



December 11, 2023

Re: Universal Opt-Out Shortlist, Global Privacy Control

To: Colorado Department of Law

The Center for Democracy & Technology (CDT) welcomes the opportunity to comment on the Colorado Department of Law’s short list of universal opt-out mechanisms. We encourage the Attorney General to include the Global Privacy Control (GPC), a web browser setting designed to communicate internet users’ data privacy preferences to the websites they visit, on the list of accepted opt-out mechanisms (“Universal Opt-Out Mechanisms,” or UOOMs) as described by the Colorado Privacy Act.¹

CDT is the leading nonpartisan, nonprofit organization fighting to advance civil rights and civil liberties in the digital age. We shape technology policy, governance, and design with a focus on equity and democratic values. Established in 1994, CDT has been a trusted advocate for digital rights since the earliest days of the internet.

In 2021, Colorado enacted the Colorado Privacy Act (CPA), granting Colorado consumers new rights with respect to their personal data, including the right to access, delete, and correct their personal data as well as the right to opt out of the sale of their personal data or its use for targeted advertising or certain kinds of profiling. The CPA also places new obligations on covered entities to safeguard personal data, including the requirement to give Coloradans meaningful information about the collection and use of their data, to conduct data protection assessments, and to obtain consent before processing certain sensitive personal data.²

However, it is impossible for consumers to keep track of every piece of software and every company they interact with on the web. To enjoy their rights under the CPA, Coloradans need privacy tools that help them automatically communicate their data privacy preferences to the websites they visit. Such opt-out control mechanisms should be standardized, to ease adoption by industry and to facilitate effective choices by consumers.

A standardized opt-out tool benefits consumers as well as operators of websites and developers of user software. It provides users with an easier-to-use consumer-friendly experience, a better way to express their privacy preferences, and an option to exercise their legal rights. It also helps companies that need to comply with users’ legal requests, making those requests simpler to receive and process. In making use of a common, interoperable standard, it’s more feasible for software vendors (including the developers of widely used browser software) to implement this mechanism in a widely understood

¹ <https://coag.gov/uoom/>

² <https://coag.gov/resources/colorado-privacy-act/>



way.³

CDT strongly recommends that Colorado recognize GPC as a universal opt-out mechanism. We are encouraged to see incubation and standardization of the Global Privacy Control ongoing at the World Wide Web Consortium (W3C). W3C is an open multistakeholder standard-setting body, where work is done in public; where stakeholders can participate and provide input; and where standards are published freely and with commitments to royalty-free licensing, enabling broad, interoperable implementation and adoption. The standardization process enables vetting for the design, especially to ensure its interoperability across browsers and websites.

For these reasons, we encourage the Attorney General to recognize Global Privacy Control as a universal opt-out mechanism as described by the Colorado Privacy Act. We also encourage the Colorado Department of Laws to engage with the W3C's standardization process, as clear regulatory guidance and enforcement of expressed preferences have been identified as key to the successful standardization and widespread adoption of this class of consumer-controlled preference mechanism.⁴ The Colorado Department of Law can aid this effort in collaborating with other regulatory bodies in providing guidance to the standardization process.

Sincerely,

Nick Doty
Senior Technologist, CDT

³ In November 2022, we described the importance of consumer control mechanisms that are universal, standardized and easy-to-use in comments to the Federal Trade Commission on rulemaking for commercial surveillance: <https://cdt.org/insights/cdt-comments-to-ftc-regarding-prevalent-commercial-surveillance-practices-that-harm-consumers/>

⁴ Nick Doty, *Enacting Privacy in Internet Standards 74-75* (University of California, Berkeley 2020), <https://npdoty.name/writing/enacting-privacy/drafts/enacting-privacy-20201219.pdf>.