

AB 25 Passes the California Assembly – and Excludes Employee Information from Coverage under the California Consumer Privacy Act (the “CCPA”)

by Joseph Lynyak

On May 29, 2019, the California Assembly took a major step to rationalize the coverage of the CCPA by excluding employee information from the definition of “consumer.” Specifically, the term “consumer” was amended to exclude a person whose personal information has been collected by a covered business in the course of the person “acting as a job applicant to, an employee of, a contractor of or an agent on behalf of” a covered business. (The scope of the exclusion is limited to personal information collected and used solely within the context of the person’s role as a job applicant to, an employee of, a contractor of or an agent on behalf of a covered business.) The information that would be “collected and used solely within the context of the person’s role...” would likely still require interpretation and guidance in connection with areas of potential overlap between business and personal such as mobile devices, vehicles, and computers for both personal and business uses and events and travel with both business and personal components. Importantly, AB 25 also addresses vendor-related employee relationships by excluding applicant or employee information relating to a “contractor,” which is defined to mean a person who provides services to a covered business under a written contract.

The latest version of AB 25 was passed unanimously, and now heads to the California Senate for further deliberations. If adopted and signed by the Governor, AB 25 would resolve a particularly pernicious overreach concern raised by virtually all industry critics.

The Dorsey Privacy Team is actively following legislative and regulatory developments in regard to the CCPA. We will continue to keep you updated on developments as they arise.

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