

# Calif. Gov. Urged To Scrap July 1 Start For CCPA Enforcement

By [Allison Grande](#)

Law360 (June 26, 2020, 9:03 PM EDT) -- A leading advertising trade group is taking its fight to temporarily halt enforcement of California's Consumer Privacy Act to the state's governor, arguing that the attorney general's pending regulations on how companies should implement the law contain unconstitutional requirements that exceed the regulator's authority.

Earlier this year, the [Association of National Advertisers](#) joined dozens of business community members [in calling on](#) California Attorney General Xavier Becerra to delay by six months his plans to begin enforcing the CCPA on July 1. The attorney general quickly shot down this request, holding firm to the original enforcement deadline despite concerns over the impact of the COVID-19 pandemic and the unfinished nature of vital implementing regulations drafted by the attorney general.

With less than a week to go before enforcement can begin, ANA announced Friday that it has taken its concerns to California Gov. Gavin Newsom. In a new letter, the ad group asserted that there are "significant" issues with both the content and legality of [the nearly finalized](#) draft regulations and urged the governor to "take any action in your power to remedy the constitutional and procedural defects inherent in the CCPA regulations, as well as provide needed time for businesses to implement the final rules before enforcement begins."

"Even as your office extended state regulatory deadlines in recognition of the impact of the COVID-19 pandemic, the Calif. AG has indicated it will commence CCPA enforcement in July without any delay to account for the present lack of final rules and the significant disruption to business operations caused by COVID-19," the group stated in its letter, which it said it had sent to the governor on Wednesday. "Consumers, businesses, and the public health would benefit from a reasonable forbearance of enforcement during this pandemic."

ANA, the advertising industry's oldest and largest trade association, raised several arguments for delaying enforcement of the CCPA, which took effect Jan. 1 but can't be

enforced until July 1. The law is the first in the U.S. to give consumers the ability to find out what data companies hold about them, to have this information deleted and to opt out of the sale of this data.

These contentions included that the attorney general has overstepped his authority by inserting into the regulations a blanket requirement for businesses to honor browser signals that would allow consumers to opt out of the sale of their personal information on a global basis.

The group argued that this requirement goes beyond the law's intent and scope and is an impermissible burden on business' commercial speech rights under the First Amendment and the California Constitution.

"Updating the regulatory requirement so businesses may permissibly offer consumers another, equally effective method of opting out of personal information sales instead of obeying browser signals would help prevent intermediaries from setting default signals that do not align with consumer preferences," ANA told the governor, echoing arguments that it had previously made in public comments submitted to the attorney general during the regulation-drafting process.

ANA also voiced concerns that its members wouldn't have time to update their compliance programs to take into account the new regulations before they're subject to enforcement actions and monetary penalties for allegedly violating the law. While the attorney general [released the first draft](#) of his regulations in October, he didn't submit the final version to the Office of Administrative Law for approval until June 1.

Becerra asked OAL to expedite its review to finish up before July 1, but the office has 90 days to complete the process, and it remains unclear whether it will sign off on the regulations before enforcement begins.

"The final rules fail to provide businesses with needed clarity and time to comply," ANA told the governor.

A representative for the governor's office didn't respond to a request for comment Friday.

ANA's disclosure of its latest move comes a day after California's secretary of

state [confirmed that](#) an advocacy group that has put forth a proposed ballot initiative to expand the scope of the CCPA has collected enough valid signatures for the measure to be presented to voters across the state on Nov. 3.

If approved, the California Privacy Rights Act would broaden the CCPA in several important ways, including by giving consumers the right to limit the use and disclosure of a new category of "sensitive" personal information and by allowing them to opt out of both the sale and the sharing of their data. The initiative would also triple fines for the unlawful collection or sale of children's personal information and establish the California Privacy Protection Agency, which would replace the state attorney general's office in enforcing the law.

While the CPRA wouldn't take effect until January 2023, it would almost certainly require companies that have spent the last two years overhauling their procedures to comply with their new consumer access and disclosure obligations in the CCPA to revisit and adjust their efforts to fall into step with their expanded duties under the proposed ballot initiative, according to experts.

In a blog post announcing its letter to the governor Friday, ANA noted that it "stands ready to assist our members, the business community, and consumers in navigating the exceedingly complex privacy landscape in California as it continues to evolve."

"The CCPA is the most sweeping privacy law ever put forward in the US, and it is critical that its enforcement be carried out in a way that is the least disruptive to legitimate business compliance efforts while meeting all statutory requirements," the group added.

"Unfortunately, presently neither of these fundamental needs are being met."

--Editing by Amy Rowe.