spreadsheet because it's a formula? I mean, it, I'm adding and
2 I'm calculating the percent, I mean, I'm a lawyer, I'm not a
3 mathematician, so I need that help. Could you talk about maybe
4 whether this example could be made more clear? I don't think you
5 met any formula in a spreadsheet. Like it has to be a fairly
6 complicated formula to constitute automated decision making
7 technology.

8 **MS. URBAN:** I think the key is how I would interact with your
9 decision.

10 **MS. DE LA TORRE:** But if you drive my decision, it literally
11 drives my decision on how to give the student an A or a B, I think,
12 I mean, that's how I go by.

13 **MS. URBAN:** I think your decision is driven by the standard
14 that you're applying, and the spreadsheet is just doing the math.

15 **MS. DE LA TORRE:** But it says here, if I use it to calculate, I
16 mean—

17 **MR. LE:** Well, I've worked on legislation with a similar set of
18 exceptions. And to your specific situation I don't think you would
19 meet the threshold. So you wouldn't have to do any of those things
20 first off. But, secondly I've worked on this list of exceptions and
21 different legislation and some of that has passed. And the idea is
22 you can build an entire automated decision system within Excel,
23 right? You can take thousands of data points, put it into a
24 formula, you can uphold machine learning techniques all run through
25 Excel. So I do think that this is a very tricky, tricky situation.
26 But the spread, I understand the example of being like, you can't
27 get around this by building an entire machine learning system
28 within a spreadsheet and then instead of just purchasing one, which

1 would be regulated and just laundering it through.

2 **MS. DE LA TORRE:** Yeah. I think we're saying the same thing.
3 I'm just saying here should, let's say the use of a formula,
4 because it's not just a formula, what you're describing is a very
5 complex formula. Not my adding 70%, but 30%, right? So maybe we can
6 help with clarify that.

7 **MR. LE:** Yeah. Like, not calculations, but actually that's a...

8 **MR. MACTAGGART:** Yeah. I think this discussion right here is
9 the crux of it. The way the world works is today people get input
10 from software and then they make decisions. And what we're really
11 concerned about is where the machine is doing it all without any
12 human input or anything human review. And you want to know if
13 that's happened. Did I not get a loan because the machine decided,
14 the algorithm decided that I wasn't loan worthy? And then you want
15 to be able to go appeal it. But right now, our definition is if
16 you're a human, even if you're spending a lot of time deciding on
17 whether this person should get the loan, you're looking at all
18 these outputs. That's ADM. And I just think it's crazy that we
19 would architect it that way and then have an exception to this
20 hugely all-encompassing rule. Well, it's, I can't possibly support
21 that.

22 **MR. LE:** I guess the issue is how do we narrow the rule? And I
23 think that really points to, we've been working on this for years
24 and narrowing the rule isn't easy. And I think that kind of points
25 to the need to get public comment from businesses on, okay, fine,
26 like, this is capturing too much. What are your suggestions,
27 California businesses, consumers, on how do we properly draw the
28 line between innocuous use or substantially facilitation? And that

1 isn't easy. I don't think us turning our wheels here is going to be
2 able to solve that. I've been seeking input on this from industry
3 for three years on this exact issue. And you know, haven't I rarely
4 get language when I do get language, it's stuff around mean as long
5 as there's a human meaningfully making this decision or it's a
6 controlling factor. And those raise up similar questions. But I
7 think this whole debate kind of points to the fact that, hey, let's
8 put this draft out there. Let's get the feedback. And if people
9 come in with a better way to properly draw that line, I'd be happy
10 to change the language. But I don't see how delaying this for
11 longer and just having it between us is going to help us get to
12 that ideal language.

13 **MS. URBAN:** I think I had two themes in my comments in December
14 and possibly in September. One, again, was to look at the risk
15 versus the cost. And the second was to go as far as staff
16 reasonably can with research and input that they have received. And
17 I think they've gone quite far. And then to find ways to get the
18 specific input from the stakeholders who are using this variety of
19 systems. I fully agree that I just don't feel equipped to try to
20 parse this definition. I do think it is contained, it's sort of
21 caged within all of the other requirements for this to apply. And
22 we've gotten feedback that now it's too contained and it is
23 actually going to leave out very significant effects on
24 Californian. So my feeling about this is we have a range of views
25 as a group, as a board, probably about how extensive we would like
26 these regulations to be. We have a range of views about the risk of
27 overprotection or under protection that we see in the rules, and we
28 read the language accordingly. And in my view, that means that this

1 is in a place where we need to get formal public input to help us
2 work through those things.

3 **MR. MACTAGGART:** I agree.

4 **MS. URBAN:** De La Torre?

5 **MS. DE LA TORRE:** No, go ahead.

6 **MR. MACTAGGART:** Well, I actually think I'm, again, I come back
7 to the fact that I think for the automated processing, I think that
8 you may say that even though all the language in that section is
9 taken from GDPR and GDPR's focuses on, given the supers the right
10 to opt out of solely automated processing, and that maybe is too
11 far for people who they, well, they want to not have, make sure
12 that the people, that businesses are not using the word solely in
13 GDPR to get around some of this aspect. I do think Colorado's done
14 a better job at trying to draw that line as to where that the line
15 should be with respect to this, the use of the automation. And so
16 I, again, I think this is a massive definition here that is too
17 encompassing. And I think I don't think we should try to go out
18 there and say, okay, this is our first draft. I think we should,
19 I'm still the same opinion that I was in December. I think we
20 should cut this back to being in terms of risk assessments more
21 when keeping what the actual statute says. And I think
22 notwithstanding the fact that what Mr. Le's saying is important for
23 society, I just think we need to be careful that we're making sure
24 that that's what the statute says here. And then I think with
25 respect to ADM I would like to, my 2 cents would be to go back and
26 sort of say, look, what's a more a limited definition of ADM?
27 Because right now I think we're going to, I mean, we're basically
28 saying all software.

1 **MR. LE:** I think from a strategic perspective, and this is just
2 maybe rephrasing what you just said chair Urban, but it's easier to
3 put out a draft that maybe you think is too broad and then cut,
4 right? Because that lowers costs then to start with a narrow one,
5 get comments on how it should be expanded and not having, and that
6 balloons the costs. So I just think from a strategic perspective,
7 who participates more in public comment, its industry, right? So
8 they're going to tell us all the ways that this goes too far and
9 that will help us narrow if needed versus if we keep it too narrow,
10 we're not going to get as many comments. There's not, it's not many
11 resources on this, on groups that would like to expand it. So I
12 just think in terms of like a fairness and strategic perspective, I
13 think its okay to start broad. And this is already narrowed
14 significantly from the last draft. And then we'll get plenty of
15 comments on how to narrow.

16 **MS. URBAN:** I find that persuasive from a process perspective,
17 but I just wanted to point out Mr. Mactaggart, what I heard Mr. Le
18 saying, and from my own, less extensive. But some involvement in
19 these discussions. And over the recent past years, I don't think we
20 are going to get to a platonic ideal, that is that much better. And
21 so, as a matter of trying to figure out where, I agree with you
22 that if this is operating the way that you're concerned that it is
23 operating, then we should revisit it. I don't think that we have
24 the information to be able to do that right now. I think staff have
25 worked on this for months, and I think Ms. De La Torre and Mr. Le
26 worked on it with staff for years, two years.

27 **MS. DE LA TORRE:** I just want to point out that this didn't
28 come out of subcommittee with subcommittee approval. This is a

1 staff draft. I never, this is not a subcommittee draft. We worked
2 on it, but actually what was presented didn't have my-

3 **MR. LE:** I think I just go through show-

4 **MS. URBAN:** I have just a more general viewpoint about it,
5 which is that we could debate and tweak this for a very long time.
6 And we have and I hear what you're saying, Mr. Mactaggart, I have
7 my own like fault points in the way this operates. But there is a
8 question of timing and process and getting feedback from the people
9 who would be implementing it. And I just, I think we're there.

10 **MR. MACTAGGART:** Well, I don't and...

11 **MS. URBAN:** Yeah, I understand.

12 **MR. MACTAGGART:** And for me and I just to address something
13 that Mr. Le said about this is-

14 **MS. URBAN:** I'm sorry, can I ask you, how would you change it?

15 **MR. MACTAGGART:** So Mr. Le said, oh, aren't we fundamentally
16 the same as Colorado? Because as long as we have the human appeal
17 process, then you get to the same place. But no, Colorado says
18 you're not even covered. If people are involved in the decision, we
19 say you're totally covered, then someone has to, but you have to
20 have this process for, so we cover the universe, and then you have
21 to have this exception. They don't even have to worry about it. And
22 simplicity to me is much more important. And so I was-

23 **MR. LE:** You are covered. If there's a human involved, then
24 they opt out right. Means you deny the opt out, but you have to
25 provide all this access information in Colorado.

26 **MR. MACTAGGART:** You're already covered. And then in
27 California, you have to provide this method for the person to
28 appeal.

1 **MS. DE LA TORRE:** I have a comment that connect here..

2 **MS. URBAN:** Colorado has...

3 **MS. DE LA TORRE:** Which is the pre-use notice, right? Like, we
4 have a requirement for a pre-use notice. And to Mr. Mactaggart's
5 point, if our initial scope is really broad, we are going to
6 trigger a lot of pre-use notices. And my concern is, are they going
7 to become wallpaper? You're constantly notifying individuals of any
8 kind of system. It kind of loses value in terms of them even
9 identifying what's risky. So that's one of the thoughts that I had.
10 I know I'm moving it into a different piece of what is in the
11 regulations, but I think it's so interconnected to the conversation
12 that we were having that I thought it will be worth mentioning,
13 right? If you go too broad and you require, it's like, it's those
14 labels of this which might be contained elements that are known to
15 be considered or...

16 **MR. MACTAGGART:** 65, 65—

17 **MS. DE LA TORRE:** Like that's everywhere now. I don't read them
18 because it doesn't, it comes to a point where it just loses its
19 value if you go over broad on that.

20 **MS. URBAN:** Yeah. And Mr. Mactaggart, I didn't mean to put you
21 on the spot. I'm just honestly think that again, we could sort of,
22 if you have a magic way to fix it or you know, a way to fix it that
23 the staff and others haven't thought of. I am all ears. It's just
24 that we have collectively worked on it for a long time, and I feel
25 like input from those who are implementing it would be critical.

26 **MR. MACTAGGART:** So, I don't know the process, but for example,
27 I haven't talked to anybody since December. So there may be a you
28 know, I sort of expressed my concerns there. I see a draft in March

1 that's, in my mind, materially the same. I haven't seen anything in
2 between. So I know that we have Bagley Keene, we can't hash this
3 out, but we have to do it in public. But I do feel like this is an
4 extraordinary breadth, keep on saying,

5 **MS. DE LA TORRE:** May have another, not this topic that
6 connects to the regulations. And maybe we should talk about it
7 before we kind of decide how we solve for it. Will that be helpful?

8 **MS. URBAN:** I think so. Yeah.

9 **MS. DE LA TORRE:** Okay. Because I think that we already have
10 expressed, you know.

11 **MR. LE:** All our points on the, yeah.

12 **MS. DE LA TORRE:** Okay. So this one is about the training uses
13 for ADMT, the opt-out of the use of data basically for training AI
14 systems. And it connects with the overarching structure. But to me,
15 there's a very clear difference between thinking with data and
16 acting with data. And if we do not build systems that are enough
17 data, and then we might actually be building systems that are
18 defacto bias, right? And this is a rule that is, doesn't exist
19 really in Colorado, or I think there's a version of it now with
20 GDPR, but that distinction is really, really important when we're
21 thinking about California as a state where we have innovation. And
22 so my question was we received some email from Mr. Laird who keeps
23 us informed of things that the agency receives as comments. And one
24 of those emails contain something that I thought was really
25 important. And it was making the statement that our rules are
26 actually misaligned with Newsom's executive order on AI. And I
27 would like to hear from the staff what analysis has been done on
28 that, because I definitely wouldn't want to issue rules that are

1 misaligned with our own executive branch.

2 **MR. LAIRD:** I can take that one. We, can you hear me?

3 **MR. LE:** Yeah, please.

4 **MR. LAIRD:** Alright. Okay. We certainly are aware of in keeping
5 tabs on Governor Newsom's executive order, we've reviewed it,
6 reviewed it in comparison with our regulations. I'll just say from
7 a high level, I don't think there is any inconsistency. And..

8 **MS. DE LA TORRE:** But I mean, could you stare at the analysis,
9 just not your comments, but did you do any analysis that you can
10 share with the board that's more concrete than just your statement?

11 **MR. LAIRD:** Are you asking for legal analysis?

12 **MS. DE LA TORRE:** Well, some form of analysis, right?

13 **MR. LE:** I've worked on the, with the governor's office on the
14 implementation of the executive order, but perhaps if you want to
15 answer, I can answer after.

16 **MR. LAIRD:** Sure, sure. No, I would welcome, welcome that.

17 **MR. LE:** Yeah. So the governor's executive order, I think
18 you're talking about, let's promote innovation. That's one of the
19 parts of the order. But for the most part, the order is focused on
20 government and agencies and how the best our California agencies
21 can use generative AI. I do think there is a call to not harm
22 innovation but to the extent that in a technical sense, this
23 doesn't cover government, right? So that inconsistency isn't as
24 much of an issue, but the spirit, right? Are these rules harming
25 innovation? And I think that is a good question. I supported
26 putting in that ADMT threshold, I'm not wedded to it, but I would
27 like to see comment on whether or not letting people opt out of
28 ADMT is going to really harm innovation. I think there's a lot of

1 dignitary reasons why you wouldn't want your information in
2 generative AI system. We've seen text leaked out from generative AI
3 systems that they were trained on. So there are reasons that you
4 don't want your data in there. But the flip side is sure, you take
5 out one person from a dataset for gen AI, it's not going to really
6 change the dataset. If you had millions and millions of people
7 opting out, perhaps that would make it less accurate, especially if
8 there's one demographic that's all opting out. But I think this is
9 perfect thing to get comment on. But that to your original question
10 on a technical sense. No, they're not, they're not.

11 **MS. DE LA TORRE:** I just want to, I mean, I haven't read, I'm
12 sorry, I haven't read the revolution, so I don't know, it says, but
13 I have read the Biden executive order and I understand that those
14 executive orders are only directed to the government, but that's
15 because that's within the scope of what that administration can do.
16 However, they talked about the spirit of how the Biden
17 administration is looking at regulating AI in general. And it most
18 likely, we saw a law on AI that went beyond the government, that
19 administration will pursue similar goals, right. With that law. So
20 to me, the orders, even though technically they might not be
21 overlapping, they are very, very indicative of where the executive
22 branch wants to go. So what you are saying is that you don't see a
23 necessarily a conflict—

24 **MR. LE:** Not a direct conflict, right. Just in terms of the
25 language. This is talking about government, ours is talking about
26 private, basic.

27 **MS. DE LA TORRE:** Yeah. But I will forget that...

28 **MR. LE:** But yeah, in the spirit of, yeah, like how does this

1 impact innovation? I think that is a perfect thing that we should
2 get comment on. I know the actual impact of taking yourself out of
3 a dataset maybe isn't that much to the dataset, but it may mean a
4 lot to you. But is that worth potential innovation harms?

5 **MS. DE LA TORRE:** Let me ask this Mr. Laird, did we have a many
6 or any conversations with the GO office or was this just analysis
7 done individually by the agency around the idea of any conflict?

8 **MR. LAIRD:** I mean, we've spoken with the governor's office as
9 well as with some of the state agencies implementing the executive
10 order.

11 **MS. DE LA TORRE:** Specifically on the executive order and how
12 it will align with our rules. When did that conversation happen?

13 **MR. LAIRD:** Yeah, maybe three. It's hard for us to pinpoint on
14 them, in the moment, but within the last two or three months, yes.

15 **MS. DE LA TORRE:** But these rules were not out.

16 **MR. SOLTANI:** So we have spoken in, just given our role as the
17 expert agency and given a direction by statute, we have engaged
18 with gov ops who were initially implementing and ODI, who were
19 initially implementing kind of the framework of the governor's
20 order. And then once that, we also spoke to the governor's office
21 prior to the release of that order, and then we've brought follow
22 up conversations, have had conversations with Gov ops who are
23 actually administering the order across state agencies. So we've
24 had multiple conversations about our approach, had multiple
25 conversations with CRD and other agencies as you were actually
26 involved in some of those conversations as how they're thinking of
27 ADM generally. And I just want to kind of go back to some of the
28 conversation we've had that I just want to just highlight with

1 respect to, we've had conversations with Colorado and how they've
2 implemented their law, and what they think of our framework. And
3 ultimately I think the conversations we've had have repeatedly
4 pointed to the kind of strength and progressiveness of the
5 California initiative, which is our guiding light, essentially the
6 purpose and intent of the act, which is to protect consumer
7 privacy. And so, while I recognize that it has a harmonization
8 directive to make sure that we harmonize and that we give
9 consideration to the impact on innovation, the kind of the act is
10 the California Privacy, the California Consumer Privacy Act, right?
11 And it directs us to first and foremost look at how California can
12 be a leader in innovating both around technology, but also around
13 consumer protection. And so that's a lot of the conversations we've
14 had with other stakeholders have been around how we are in this
15 privileged position, and I just don't want to, I want to make sure
16 we don't lose that.

17 **MS. DE LA TORRE:** I appreciate the additional information, but
18 I am just unclear. So we have had conversations with the GO office
19 when they had the advantage of actually reading our test, and what
20 they have said to our test is that it's not aligned or is aligned
21 with this or were they conversations before they could actually
22 read our rules.

23 **MR. LAIRD:** We have had opportunities to brief them on even
24 this new version of these regulations. They have not commented on
25 what are—

26 **MS. DE LA TORRE:** Okay. So we don't have comments from, okay,
27 thank you. So I'm concerned about not having that conversation
28 before moving this forward, because it will be really unfortunate

1 if we had to reshape this based on any misalignment. I haven't read
2 the executive order as I said, but to me it's really, really
3 crucial that when we vote on this, we, both with the awareness,
4 that kind of internal input from other stakeholders and the
5 governor office been top of the list since, given the information
6 that we have besides, and the other thing that I wanted to say,
7 this has been said by others, the staff has done a tremendous job
8 in trying to get us where we are. I want to acknowledge two staff
9 members that are here, Mr. Laird working with subcommittee, working
10 with me, and everybody knows that sometimes I can be fiery. So I
11 just want to start by acknowledging that tremendous job that the
12 staff has done and regardless of the outcome of this board meeting,
13 kind of reassure them that we appreciate all of the work that has
14 been done. That said, there's two things that are in my mind. The
15 first one is scope. I appreciate everybody's comments on scope, but
16 I don't think that we see it in this board in the same position, in
17 the sense that there's one board member here who was the person
18 behind Californians for consumer privacy, who actually drafted the
19 law. So I will find it really, really hard to support any findings
20 of scope that don't have full support from Member Mactaggart,
21 number one, because he literally wrote the law. And number two,
22 because we are potentially facing litigation, and I think it will
23 be very, very challenging to successfully defend from litigation if
24 we don't come out as a board with five votes, one of them being Mr.
25 Mactaggart's voting. So I just want to be mindful that I'm
26 listening to everybody's idea what the scope will be or should be
27 of our delegation. But at the same time, for me, the words of Mr.
28 Mactaggart have a different weight because of him having not only a

1 role in the board, but also a role in drafting the law that we are
2 now trying to interpret. Go ahead.

3 **MS. URBAN:** Yes, Mr. Worth?

4 **MR. WORTH:** I mean, to start, I don't agree we need to be
5 unanimous at this stage. The whole purpose here is we're sending
6 this out to get, alright, we've been at this longer than I've been
7 here, okay? And we're not there. This proves. There's two people
8 here that are both experts in this field, and they are not agreeing
9 that the language, one says it works, one says it doesn't. We've
10 proven with working with staff, we're not going to get there. What
11 we can't do is just make a comment and say it doesn't work, and
12 then wait for the next meeting to say, oh, it still doesn't work.
13 So what I did is I went to staff to understand things. I got to
14 catch up here in between meetings, but I just don't believe we're
15 going to get there. This conversation I've heard on the limited
16 time I've been here, frankly too many times, I think it's time to
17 get out and get more expert opinions and then we can debate, okay,
18 I heard this, I heard that. What's the right answer? But we're not
19 getting there and it's time to move this to a wider audience, in my
20 view.

21 **MS. DE LA TORRE:** I hear you. But I am also concerned about
22 duplicating work for the staff, right? Like, if we move this
23 forward, we have heard that there's a lot of paperwork that has to
24 be based on this version. So if we were to choose to modify the
25 version two months from now, I'm assuming that we're going to have
26 to ask a staff to kind of redo the paperwork. So what's the wisdom
27 of getting the paperwork done when we might actually want to make
28 changes that will do...

1 **MR. WORTH:** But if you're talking about, that's a great
2 example. So let's, I don't know if that's accurate, but let's
3 assume it's, if we have two months of added time, it's a lot
4 shorter than the two years that we've been at this and not getting
5 to a place where we can finalize it. So I would take the two months
6 over another year of sitting and debating language.

7 **MS. URBAN:** I would also, may I just add a process point, I
8 mean, I think I've made myself clear in terms of how I'm thinking
9 about how staff have asked us to balance the chicken and egg issue
10 of the paperwork and hashing out the regulations more. Which is,
11 sorry, I've lost my point. Oh dear. Alright. Its 3:25. And I
12 apologize for that, but what, remember that board that the
13 regulations are in the hands of staff, meaning that board members
14 can, as Mr. Worth did, as I did as well give feedback to staff as
15 they, in between board meetings, we just cannot talk to one another
16 and staff cannot reveal conversations that they've had with us,
17 with them. And now I remembered my point, remembering what is put
18 before us today. It is to give staff permission to start putting
19 this into a formal package and doing that paperwork. It is not to
20 stop conversations with staff on feedback, nor is it to stop staff
21 from coming back and saying, you know what, this actually, we
22 actually realize that there does need to be a change, whether that
23 is input from Mr. Mactaggart or Mr. Le or from the stakeholders
24 they will be hearing from. This is a timing question in my view.
25 And I worry that we are beginning to, at this point risk both the
26 timing just extending, I don't know, indefinitely, and us not
27 actually having a guarantee that we will improve the text because
28 we don't have enough information. Which is not to say that that's

1 not the case. I'm just thinking that the better process for that
2 would be for Mr. Mactaggart and others to talk to staff
3 individually. Nothing stopped that happening by us releasing this
4 before.

5 **MS. DE LA TORRE:** I have a little bit of a concern about that
6 because I have been talking individually to staff for two years and
7 a half over one provision that I thought should be corrected. I
8 have been told multiple times that this is a problem of resources,
9 and I just found out in this meeting that the reason that has never
10 changed is because staff's opinion is different from mine. I
11 wouldn't want other board members to have to go through that. And
12 particularly on scope, I think it's really, really, really unwise
13 to approve anything as a board that doesn't have the full support
14 of the person that's sitting in this board who is behind
15 Californians for consumer privacy. Because if it gets litigated,
16 Californians for consumer privacy is likely to be one of the
17 parties that will be implicated in that litigation. So I'm really
18 concerned about whether we are placing ourselves in the best
19 situation to navigate that potential for litigation. And again on
20 the Newson executive order, I will be much more confident about our
21 alignment with it if we could say that the governor's office has
22 had an opportunity to provide feedback looking at the draft,
23 because we have to be mindful of other institutions. In Sacramento,
24 they're thinking about regulating AI. The governor's office has had
25 an interest on it. And I really think that to build our
26 relationships with those other agencies and institutions, it's
27 important to get that concrete feedback. And it might be go ahead,
28 but it could be also like you have to completely redraft this. And

1 if it's redraft, then why are we getting our staff to prepare a set
2 of paperwork that is really intense, I think from today until the
3 next board meeting, there could be opportunities. And I'm going to
4 advance one that I have been proposing for many years. So this is
5 to member Le and to chair Urban, this is going to sound like I'm
6 harping on my own. How about we create a subcommittee of the board
7 and allow that subcommittee to, from this meeting to the next
8 meeting, kind of work into this more concrete steps, which will be
9 make sure that we get feedback from the governor's office and then
10 maybe allow Mr. Mactaggart, I think should be a member of
11 subcommittee to have a more detailed conversation with the staff on
12 scopes that he can be satisfied that we are within the scope.
13 Because if we are outside of the scope, I think that we risk
14 dedicating months of work of the agency to an outcome that will not
15 sustain litigation.

16 **MS. URBAN:** So...

17 **MR. MACTAGGART:** I just want to say I don't think I'm that
18 special.

19 **MR. LE:** I was going to say, I think all our votes are equal
20 here.

21 **MS. DE LA TORRE:** All of the votes are equal, but I don't think
22 that we can ignore a fact.

23 **MR. LE:** But if you change the scope, then maybe I don't vote
24 for it. So it's...

25 **MR. WORTH:** One vote's not enough.

26 **MR. LE:** Yeah.

27 **MS. DE LA TORRE:** Right. But it's not this thing in terms of...

28 **MS. URBAN:** And I will say I like this creative idea, but I

1 think we are at the point where all board members should have an
2 equal voice, and that includes in between meetings. Mr. Mactaggart
3 is welcome to talk to staff, has been welcome to talk to staff. And
4 it seems that we have some fairly strong views about where we are
5 in the process on sort of both sides of that divide. Whether we are
6 ready to release it to staff to prepare for formal rulemaking,
7 knowing that it could change. I mean, I think we have a difference
8 in relative what we see as relative likeliness of big, big changes
9 probably. I just don't think any of us conflicted. But that's my
10 view. And I'm not going to impose my view in my sort of laying this
11 out. So I think we have, it seems like we have three people who
12 view the process as at a place for that step. And we have two
13 people who view it as not at that step. And I actually need to take
14 a break for five minutes. And I will, for five or 10 minutes?

15 **MR. LE:** Five minutes is fine.

16 **MS. URBAN:** Five minutes. But I think that's where we are, and
17 I think that's, I actually think that's a good place to be. I think
18 we've aired some useful substance and we've also figured out sort
19 of where we are on process. And now we need to figure out where we
20 go from here. Alright. Five minutes. We'll be back at about 3:35.
21 Thank you. Okay. Welcome back everyone. Its 3:42. Welcome back to
22 the March 8th, 2024, California Privacy Protection Agency Board
23 meeting. We are discussing agenda item number four, discussion and
24 possible action to advance draft regulations to formal rulemaking
25 for automated decision making technology, risk assessments and
26 updates to existing regulations. We have been having a spirited
27 discussion, and my job as chair, I view generally to, of course I
28 have my own vote, but also to balance folks' view and balance how

1 we handle the process and listen to staff and so forth. And this is
2 a tough one because I think that we have quite settled views on
3 process, and we also have differing views on some of the substance.
4 And as I think this through and think through where we are and how
5 we got here and where we might be going, my view is that we don't
6 have sort of a substantive directional change for staff right now.
7 We could possibly have a substantive directional change in the
8 future, but as Mr. Le pointed out that might mean that his
9 viewpoint changes such that the regulation, we have a disagreement
10 over the regulations a new. I think this is just a function of the
11 fact that this is a challenging area. It's an important area. And
12 once again, we are five very dedicated people with a staff that is
13 very dedicated and very expert, and yet we don't have all of the
14 information. So with all respect to everybody's viewpoints on both
15 of those topics, I am going to request, go ahead and request a
16 motion that we advance these rules as needed so the staff can
17 prepare the rulemaking package if they run into issues where they
18 think that it is a waste of time or resources to be working on
19 those, working on that paperwork, it will be, the ball will be in
20 their court. They're welcome to come back to us for a discussion
21 prior to a formal rulemaking package. We're not forcing it on them,
22 right. Mr. Laird, if we did this. Okay. Or at least I guess you'll
23 help me formulate a motion to that effect. But I'm just not really
24 seeing a way where I can completely kind of balance all of this
25 out. Other than giving the opportunity for things to move forward
26 like this and we have another discussion when the rules come back.
27 So I realize this is probably a situation where you know no one's
28 completely satisfied with my viewpoint, but that is my attempt. Mr.

1 Worth?

2 **MR. WORTH:** Chair, can I ask a question of staff, though to
3 help inform my vote. The issue of the G.O. office, can you respond
4 to me about whether that should be done before or could be done
5 during the draft process?

6 **MR. LAIRD:** Well, and maybe to begin, I guess I'm curious what
7 the expectation is because I just want to make clear I can't
8 control the governor's office, and if they don't wish to provide
9 further feedback or tell us one way or the other formally how they
10 feel about these regulations...

11 **MR. WORTH:** A hundred percent.

12 **MR. LAIRD:** I can't commit to anything in that.

13 **MR. WORTH:** And you either have or will reach out again.

14 **MR. LAIRD:** Absolutely. Absolutely.

15 **MR. WORTH:** Okay. That's fine. Thanks.

16 **MS. URBAN:** And Mr. Le?

17 **MR. LE:** Yeah, so I like the idea of just getting these out
18 there. I don't think more time is going to change any of our minds,
19 but I actually do think getting formal comment on improved language
20 could definitely change my mind, right? I have been wrestling with
21 scope for years and the opportunity to get a lot of stakeholder
22 feedback that isn't just folks that are popping into the
23 legislator's office would be very valuable to me in changing my
24 mind and perhaps aligning closer with Mr. Mactaggart's perspective.
25 I think we both want to make sure that the scoping is appropriate.
26 I'm not trying to, hurt businesses and I think one other thing is,
27 I have a couple other thoughts on the regulations. It's not going
28 to stop me from advancing them, but is now the good time to do it

1 in front of everyone or should I just talk to staff? I mean, I
2 already have shared those with staff, but.

3 **MS. URBAN:** Yeah, I mean, I guess in the spirit of the
4 conversation that we've had and the thinking about where we are, I
5 would probably, I mean, it's up to you, but I would probably
6 encourage you to share those with staff, now if you think that it's
7 something that as a group we could provide direction to staff here
8 efficiently, I will leave that up to your discretion, because of
9 course, you know what it is that you..

10 **MR. LAIRD:** Yes. I think there's just one thing and I would
11 like to get the thoughts of the board that I want to talk about
12 now.

13 **MS. URBAN:** Let me check this end of the table.

14 **MS. DE LA TORRE:** About.

15 **MS. URBAN:** Well, reactions to my, I mean, I know—

16 **MS. DE LA TORRE:** Include the thoughts that Mr. Le and if it's
17 helpful to..

18 **MS. URBAN:** Okay.

19 **MR. LE:** It's a small thing, one of my concerns is, we need
20 outside parties to be looking at these risk assessment abridged
21 versions. And my one thing is I understand not taking out some of
22 the language in the abridged version of the risk assessment because
23 it's maybe speculative on the basis of the company. One thing I
24 think that should be in the abridged version is at least companies
25 should list some of the safeguards that they put in place so that
26 folks will know that, alright, this company has tested their system
27 and these are the ways that it's protected. And I think that's
28 beneficial to consumers and maybe something that companies can brag

1 about. So I think that's just one thought that I would like to see
2 at least comment on, when we advance their formal rulemaking or to
3 include it and get comment on it.

4 **MS. URBAN:** Okay. Thank you Mr. Le, immediate reactions to
5 that. Do we?

6 **MS. DE LA TORRE:** Sounds reasonable to me. It sounds reasonable
7 to me.

8 **MS. URBAN:** It sounds reasonable to me as well, and Mr. Worth
9 is nodding. Mr. Mactaggart.

10 **MR. MACTAGGART:** Sure. I mean, sounds like these are all going
11 to change a lot anyway, so.

12 **MS. URBAN:** Again, I think our predictive meters are imperfect
13 and lack perhaps perfect accuracy, and we have slightly different
14 weights set on them.

15 **MS. DE LA TORRE:** I do have a request before we move into the
16 motion.

17 **MS. URBAN:** Yeah.

18 **MS. DE LA TORRE:** My poll is dependent on what I believe other
19 members might or might not do. And I'm the D, so I'm going to be
20 called to vote first. Can we have an indication of how other
21 members are leaning towards, of course, of their vote before we
22 call the vote?

23 **MS. URBAN:** Of course. Absolutely. But before we do that, I
24 just wanted to know if staff had any response, comments to Mr. Le's
25 proposed addendum?

26 **MS. ANDERSON:** Yes, considering there seems to be board
27 consensus on that issue, we can add the language in the bridge risk
28 assessment to include safeguards implemented. We would recommend

1 that any such language include a limited carve out for security
2 fraud prevention and safety consistent with how the ADMT and risk
3 assessment framework already take those into account, just so that
4 the information that they're providing would not compromise their
5 ability to control for those things. Sure.

6 **MS. URBAN:** Thank you. Great. Yes. Alright. Ms. De La Torre
7 wanted to just get a sense of the room.

8 **MR. LE:** I think we need to advance this. I don't think, as
9 I've already said, I don't think extra time is, without external
10 input is going to really change much.

11 **MR. WORTH:** I agree.

12 **MS. URBAN:** Okay. Thank you. I agree. I think extra time is not
13 as valuable as extra information. And Mr. Mactaggart?

14 **MR. MACTAGGART:** Well, yeah, I think we have the information we
15 need, which is in the statute and looking around the world, and I'm
16 nervous about going out with a very broad that I think is overly
17 broad set of rules here. So I'm not going to support it. It doesn't
18 mean I don't support the people who've done lot of the hard work,
19 so thank you. And I will make a point now of trying to make some
20 appointments to talk to you all about this in the next little
21 while, but I'm concerned that the scope of this is overly broad and
22 I feel like we are straying from what the text says, but that's the
23 point.

24 **MS. URBAN:** Thank you. Mr. Mactaggart. Understood. Ms. De La
25 Torre, is that helpful?

26 **MS. DE LA TORRE:** Yes. I mean, give, should I express my...

27 **MS. URBAN:** Of course.

28 **MS. DE LA TORRE:** Okay. So given what I just heard from Mr.

1 Mactaggart, my inclination is to not support in terms of the vote
2 right now. And I think it's extremely unwise to try to move this
3 forward with two votes against and potentially duplicate the work
4 of the agency. I'm going to propose again, what I mentioned before,
5 which is this, delay this by two months, create a subcommittee that
6 includes member Mactaggart and maybe another member. It cannot be
7 me because I'm hoping to step down between now and then it, but
8 perhaps member Worth who has that connection with the G.O. office
9 and maybe can secure some kind of essential feedback on how they
10 see us as we are right now. I think that it says at two monthly
11 that in reality can save a lot of work for the agency and maybe a
12 proposition that we can have five votes to support as opposed to
13 trying to move this forward on a three to two vote. We are likely
14 facing the litigation on the scope. We have had comments every time
15 we discuss this on your out of scope. Last time we were here, there
16 were at least three law firms that got on. Well, maybe I'm
17 exaggerated, but I remember law firm saying, you are out of scope.
18 So I'm not comfortable with moving a package forward that we have
19 so much feedback saying is out of scope and where, member
20 Mactaggart is voting against because in his opinion, we are out of
21 scope. Does that change the opinion of anybody else in terms of
22 where they're leaning with their vote?

23 **MS. URBAN:** I really appreciate it. I think we just have
24 different viewpoints on what would actually help us get to the best
25 answer in terms of a process. I will comment on the subcommittee
26 thought which is an attractive one, but again, I do think that we
27 should have the ability for each board member to talk to staff and
28 we put it back in a subcommittee. We don't have that. And

1 currently, Mr. Mactaggart, Mr. Worth, Mr. Le, you and I could talk
2 to staff individually, so I think that's the better place to be
3 there. You know, I think staff have let us know what they think
4 about their need to start working on the package. Again it doesn't
5 mean anything's decided. So I think we just have a different sense
6 of the relative like, risk of getting this right as a process
7 matter. This is in no way to diminish the viewpoint. I think it's
8 just we've got to figure out how to move forward on this problem,
9 and we have slightly different viewpoints on how to do that.

10 **MS. DE LA TORRE:** Are there other reactions for the program?

11 **MR. WORTH:** Yeah, I just think the way I think you're viewing
12 moving this forward, I know it's a term we keep using. In my view,
13 all we're doing is getting more feedback, and I'm at a place as the
14 youngest member here, not the youngest. Sorry about that.

15 **MS. URBAN:** You might be.

16 **MR. WORTH:** The oldest member. Oldest member. I just don't feel
17 comfortable that we're going to make any progress because we
18 haven't, and this is not going to be effective to wait two more
19 months because what about two months ago? It was December when this
20 was brought up, and now we're here and it's March and people aren't
21 happy, some people are, some people aren't. So let's get some more
22 feedback. Let's have somebody else give us input as to why that
23 scope's too broad and then we can all understand a different
24 viewpoint than the ones that we're working with now, I think
25 staffs, I don't know how staff could react to two different views
26 on the same language. I don't know what you would do. And so let's
27 get a third or a fourth or a 30th. So I don't think moving forward,
28 that to me sounds like we're making a decision to bless something.

1 I'm asking for feedback from stakeholders. I'm asking for people
2 that are concerned about these regulations to give us their input
3 in a very formal process. That's what I'm looking for.

4 **MS. DE LA TORRE:** So I just want to say that we have received
5 feedback multiple times in the past, and the consistency in the
6 feedback around scope is something that I have been very aware of.
7 And so I don't think that that's going to go, that's going to go
8 away. I think that we are going to get the same feedback that we
9 have been getting, which is your regulations are out of scope. I
10 think it's highly likely that these regulations will be litigated
11 whether we tailor them better or not. And I will prepare from the
12 perspective of having to face litigation to come out of these with
13 five votes from the board. And plus there is the issue of starting
14 paperwork. I mean, the whole thing with voting the forward is to
15 enable the agency to start doing paperwork, right? So why about we
16 could do allow the proposed revision to move forward, which will
17 enable the agency to do all the paperwork for it, and hold back on
18 the risk assessments for two months so that we can hopefully come
19 back with a draft that gets the support of all of the members and
20 actually has for sure the impact of having heard the opinion of the
21 G.O.. I just think that it's a reasonable delay to get the possible
22 much better outcome for us moving down the road on litigation.

23 **MR. WORTH:** Is the, again, I think its California, you just
24 said it. I agree with you. It's going to get litigated regardless
25 of what the language says, right? Somewhere, some amount. The vote
26 three, two today isn't the meaningful vote, the vote 5-0, once we
27 are ready to adopt is the meaningful vote. That's where I would be
28 concerned.

1 **MS. DE LA TORRE:** Right. But I...

2 **MR. WORTH:** And listen and sorry, but just to finish. There's a
3 lot of other people in the G.O. office only, there's a lot of other
4 feedback we need, so we can't start to get that until we get this
5 out. I'll make sure if I have any ability to do that, to support
6 you trying to get response from them. But they may not, and maybe
7 other board members have views in this, they may not want to jump
8 into this. They may just be so focused on their own process and
9 implementation that they don't need another place to be worried
10 about. I mean, that's a pretty common and realistic potentially
11 outcome of their view on this. But we will make sure we reach out
12 and get that in, but why not have that come out with everybody
13 else's feedback over the next number of months, you know?

14 **MS. DE LA TORRE:** Well, what I'm saying is you can save is
15 staff time.

16 **MS. URBAN:** I think staff has told us though...

17 **MR. WORTH:** This is what they want.

18 **MS. URBAN:** What their preference is and as a matter of
19 process. And so you know, all things being equal and we do have
20 different views. I weigh what their request is and trust them on
21 that. And again, like if things change a lot, I'm sure as long as
22 we formulate it properly, the motion, they can set aside the
23 paperwork, right? So I think though it sounds as though we do have
24 some consensus on the update rules at this point. Is that right?

25 **MR. LE:** Yeah, just quick point and just saying this because if
26 this comes up into a court transcript later, I think this is within
27 scope of the institute. And I also think a lot of the organizations
28 that say it's not, they have a vested interest in finding that it's

1 not in scope. And that's just one side of the story. And I think
2 when we do the statement of reasons and we get that paperwork done,
3 that'll help us guide our thoughts on whether or not this is within
4 the scope and justified by the statute.

5 **MR. LAIRD:** I'd like to second Mr. Le's assessment.

6 **MS. URBAN:** Thank you. I would also just like to be very clear
7 that I'm valuing everyone's input here. And looking forward to
8 further substantive discussions in my view backed up by information
9 from outside the sources we've had already as well as more thinking
10 by the board. So the motion that I propose, we usually say to
11 direct staff would it be better, Mr. Laird to say authorize staff
12 given the potential that Ms. De La Torre, for example, pointed out
13 that things could change authorize instead of direct?

14 **MR. LAIRD:** I think that's fine. I think either term will give
15 us the ability to.

16 **MS. URBAN:** Okay. Authorize staff to advance the proposed risk
17 assessment, automated decision making technology and updates to
18 existing regulations to formal rulemaking up to the commencement of
19 the 45 day public comment period, and otherwise authorize staff to
20 make additional changes where necessary to improve the text
21 clarity, including the change proposed by Mr. Le a few minutes ago
22 with regards to the abridged risk assessments upon which the board
23 had consensus or to otherwise ensure compliance with the
24 administrative procedures act. Excuse me. That was a long sentence.
25 I made it almost to the end and I do want to say that advancing
26 again, it means preparing the package, it means receiving more
27 information. Would anyone like to propose that motion?

28 **MR. LE:** I so move.

1 **MS. URBAN:** And do I have a second?

2 **MR. WORTH:** I'll second.

3 **MS. URBAN:** Thank you. Mr. Mactaggart, do you have a comment
4 before we go to public comment?

5 **MR. MACTAGGART:** Yeah, good question. Are you separating out,
6 because I do support the main package? Are you separating that out?

7 **MS. URBAN:** Oh, the updates, we can do that. We can separate
8 them out.

9 **MR. MACTAGGART:** Yeah, you might want to separate that out.

10 **MS. URBAN:** Okay, sure. Okay, perfect. Thank you. We will do
11 that. We have the intention to do that and we will take public
12 comments and I will work on separating those out and try to
13 recreate what I said more or less or enough for our purposes so we
14 all know what everybody is authorized to do. So is there public
15 comments?

16 **MS. ALLEN:** Yeah, public comment first.

17 **MS. URBAN:** Okay. Thank you.

18 **MS. ALLEN:** Yes. So we are on agenda number, item number four
19 which is updates to the rulemaking packages. If you would like to
20 make a comment at this time, please raise your hand using the raise
21 hand feature or by pressing star nine if you're joining us by
22 phone. Again, this is for agenda item number four. Okay. First
23 commenter is Robbie. Robbie, we are going to unmute you. You have
24 three minutes to make your public comment. You may begin when
25 you're ready.

26 **MR. ROBBIE ABELON:** My name is Robbie Abelon here on behalf of
27 the California Asian Chamber of Commerce, representing businesses
28 across the state, at the scope of the draft risk assessment

1 regulations is far beyond that of other state privacy laws and
2 beyond the bounds of the underlying California privacy law as well.
3 The scope would create extensive compliance obligations across a
4 broad array of processing activities that go far beyond the
5 contours of what is commonly understood to be privacy regulation
6 and strain to other areas, including substantive regulation of AI.
7 The definitions of AI and automated decision making are overly
8 broad, that they could effectively encompass even simple algorithms
9 and uses that AI may be capable of, but is not being contemplated
10 by the business. In addition, the detailed requirements in the
11 automated decision making sections are not appropriate to privacy
12 law and go far beyond the mandate of the CPRA. The CPRA differs
13 from other state privacy laws in ways that will be
14 counterproductive to California consumers. The inclusion of
15 profiling and behavioral advertising in the scope is what is
16 considered automated decision making would have far reaching
17 negative effects. It would create opt-out requirements for
18 situations in which AI is not making decisions, this would restrict
19 and burden companies in unnecessary ways that will hurt innovation
20 for consumers, and in some cases could mandate a poorer customer
21 experience by limiting personalization. Small businesses also have
22 limited resources as much as these regulations would be burdensome
23 for businesses generally, for small businesses, these regulations
24 could result in diverting sorely needed resources from business
25 operations to compliance. Also small businesses already struggle to
26 find qualified talent. These opt out requirements can significantly
27 complicate small businesses talent retention and acquisition
28 efforts. Draft language is under consideration for automated

1 decision making to allow consumers to opt out from their data being
2 used for the purposes of training AI models. Our using data for AI
3 training purposes, it's actually a low risk activity. If you're
4 regulating the use of the AI. By allowing consumers to opt out of
5 having their data used for training, the model will actually become
6 worse as a result, hurting consumers by reducing the potential for
7 innovation and increasing risk of bias. This is particularly
8 concerning for small businesses who may have smaller subsets of
9 data for AI modeling, making the impact of such a regulation more
10 acute. And the lack of opt-out would not affect the privacy of any
11 consumer because the data would just be used generically for model
12 modeling. And modeling relies on trends and patterns and data
13 overall, not anyone's individual data. In fact, the best way to
14 mitigate biases, not less data, but more and more complete data.
15 The board's decision to remove the requirements to submit risk
16 assessments to businesses, board of directors is a significant
17 improvement to the draft regulations as released in December. Given
18 the board has recognized that such a requirement prescribes an
19 inappropriate role of business board...

20 **MS. URBAN:** You are at time. Thank you so much for your
21 comment.

22 **MS. ALLEN:** You're really out of time. Okay. We are going to
23 go, we have a public commenter here in the room, so we are going to
24 call the public commenter. If you'd like to state your name ahead
25 of time. You may, you don't need to. You have three minutes, you
26 may begin.

27 **MS. BRUNO O'NEAL:** Thank you. Hi, my name is Bruno O'Neal. I'm
28 here with the California Nurses Association and I'm a regulatory

1 policy specialist with them. We appreciate the work of agency staff
2 and the board in developing these draft regulations, and we've
3 signed on to a couple letters you've already gotten with some
4 feedback on this. If you don't catch everything I say today, I
5 don't get to it all, but we really see regulation in this area as
6 urgent. Automated decision making technology has been rapidly
7 deployed in healthcare settings, and nurses have seen this
8 technology endanger their patients and reduce their ability to use
9 their professional judgment. However, the latest draft of these
10 regulations unduly narrows the coverage of key protections for the
11 rights of workers such as nurses and our patients. CNA urges the
12 board to revise the definition of automated decision-making
13 technology and to remove exceptions for employment decisions from
14 notice and opt-out requirements. So the latest draft narrows the
15 ADMT tech that is subject to risk assessment and other requirements
16 to those that substantially facilitate human decision making as you
17 have discussed. Unfortunately we can see employers taking advantage
18 of this language to exclude themselves from the regulation, and
19 there's going to be no way for the people who are affected to
20 challenge that exclusion, that determination, both the risk
21 assessment requirements and customer opt out rights are essential
22 for all ADMT. This substantially facilitates language and the
23 exception for opt-out rights where there's human review of appeals,
24 limit these rights and put workers and patients at risk. When
25 challenged on workplace or patient safety issues, frequently
26 developers and hospital employers claim these algorithms are just
27 advisory to healthcare professionals. However, there are several
28 widely deployed commercial healthcare algorithms that have been

1 found to have serious racial biases and validity problems that
2 wouldn't have been identifiable to the human who's using that or to
3 a human reviewer. While the safe provision of healthcare does
4 require that healthcare professionals are free to use their
5 judgment to treat individual patients. In practice, we've surveyed
6 nurses, many nurses risk being disciplined by their employer if
7 they don't follow algorithmic recommendations. And even if
8 management doesn't explicitly instruct workers that they can't
9 override ADMT recs, time pressure and the fear of liability,
10 strongly incentivize compliance with these automated
11 recommendations and these same factors will...

12 **MS. URBAN:** You have 15 seconds left.

13 **MS. O'NEAL:** Influence human reviewers. Workers should also
14 have the same right to notice an opt out as consumers in other
15 context. We use that notice to organize, to bargain over the
16 impacts of these technologies workplace.

17 **MS. URBAN:** You're at time.

18 **MS. O'NEAL:** Thank you.

19 **MS. ALLEN:** Okay. Next speaker will be Grace. Grace, we are
20 going to unmute you and you have three minutes. You may begin when
21 you're ready. Grace, you are unmuted. You may begin when you're
22 ready.

23 **MS. GRACE GEDYE:** My apologies. I didn't see how to press a
24 button. Good afternoon. I'm Grace Gedye and I'm with Consumer
25 Reports where I work on artificial intelligence policy. Consumer
26 reports represents more than 6 million members across the country.
27 I want to thank the agency and staff for their hard work on these
28 draft rules. My comments will focus on the proposed automated

1 decision making technology regulations. I'll start up with
2 something we really liked. We commend the board for adopting or the
3 agency for proposing a broad definition of behavioral advertising,
4 making clear that consumers have the right to opt out of first
5 party targeting. In addition to cross context ad targeting,
6 however, we are concerned to see that some of the other changes in
7 the December draft weakened consumer's rights. First, the narrowed
8 definition of automated decision making technology creates a new
9 and easy way for businesses to sidestep these rules. Companies can
10 and often do say that they're just using automated decision tools
11 to assist or contribute in their decision making. Even if that's
12 not an accurate description of how they use the tools in practice,
13 it's not clear how or how often that faulty assertion would come to
14 light. Recent research from Cornell Data and Society and Consumer
15 Reports found that similar legislative drafting issues has hampered
16 compliance with New York City's AI bias law. Second, we noticed
17 that some of the disclosure requirements in the pre-use notice were
18 removed in this draft. Specifically, it seems like companies would
19 no longer have to disclose whether their use of algorithm decision
20 making tools has been evaluated for validity, reliability, and
21 fairness along with the outcomes of those evaluations. Greater
22 transparency is one of the most important benefits of these rules,
23 and we'd urge the board to restore this disclosure. This is not a
24 heavy compliance lift for companies. Lastly, we'd urge the board to
25 make the notice process after what has been defined as adverse
26 significant decisions more consumer friendly. This is not a change
27 as far as I can tell, but under the current draft, it seems like it
28 would take two steps and potentially months for a consumer to fully

1 understand one of these life-changing decisions. Here's my
2 understanding of how it might work in practice. If I'm looking for
3 an apartment and a renter screening tool confuses me with someone
4 else who has the same name, but who has a criminal record, 15 days
5 later I might get a notice saying I've been denied an apartment,
6 thanks in part to an algorithm with no other substantive
7 information about the decision. However, the notice will explain
8 that I can request more information. If I have time, I might take
9 the steps to make that request and then wait potentially another 45
10 days to learn why I was denied. Only after two months would I have
11 the information I need to pursue an appeal. The appeal process
12 itself could easily take weeks. In the meantime, I might have come
13 to the end of my current lease and missed out on a bunch of
14 apartments. This is not a consumer friendly process. For these
15 life-changing decisions, consumers should get all the information
16 they need to understand what's happened quickly and without
17 multiple steps. Thank you so much for your work. That's it for me.

18 **MS. ALLEN:** Okay, next up we have Matt. Matt, we are going to
19 unmute you. You may begin when you're ready.

20 **MR. MATT SCHWARTZ:** Good afternoon. My name is Matt Schwartz.
21 I'm a policy analyst at Consumer Reports and I'll be discussing the
22 draft rules on risk assessments. Thank you to the board for the
23 opportunity to comment and thanks for all the hard work on these
24 draft rules thus far. As I shared last time, consumer reports
25 supports the agency's mission to create strong risk assessments
26 requirements, noting that the CCPA is the only state privacy law
27 that includes as an element of this provision, a requirement that
28 businesses cease any processing that's determined to present more

1 risk than benefit. However, we are concerned about several ways
2 that the risk assessment requirements have been weakened since the
3 previous draft. For example, we're concerned that businesses will
4 no longer have to share their understanding of the context of their
5 processing activities, consumers' reasonable expectations, and how
6 the businesses are complying with the statutes underlying data
7 minimization provisions. Though of course, these are merely self-
8 attestations, they would provide enforcers vital insights into how
9 a business conceptualizes its own processing activities, which
10 could be a crucial input into any future enforcement action. We
11 urge the agency to reintroduce these elements back into the risk
12 assessment. We also continue to believe that businesses should be
13 required to share in their risk assessment when they're processing
14 sensitive personal information for the purposes of making
15 inferences about consumers, as is evidenced by the underlying
16 statutes. Extra protections like limiting the use of sensitive
17 information, lawmakers sought to provide consumers enhanced
18 protections when sensitive information was being used for
19 inferences. Accordingly, businesses should be able to explain to
20 regulators and consumers why their processing of data in this
21 manner does not present an unacceptable level of risk. Finally,
22 we're concerned with the ways that the agency has proposed limiting
23 the abridged version of the risk assessment, which we already
24 believed was under inclusive of core elements likely to be useful
25 by consumers and other interested stakeholders. For example, the
26 new draft eliminates the requirement that businesses share their
27 plain language explanation of why the risks of their processing are
28 or are not outweighed by the benefits, which is essentially the

1 central element of what the risk assessment attempts to reveal. We
2 also note that still not clear as written, that businesses must
3 provide a publicly available version of the abridged risk
4 assessment as the draft rule seemingly only contemplate the
5 optional publishing of a public link when the unabridged version is
6 sent to regulators. The rule should be clear that the public link
7 to the abridged risk assessment should always be available. Thank
8 you for the time and I'm happy to answer any follow-up questions
9 you may have.

10 **MS. ALLEN:** Thank you. Next up is Ronak. Ronak, we're going to
11 unmute you. You have three minutes. You may begin when you're
12 ready. Ronak from Cal Chamber, you have been unmuted. You have
13 three minutes. You may begin when you're ready.

14 **MS. RONAK DAYLAMI:** Oh, sorry. Can you hear me now?

15 **MS. ALLEN:** We can hear you.

16 **MS. DAYLAMI:** Okay, perfect. Thank you. Ronak Daylami for Cal
17 Chamber. On behalf of over 14,000 members, we thank the board for
18 removing the requirement to submit risk assessments to a business's
19 board of directors and believe it would be prudent to remove the
20 same requirement from the cybersecurity draft regs as well.
21 Unfortunately, we continue to find these regulations to be over
22 burdensome, insufficiently risk-based, and out of sync with other
23 state's privacy laws, as well as with the agency's directive from
24 voters. Indeed, the regs go beyond the contours of privacy
25 regulation, veering into rewriting the law at times. For example,
26 the only advertising that voters contemplated in the CCPA
27 specifically relates to cross context behavioral advertising. Yet
28 the draft regulations unilaterally scope in profiling a consumer

1 for behavioral advertising, which is so overly broad. It captures
2 even first party ads where businesses advertised to their own
3 customers. The inclusion of profiling and behavioral advertising
4 and the regs will have far reaching negative effects, creating opt-
5 out requirements for situations in which AI is not making
6 decisions. They're unnecessarily burdensome, hurt innovation, and
7 in some cases mandate a more frustrating customer experience by
8 limiting personalization, by including requirements of detailed
9 disclosures and assessments related to model testing, model logic,
10 outputs, testing for fairness and validity, and alternative
11 technologies that a business considered. The draft regulations
12 enter the realm of general regulations of ADMT as opposed to
13 privacy regulations. The proposed definitions of AI and ADMT
14 remains so overly broad that they encompass even simple algorithms
15 and commonplace tools such as spreadsheet software, they even cover
16 uses that AI may be capable of, but that the business is not even
17 contemplating. As we stated in December, the use of ADMT and
18 employment raises unique considerations as existing laws already
19 protect against the use of AI tools that directly or indirectly
20 discriminate against job applicants and employees. It's incredibly
21 problematic to require employers to provide an opt out of ADMT or
22 it's unrelated to significant employment decision or where the use
23 is shown to be job related. Inconsistent with business necessity.
24 Also problematic regulating the PI used for the training of ADMT,
25 which is not a high risk activity, allowing an opt-out of training
26 will only result in inferior models to the detriment of consumers
27 and innovation and increase the risk of bias. To be clear,
28 requiring an opt-out here does not actually protect consumer

1 privacy and would require additional processing of their data since
2 developers do not technically, do not typically identify
3 individuals during the training process. Consumer data is
4 generally, is used generically in modeling, which relies on trends
5 and patterns not individualized data. And last, the regs should
6 only require businesses to provide risk assessments to the agency
7 if relevant to an investigation not annually. As drafted the rules
8 result in the disclosure of substantial amounts of confidential
9 proprietary information, if not trade secrets yet fail to include
10 protections from public disclosure or to ensure that all applicable
11 legal privileges are retained, something that's available under
12 other state privacy laws, at a minimum such protection should be
13 added. Thank you.

14 **MS. ALLEN:** Thank you, Edwin. You have been unmuted. You have
15 three minutes. Go ahead when you're ready.

16 **MR. LOMBARD:** Thank you. Once again, it's Edwin Lombard with
17 ELM strategies. On December 7th, 2023, the organizations I work
18 with, such as the California African American Chamber of Commerce
19 and the Greater Los Angeles African American Chamber of Commerce
20 submitted a letter to the CPPA raising the following points. First,
21 CPPA's premature AI regulations contravene governor Newsom's AI
22 executive order and bypass legislature. Recently, the legislature
23 introduced 20 plus AI related regulations, and it would be helpful
24 to know from CPPA today, what efforts has CPPA done or planning to
25 do to collaborate with the legislators on AI? Let me reiterate.
26 Small businesses are concerned that multiple and potentially
27 conflicting AI regulations are likely to end their businesses in
28 2024, and I agree with Mr. Mactaggart that what I heard today was a

1 gross overreach that can potentially wipe out the ability for
2 businesses that have transitioned from brick and mortar to online
3 services to no longer exist. Secondly, thank you to the staff for
4 laying out the timeline today, but as a matter of fairness, we ask
5 that CPPA provide and publish regulatory timelines for its proposed
6 AI regulations in writing in a way that ethnic communities and
7 small businesses can receive it. As far as your roadshows are
8 concern, I would ask that you would please include statewide and
9 local ethnic chambers of commerce and business associations so that
10 they can hear from you just exactly what this regulation will do to
11 them, and then you can get feedback from them on how they're going
12 to be affected by this. In closing, I would like to emphasize the
13 need for small businesses to thrive in light of California's \$73
14 billion budget deficit, which is astronomical, and I have no idea
15 how we're going to overcome this, so thank you very much and I
16 appreciate the opportunity to be heard.

17 **MS. ALLEN:** Thank you. Next up is Peter. Peter, you have been
18 unmuted. You may, when you're ready, you may begin your three
19 minutes.

20 **MR. PETER LEROE-MUNOZ:** Good afternoon. This is Peter Leroe-
21 Munoz with the Silicon Valley Leadership Group. We are a business
22 association representing innovation economy companies. We echo many
23 of the comments raised earlier by speakers. In particular, those
24 raised by Mr. Robbie Abelon concerning the over expansive scope of
25 the draft risk regulations. The overly broad AI and ADM definitions
26 challenges that regulations will pose for employers for purposes of
27 compliance as well as consumer opt-outs, which would reduce
28 comprehensive training data for more accurate and representative

1 information. Further, the rules require the disclosure of risk
2 assessments to the agency and other submissions that would result
3 in the disclosure of a substantial amount of confidential and
4 proprietary information. The regulations do not include any
5 protections from public disclosure, nor do they note that all
6 applicable legal privileges are retained. These requirements should
7 be eliminated or the proper protections added to the regulations to
8 protect them from state FOIA requests and other disclosures and for
9 privileges to be retained. Thank you very much.

10 **MS. ALLEN:** Thank you. Annette, you have been unmuted. You have
11 three minutes to begin your public comment. You can start when
12 you're ready.

13 **MS. ANNETTE BERNHARDT:** Good afternoon, and thank you for the
14 opportunity to comment. My name is Annette Bernhardt and I direct
15 the technology and work program at the UC, Berkeley Labor Center.
16 We recently joined two letters addressed to the board, and I would
17 like to highlight several themes and initial concerns, in part
18 because a number of other signers were not able to stay for the
19 public comment period. California is the first and only place in
20 the US where workers are starting to gain basic rights over their
21 data and how employers use that data to make critical decisions
22 about them. That's why labor groups and other advocates are paying
23 such close attention to the CPPA rulemaking process because the
24 stakes are high. Specifically, here are several priorities from
25 worker advocates. First, the scale and scope of data-driven
26 workplace technologies necessitate broad protections for workers,
27 and here we are concerned about the narrowing of coverage only to
28 algorithmic systems that substantially facilitate an employer's

1 decision. But employers often use algorithms as one of, among
2 several factors when making decisions about workers and important
3 harms like discrimination can still occur under this narrow
4 definition, though those harms would not be regulated. We also
5 worry that employers might exploit this new definition by
6 essentially self-certifying themselves out of regulatory oversight.
7 Second, full transparency and disclosure are absolutely critical
8 rights for workers given the often hidden nature of algorithmic
9 systems in the workplace. Importantly, we do not believe that the
10 notice and access requirements and the draft regulations will be
11 owners on employer's notices can be automated and routinized, and
12 in the case of risk assessments, the draft regulations already
13 include an exemption for routine administrative data processing.
14 Third, and finally, workers deserve the same agency over the
15 processing of their data as consumers under the CCPA and here we
16 are concerned about recent changes that would add quite significant
17 exceptions to opt-out rights for workers. We are aware and share
18 the idea that common sense and feasibility will need to be
19 important considerations in detailing any opt-out regime, but the
20 new vague and broad exceptions threaten to deprive workers of any
21 agency over algorithmic tools that can have significant impacts on
22 their livelihoods. In closing, I want to thank executive director
23 Soltani, agency staff and board members for what is clearly very
24 hard and committed work on these draft regulations. By covering
25 workers in the CCPA. California has a historic opportunity to lead
26 the US in establishing workers as key stakeholders in governing
27 data-driven technologies, but it will be vital that the rulemaking
28 process be informed by researchers and worker organizations who

1 have concrete knowledge about how AI is actually playing out in the
2 workplace. I thank you for the opportunity to comment.

3 **MS. ALLEN:** Daniel, you have been unmuted. You have three
4 minutes to make your comment, begin when you're ready.

5 **MR. DANIEL GELLER:** Good afternoon, and thank you for the
6 opportunity to provide public comment to the board. My name is
7 Daniel Geller, and I'm speaking on behalf of Tech Equity
8 Collaborative. Our organization shares the concerns raised just now
9 by Dr. Bernhardt of the UC, Berkeley Labor Center, as well as the
10 concerns raised in previous letters to the board dated February
11 26th and March 7th respectively. In addition to reiterating those
12 concerns, we would like to expand on them as follows. Specifically,
13 we are concerned about the currently narrow set of circumstances
14 where regulation of these systems is set to be required in the
15 workplace under the draft regulations, the necessity of fully
16 vetting these models before they enter the workplace and the need
17 to protect against overzealous worker data collection without their
18 involvement and subsequent misuse of that data. Algorithmic systems
19 have taken shape in many workplaces across our state. The growth of
20 more advanced models and systems will continue to impact all
21 aspects of work and working conditions. As such, it is paramount
22 that the regulation of these models in the workplace apply to more
23 than just uses that quote, substantially facilitate employer
24 decisions. The current narrow definition creates a potential gray
25 area where a model could contribute to an adverse employment
26 decision, but do so in a way that is both impactful and able to
27 avoid regulation under the current draft language. Furthermore,
28 risk assessments must provide transparency to ensure that the tool

1 has adequately considered and addressed human and social factors
2 involved. In the December draft regulations, there was a
3 requirement for risk assessments to include plain language
4 descriptions of the processing purpose and the balancing of
5 benefits versus negative impacts of the system. We think retaining
6 these requirements is crucial because harm in algorithmic systems
7 can result from a variety of sources that should be considered.
8 These include training data, model design, misalignment with
9 intended purpose contact, as well as human errors and judgment when
10 utilizing the recommendation or outputs of the decision. A risk
11 assessment tool cannot be only a matter of considering the math
12 behind an algorithm. It must also take these factors into
13 consideration. Lastly, it is crucial that workers be involved in
14 determining how AI is utilized in the workplace through inclusion
15 and risk assessments, disclosure of the nature and quantity of
16 personal data collected and the right to opt out of being subject
17 to algorithmic systems where necessary. The board is capable of
18 facilitating innovation in the workplace while protecting
19 individuals from foreseeable harms. Thank you for the opportunity
20 to share public comment as well as for taking into consideration
21 the concerns raised here today.

22 **MS. URBAN:** Thank you, and thanks to everybody for public
23 comment. I know we have some more people in the queue. I need to
24 take a one minute break. I'm just going to ask everybody to keep
25 their seats so that I can consult with staff about timing, because
26 as I understand it, this building closes at five, so we are going
27 to have to make some choices. I will be back as soon as I get
28 clarity and everybody who's waiting to comment. Thank you so much

1 for your patience. We'll be back in a moment. Thank you so much
2 everyone for your patience. We are going to complete public comment
3 on this item and see where we are. We think that we could probably
4 stay a little bit after five and we do have some business that we
5 need to of course go back to the motions after public comment. But
6 we will probably be holding over some agenda items for the next
7 meeting, so with that update for, and we'll talk about that on the
8 board as to the choices there. So with that please we'd love to
9 hear from the next commenter.

10 **MS. ALLEN:** Yeah. Caroline, we have unmuted you. You have three
11 minutes to make your comment, begin when you're ready.

12 **MS. CAROLINE KRACZON:** Thank you so much. Hello, my name is
13 Caroline Kraczon and I'm a fellow at the Electronic Privacy
14 Information Center, also known as epic. We are an independent
15 research and advocacy center focused on protecting privacy in the
16 digital age. Throughout the rulemaking comment, EPIC or Process,
17 Epic has submitted several comments and provided testimony. EPIC
18 commends the agency's work to protect the privacy of Californians
19 and limit harms from automated decision making technology. Today, I
20 will address two points, the public availability of automated
21 decision making technology risk assessments collected by the agency
22 and the information that should be included in risk assessments.
23 First, epic advocates for the public disclosure of abridged risk
24 assessments to provide much needed transparency related to the use
25 of automated decision making technology. Under the current draft
26 regulations, the CPPA would have access to annual abridged risk
27 assessments, but as far as the current draft regulations reflect,
28 the public would only be assured access to risk assessments if a

1 company chooses to post them. The agency should ensure that the
2 abridged risk assessments are available to the public by creating
3 and maintaining a central public repository of risk assessment
4 content. Second, we encourage the agency to require companies to
5 disclose more information within the abridged risk assessments. The
6 regulation should require abridged risk assessments to include the
7 following information, a plain language explanation of the
8 processing subject to the risk assessment, and a plain language
9 explanation of why the negative impacts of the processing do or do
10 not outweigh the benefits of the processing. These requirements
11 were included on previous regulation drafts, but are not included
12 on the most recent version of the draft regulation. Further
13 abridged risk assessments should also include an identification of
14 the developer and deployer of the mechanisms for processing, along
15 with contact information for these actors. The contact, the context
16 of the processing activity, including the relationship between the
17 business and consumers, whose information is to be processed and
18 how the processing complies with data minimization requirements. In
19 conclusion, epic supports the agency's work to protect the privacy
20 of Californians by regulating harmful automated decision making
21 technology uses and expanding transparency around its use. Thank
22 you.

23 **MS. ALLEN:** Hayley. You have been unmuted. You have three
24 minutes. Begin your comment when you're ready.

25 **MS. HAYLEY TSUKAYAMA:** Thank you. Good afternoon and thank you
26 for the opportunity to comment. My name is Hayley Tsukayama and I'm
27 associate director of legislative activism at the Electronic
28 Frontier Foundation. EFF has joined two letters to the agency

1 outlining some priorities for what we'd like to see in regulations.
2 I just want to particularly highlight two concerns with the latest
3 draft. First is the change to the definition of ADMT that says a
4 tool must substantially facilitate human decisions. This gives, or
5 sorry. Well, yes, this gives companies an easy mechanism decide
6 step accountability. As it would be easy for anyone using an ADMT
7 to claim it is not a key factor in decision making. No one would be
8 able to challenge such a claim. In fact, because a company would
9 not have to disclose an ADMT if it doesn't meet this essentially
10 self-defined standard, no one would even know that the tool is in
11 use. I also have concern about a new provision that says businesses
12 that allow for a human appeal do not have to offer an opt out. This
13 is unlikely to result in better outcomes for consumers. There is
14 extensive research that people are likely to accept outcomes
15 produced by systems even when there is clear evidence that these
16 conclusions are wrong. Face recognition technology, for example,
17 obviously misidentifying someone. At a basic level it also replaces
18 a mechanism that simply allows consumers to express a preference
19 with one in which they must advocate to an employee of a business
20 that likely does not want to grant their case. This tips the
21 balance too far away from respecting the individual choices of
22 consumers. These are difficult issues and I recognize that
23 California is leading the way in crafting regulations to address
24 them, and I sincerely want to thank everyone involved in these
25 draft regulations for your work and for the opportunity to speak.
26 Thank you.

27 **MS. ALLEN:** Minsu, you have been unmuted. You have three
28 minutes. You may begin when you're ready.

1 **MS. MINSU LONGIARU:** Thank you to all the board members and
2 staff for the opportunity to comment. My name is Minsu Longiaru and
3 I'm here on behalf of Power Switch Action, a national network of 21
4 grassroots community-based groups, including seven affiliates here
5 in California. We share in the concerns raised in the public
6 comments given by Dr. Bernhardt from the UC Berkeley Labor Center,
7 and more generally in the concerns laid out in two letters that a
8 group of unions, privacy advocates, and other worker organizations
9 recently sent to the board dated February 26th and March 7th. In my
10 comments today, I would like to expand on these concerns as
11 follows. First, I would like to emphasize that the draft
12 regulations should include workers as key stakeholders that have
13 the right to be involved when their employers conduct a risk
14 assessment. As others have highlighted, data rights are not just
15 about promoting workers access to disembodied bits of information.
16 For data rights to be real they must promote workers meaningful
17 understanding of data and data systems. Regulation that focus on
18 increasing worker agency and participation are key for achieving
19 this goal. Second, I would like to emphasize that like consumers
20 workers should have a meaningful right to opt out of algorithmic
21 systems. The current language does not sufficiently protect
22 workers. For example, the robo firings of app-based and gig economy
23 drivers have sparked global outrage and a growing body of research
24 documents how algorithmic systems can put workers health and safety
25 at risk. These dangers occur when algorithmic systems increase the
26 pace of work to unsustainable levels, which result in increasing
27 the likelihood of accidents, as well as intensifying job stress
28 with harmful mental and physical consequences. Under the CPA data

1 rights are worker rights. We thank you for the opportunity to
2 provide this feedback.

3 **MS. ALLEN:** Julian, you have been unmuted. You have three
4 minutes. You may begin when you're ready.

5 **MR. JULIAN CANETE:** Thank you and good afternoon and thank you
6 Chair Urban and CPPA board members for the opportunity to address
7 you this afternoon. Julian Canete with the California Hispanic
8 Chambers of Commerce, the California Hispanic Chambers of Commerce,
9 of course, is a and are over 125 Hispanic and diverse chambers
10 collectively represent the interest of over 800,000 Hispanic owned
11 enterprises throughout our great state. I've weighed in at the
12 agency public comment sessions before, and we continue. We would
13 like to continue to express our concerns on the impact of
14 regulations on diverse small business communitythis afternoon. Our
15 member businesses need the agency to be transparent about its AI
16 rulemaking process and more importantly, understand the potential
17 impacts on small business. We appreciate today's staff presentation
18 and the timeline that has also been provided. This afternoon. I
19 would also like to commend board member De La Torre on her point of
20 the fact that the CPPAneeds to coordinate with the governor's
21 office and other stakeholders such as the legislature to ensure
22 alignment of the regulations. The agency must actively engage,
23 educate, and collaborate with small and diverse business owners
24 throughout the decision making process to understand their
25 perspectives regarding implications of these regs. As I've
26 mentioned before, our organization would like, to and we are fully
27 willing to collaborate with CPPA on the AI regulations. And with
28 that, I would like today to invite the CPPA, the chair, the members

1 and the executive director to attend an AI policy symposium that
2 our California diverse small business chambers are hosting on April
3 8th here in Sacramento. We have already set the letter, but we will
4 follow up this week as well. Various small business groups are
5 prepared to discuss the subject of AI with policymakers, and we
6 also believe it would be good to have the participation of
7 regulators such as the CPPA to hear directly from small businesses
8 and small business groups as well. Lastly on earlier on December
9 7th, 23, we submitted a joint small business letter about our
10 concerns that we have raised to AI regulations. Some of those
11 concerns have been addressed today, but we look forward to the
12 remaining concerns being addressed as well. Again, I appreciate the
13 opportunity to voice our concerns and look forward to collaborating
14 with the agency. Thank you.

15 **MS. ALLEN:** Ivan, you have been unmuted. You have three
16 minutes. Begin when you're ready.

17 **MR. IVAN FERNANDEZ:** Hello. This is Ivan Fernandez with the
18 California Labor Federation representing 2.2 million union members
19 in the private, public and construction sectors. Thank you so much
20 for the opportunity to comment. The rapid advancement of artificial
21 intelligence, automated decision systems and other technologies
22 have impacted workers across all sectors and industry. AI and ADT
23 have the capability of affecting every aspect of a worker's life
24 from their job security to the wages they receive. As the
25 technology advances and its use becomes widespread, workers must be
26 at the forefront of conversations surrounding privacy protections.
27 While the CCPA has taken monumental steps to ensure workers receive
28 first in the nation protections, we believe the regulations must be

1 expanded to set a strong foundation for California and the nation.
2 The California Labor Federation shares the concerns raised in
3 public comments given by Annetta Bernhardt from the UC Berkeley
4 Labor Center, and would like to expand upon these comments. In non-
5 union workplaces employers have a unilateral power and control over
6 workers through the ability to hire, discipline, fire, and set
7 wages. The best protection is a union contract, but strong worker
8 protection is also necessary. The rapid deployment of AI and other
9 technologies in the workplace creates the need for new laws and
10 regulations to protect workers. Without strong enforceable
11 regulations and guardrails some employers will use automated
12 decision making technology to worsen existing exploitation and
13 surveillance of workers. This technology can provide performance
14 reviews on workers based on bias data, determine which workers are
15 likely to organize and decide whether they, an employee does or
16 does not receive certain benefits. This technology is powered
17 through worker data taken without consent, and its use is largely
18 hidden from workers and the public. Workers cannot be left in the
19 dark when technology of this magnitude is impacting their jobs. The
20 Labor Federation respectfully urges the agency to adopt strong
21 regulations that increase transparency, notice and worker agency,
22 and that do not exempt the workplace. Thank you.

23 **MS. ALLEN:** Karla, you have been unmuted. You have three
24 minutes. You may begin when you're ready.

25 **MS. KARLA ORTIZ:** Hello? Hello. Can you guys hear me?

26 **MS. ALLEN:** Yes.

27 **MS. ORTIZ:** Fantastic. Hi everybody. My name is Karla Ortiz.
28 I'm an artist and I want to speak directly to generative AI, which

1 is specific technology which relies wholeheartedly on vast amounts
2 of training data acquired indiscriminately to function. This
3 training data includes almost the entirety of my work as an artist.
4 This was done so without our consent credit or compensations.
5 Literally, pictures of my own face are in these data sets.
6 Furthermore, these models trained on our works are now competing
7 against us in our own industries. Generative AI companies have
8 grossly ever reached and claimed all media and data on the internet
9 as theirs. This includes personal websites, social media forums,
10 heck, even the US government. One of the major data sets of visual
11 media generators contained 5.8 billion text and image pairs, again,
12 including all of my work, acquired without consent. All generative
13 AI models rely on massive data sets to function. This is so
14 egregious that I'm a plaintiff in a class action lawsuit called
15 Anderson versus stability with how egregious the data practices
16 have occurred. The creative sector, a deeply important industry to
17 California, which contributes \$261 billion in 7.7% of California's
18 economy is reeling from the exacts. This is technology that
19 uniquely consumes our innovation, our creativity, and is competing
20 with us against our own market, basically. Due to the data
21 overreach by these companies. I do want to know opt out is a
22 ridiculous standard for this. It shifts responsibility from
23 consumers to, from the companies to consumers. There are models,
24 hundreds of models like this. Does that mean I have to opt out
25 every time these update? Does that mean I have to opt out every
26 time? Like, you know that like more models are made. What if we
27 don't know the language? What if we don't have the time? What about
28 if your stuff is put in third party members? It doesn't make sense.

1 Further, it's pivotal that companies are transparent about what
2 exact data is utilized. Many companies hide how much data they've
3 actually acquired, making it impossible for consumers to scrutinize
4 if the data contain any risk or potentially violating data. Another
5 issue affecting consumers is often companies offer commercial
6 licenses for media that is unable to be copyrighted, that is
7 potentially fraudulent. Alongside this generative AI relies solely
8 on its training data, which is littered with ill-gotten copyrighted
9 generative content, generative AI also infringes at a higher
10 percentage. For example, Axios reports. Open AI models responses
11 plagiarized approximately 60% of the time. This puts consumers at
12 risk who may be accidentally infringing and violating copyright
13 law. No matter how this tech proceeds. Companies are not entitled
14 to our data without our consent. And lastly, the creative industry
15 is reeling from this, and we really need to be considered as
16 stakeholders on equal footing to tech companies. Thank you very
17 much.

18 **MS. ALLEN:** Deana, you have been unmuted. You have three
19 minutes. You may begin when you're ready.

20 **MS. IGELSRUD:** Hi, Deana Igelsrud for Concept Art Association.
21 I will be addressing the draft automated decision making technology
22 regulations for section 7030, item B2, I like that you have
23 included independent contractor in that section, but one thing that
24 I did want to bring to your attention is that models that mimic
25 human artists, like those in civic AI who offer bounties that pay
26 you to train on another artist's work specifically to copy their
27 techniques, absolutely seal the stylistic secrets that define an
28 artist's identity. They then mass produce images, which then

1 directly compete with the original artists in their own marketplace
2 for employment. These kinds of scenarios can create all kinds of
3 problems for artists to continue to earn a living. In addition to
4 being in direct competition with themselves and all their own
5 passwords or something possibly controversial could be generated
6 that looks like their work, but had nothing to do with them. This
7 too might make it hard for them to get work in the future.
8 Additionally, for section 7030 item B6, there's a great deal of
9 discussion regarding protection for likenesses and private data.
10 But artists are not seen as having a right to privacy when even the
11 software they must use for work scrapes the data from the images
12 they create for work while they are using the program. Companies
13 like Adobe analyze data processed on their servers. Many users
14 might not even realize that as they use the software package, in
15 certain scenarios, the software program is analyzing their personal
16 process, which often in times for these folks is proprietary in
17 nature. They have to sign NDAs to even work, and then the program
18 analyzes their content while they're using the program. Companies
19 like this are not transparent about what they log for training.
20 Potentially they could be logging every brush, stroke and layer
21 manipulation, and while that scenario might be unlikely, they are
22 likely recording and training on individual events, changing
23 brushes, moving layers, deleting components. The thing is, we don't
24 know that they are not recording each brush stroke because they are
25 not being transparent with the users of their products about what
26 information they are taking. For all we know they could be
27 violating the California Uniform Trade Secrets Act, but we don't
28 know. So when you're talking about giving consumers the right to

1 opt out of certain types of uses for automated decision making
2 technologies and AI models, I would hope that you would add the
3 processing of personal information of consumers to train automated
4 decision making technology, more room for transparency to also
5 include processing of artistic and creative works and intellectual
6 property. And additionally, adding opt-out controls for users of
7 both programs and applications, which profile how a consumer uses
8 their products. Because in the specific case of artists and
9 creators, this kind of information undermines their future
10 employment options. Thank you very much.

11 **MS. ALLEN:** Thank you. If there's any other members of the
12 public who would like to speak at this time, please go ahead and
13 raise your hand, approach the podium or press star nine on your
14 phone. Madam Chair, I'm not seeing any additional hand.

15 **MS. URBAN:** Thank you Ms. Allen. And warm and grateful thanks
16 to all the members of the public who showed us what I assume is
17 probably fairly small number of what was yet a very wide range of
18 impacts and effects of automated decision making technology and
19 related things on Californians, on California businesses of all
20 types. This is exactly the kind of information. I think all of the
21 board regardless of what we think about the proper process or the
22 sort of most effective process moving forward is very eager to
23 hear. So thank you all very much for this. I have a sort of micro
24 process point as to the timing. This room will close at five
25 o'clock. So with that I would like to restate the motion that we
26 were discussing and that the public was commenting on, the two
27 motions per Mr. Mactaggart's good guidance. Ask for the vote and
28 then I will talk about the rest of the agenda. So may I have a

1 motion to...?

2 **MS. DE LA TORRE:** Briefly to the comments?

3 **MS. URBAN:** Very briefly, please. Yes.

4 **MS. DE LA TORRE:** I have been working to advance privacy for
5 over 10 years as an advocate. I'm going to be put in a position
6 where I have to vote against something that I have been working on
7 for three years. I hear the advocates in the room. I hear the
8 advocates who have called in Epic is an organization that I have a
9 lot of respect for. I especially hear those who have called to talk
10 about the challenges that artists face these days because of the
11 way AI has been evolving. I have a 14-year-old daughter who wants
12 to be an artist, and she talks to me about her fears of how her
13 potential career can be affected by what is going on right now. I'm
14 going to vote against advancing these rules into formal rulemaking
15 because I am aware of the limitations that the agency has due to
16 the scope of our delegation. If we go beyond the scope of our
17 delegation, we're going to find ourselves in a situation where we
18 will face extensive litigation after significant effort to enact
19 rules through the formal process. And we could lose not only the
20 rules, but potentially the delegation that was given to us by
21 voters. And unfortunately, that delegation is limited. We do not
22 have a delegation that could address all of the things that have
23 been brought up to us. The path forward is collaboration, is
24 collaboration is stay in our role and our scope, make it
25 successful, and then collaborate with the governor's office,
26 collaborate with Sacramento. If we do this successfully, we are not
27 going to protect all of the people who need protection, but guess
28 what? We will have a much better chance to go to Sacramento. And

1 ask for an additional delegation, which is going to be very
2 difficult to fight for if we actually don't successfully enact
3 these rules and go through litigation. I have advised this board in
4 the past in situations that were difficult. I think I have given my
5 best advice, I have been unfortunately correct in things that I
6 wish I was not correct. I just hope that this one is not another
7 one of those situations.

8 **MS. URBAN:** Thank you Ms. De La Torre for that thoughtful and
9 eloquent comment. With that, may I have a motion to authorize staff
10 to advance the updates to existing regulations to formal rulemaking
11 up through commencement of the 45 day public comment period and to
12 otherwise authorize staff to make additional changes where
13 necessary to improve the text clarity or to otherwise ensure
14 compliance with the Administrative Procedures Act?

15 **MR. MACTAGGART:** I so move.

16 **MS. URBAN:** Thank you Mr. Mactaggart. May I have a second?

17 **MR. WORTH:** Second.

18 **MS. URBAN:** Thank you, Mr. Worth. Ms. Allen, I have a motion
19 and a second. Would you please call the roll call vote?

20 **MS. ALLEN:** Yep. The motion is as the chair stated concerning
21 the existing regulations. Board Member De La Torre?

22 **MS. DE LA TORRE:** Aye.

23 **MS. ALLEN:** De La Torre aye. Board member Le?

24 **MR. LE:** Aye.

25 **MS. ALLEN:** Le aye. Board member Mactaggart?

26 **MR. MACTAGGART:** Aye.

27 **MS. ALLEN:** Mactaggart Aye. Board member Worth?

28 **MR. WORTH:** Aye.

1 **MS. ALLEN:** Worth aye. Chair Urban?

2 **MS. URBAN:** Aye.

3 **MS. ALLEN:** Chair Urban Aye. Madam Chair, you have five ayes
4 and no noes.

5 **MS. URBAN:** Thank you very much, Ms. Allen. The motion carries
6 with the vote of five-0, may I now have a motion to authorize staff
7 to advance the proposed risk assessment and automated decision
8 making technology regulations to formal rulemaking up through
9 commencement of the 45 day public comment period, and to otherwise
10 authorize staff to make additional changes where necessary to
11 improve the text clarity to conform and to conform to Mr. Le's
12 suggestion in our conversation today regarding the abridged risk
13 assessments that found consensus within the board, or to otherwise
14 ensure compliance with the Administrative Procedures Act.

15 **MR. LE:** I so move.

16 **MS. URBAN:** Thank you. Do I have a second?

17 **MR. WORTH:** Second.

18 **MS. URBAN:** Thank you, Ms. Allen. I have a motion and a second.
19 Would you please conduct the roll call vote?

20 **MS. ALLEN:** Yep. The motion is as the chair stated concerning
21 the automated decision making and risk assessment regulations.
22 Board member De La Torre?

23 **MS. DE LA TORRE:** No.

24 **MS. ALLEN:** De La Torre, no. Board member Le?

25 **MR. LE:** Aye.

26 **MS. ALLEN:** Le aye. Board member Mactaggart?

27 **MR. MACTAGGART:** No.

28 **MS. ALLEN:** Mactaggart, no. Board member Worth?

1 **MR. WORTH:** Aye.

2 **MS. ALLEN:** Worth, aye. Chair Urban.

3 **MS. URBAN:** Aye.

4 **MS. ALLEN:** Urban Aye. Madam Chair, you have three ayes and two
5 nos.

6 **MS. URBAN:** Thank you Ms. Allen, and thank you the board. The
7 motion carries with the vote three to two. And I want to reiterate
8 that I really valued the conversation today. I know that everyone
9 is very intent on creating balanced and effective regulations, and
10 that includes every member of this board, obviously the agency
11 staff who have done such an incredible job of balancing many
12 different interests and competing facts sometimes. In order to get
13 us sort of where we are today, and I want to say a brief word again
14 about where we are today. Staff now has the ability to work on
15 these sort of surrounding materials and so forth analyses that are
16 required for these regulations. I don't want to speak for other
17 members of the board, but I really heard in the conversation today
18 a commitment from individual board members to work with staff.
19 Further, I heard a commitment from everybody to take more
20 information from the public, from groups who have expertise to hear
21 more. And I know I'm sure that all of us would be willing to where
22 we need to if we need to facilitate conversations with our
23 appointing authorities and continue to work on this package and
24 move it forward. So thank you very much. I know we didn't come to
25 an agreement on the process, but I think that we all have, we were
26 able to air some differences in substance and we were able to come
27 to a place where I feel comfortable that we will continue to
28 improve the situation for Californians. With that, it is 4:55 and

1 due to security reasons the Department of Justice is very strict
2 about closing this room at five. So I want to say a word about the
3 remaining items that we had placed on the agenda for today. Mr.
4 Macko, thank you for being here. I apologize. We'll need to hear
5 from you on the annual enforcement update and priorities, next
6 time. We also have the board handbook to come back and I know Ms.
7 De La Torre had some thoughts that we were all hoping to hear, so
8 that will definitely come back next time. I also would like to say,
9 we obviously can't decide this now, but if it seems like there are
10 items that we should bring back before our scheduled May meeting,
11 we can look into when board members are available and whether that
12 is something that we would like to do. I checked with staff in
13 terms of looking into it. So everyone, please keep an eye, everyone
14 in the public, please keep an eye on our website. Otherwise we
15 expect to meet again in May. Mr. Laird, is there more that I need
16 to cover?

17 **MR. LAIRD:** Not from my end.

18 **MS. URBAN:** Okay. Thank you very much to all the board members,
19 members of the public and staff again. With that may I have a
20 motion to adjourn the meeting?

21 **MR. LE:** I so move.

22 **MS. URBAN:** Thank you, Mr. Le. May I have a second?

23 **MR. WORTH:** Second. Thank you, Mr. Worth. I have a motion and a
24 second to adjourn this meeting. Ms. Allen, will you please perform
25 the roll call vote?

26 **MS. ALLEN:** Yes. The motion is to adjourn. Board member De La
27 Torre?

28 **MS. DE LA TORRE:** Aye.

1 **MS. ALLEN:** De La Torre aye. Board member Le?

2 **MR. LE:** Aye.

3 **MS. ALLEN:** Le aye. Board member Mactaggart?

4 **MR. MACTAGGART:** Aye.

5 **MS. ALLEN:** Mactaggart Aye. Board member Worth?

6 **MR. WORTH:** Aye.

7 **MS. ALLEN:** Worth aye. Chair Urban?

8 **MS. URBAN:** Did we want to recall item five? I am so sorry. I
9 completely forgot. Is it out of order to do that? I believe staff
10 did call the vendor.

11 **MR. LAIRD:** Yeah, no, we can.

12 **MR. SOLTANI:** I'll just take a minute. If its okay, and I don't
13 want to put pressure, we can certainly try to schedule another
14 meeting before May, but I did miss, Ms. White and I had a chance to
15 speak with the vendor and they did strongly discourage us from
16 waiting until May to execute a media buy strategy for a contract
17 that ends on June 30th. They indicated that while it's something we
18 could do, it also puts us in a position that we're relegated
19 primarily to digital strategy as traditional radio, TV and out of
20 home will be are usually negotiated months in advance. They also
21 indicated that in addition to an election cycle there's also the
22 Olympics, which further will increase competition for inventory. So
23 my request from the board is to work directly with maybe Mr. Board
24 member Mactaggart and optionally board member Worth or any other
25 two board members to kind of talk through the media strategy plan
26 but to have some leniency to potentially execute that plan in
27 advance of our May meeting. I don't know if that's something the
28 board could consider.

1 **MS. URBAN:** And then there would be a more detailed report at
2 the May meeting, but Mr. Mactaggart and Mr. Worth could give, could
3 see the information earlier and give more feedback. Does that find
4 consensus with the group? It's fine with me.

5 **MS. DE LA TORRE:** Yes. Sure.

6 **MS. URBAN:** Okay. Thank you. And I do apologize for neglecting
7 to recall that item, and I now apologize. Mr. Laird. I'm going to
8 have to ask you what to do here. We were in the middle of an
9 adjournment post. Can I just say aye?

10 **MR. LAIRD:** I think we can return to the adjournment. I think
11 you can say aye, and that'll close.

12 **MS. URBAN:** Okay. Aye. Ms. Allen.

13 **MS. ALLEN:** Urban, aye. After you, you have five ayes and no
14 nos.

15 **MS. URBAN:** Okay. This meeting of the California Privacy
16 Protection Agency Board after a very robust discussion of important
17 issues is adjourned. Thank you very much everyone.

18 (End of recording)