



Friday, March 7, 2025

Committee on Consumer Protection
California State Assembly
1020 N St, Ste 460
Sacramento, CA 95814

Re: Support for AB 566 Opt-Out Preference Signal

Dear Members of the California State Assembly,

The Center for Democracy & Technology (CDT) is pleased to support AB 566, which requires vendors of web browsers and mobile operating systems to include a setting that enables users to send an automated signal to businesses with which they interact through their browser or mobile device indicating that they wish to opt out of sales of their personal data. California law already requires businesses to comply with such opt-out signals when they receive them, but none of the market-leading browsers or operating systems currently enables users to send such a signal, undermining Californians' ability to enjoy the opt-out rights afforded to them. AB 566 would close this loophole.

Californians already have the right to opt out of sales of their data, and companies must honor opt-out requests when they receive them. But, as a practical matter, exercising that right is overly cumbersome, requiring users to individually notify each business to refrain from selling their data. Technical solutions like the Global Privacy Control (GPC), which the California Consumer Privacy Agency recognizes as a Universal Opt-out Mechanism, are key to enabling people to exercise these privacy rights, particularly in a way that avoids overwhelming individuals with site-by-site or app-by-app requests. GPC allows users to automatically signal to each service they interact with online to respect the opt-out rights protected in their jurisdiction by toggling a single setting in their web browser.

AB 566 would make that process much easier by requiring all browsers and mobile devices to include such a setting. It would have no significant detrimental effect on browser and device developers, but would likely increase the number of opt-outs from personal data sales that websites and ad tech companies receive, and would therefore be required to honor.

We note that the California legislature already passed a substantively similar bill, AB 3048, in the previous legislative session, which was vetoed by the governor after concerted lobbying from the tech industry. In his September 20th message informing the legislature of his decision, Governor Newsom asserted that “no major mobile OS incorporates an option for an opt-out signal,” in contrast to “most” internet browsers, and that “[t]o ensure the ongoing usability of mobile devices, it’s best if design questions are first addressed by developers, rather than by regulators.”

A bit of context is required to make sense of that statement. First, the market for mobile operating systems both in the U.S. and globally is dominated by Google’s Android and Apple’s iOS. The fact that two companies have so far failed to offer a setting to send an opt-out signal is hardly evidence that it can’t be done. In fact, both systems already offer other forms of automated opt-out signals. Second, these same companies’ browsers — Chrome and Safari, respectively — do not support GPC, the predominant mechanism for communicating opt-out preferences through the browser; nor does Microsoft Edge, for that matter. One source estimates that, together, these three vendors represent close to 90% of the global desktop web browser market,¹ and an even higher share of the U.S. domestic market.² The fact that the market leaders have not voluntarily taken steps that would benefit consumers while potentially disrupting their business practices is hardly indicative that mobile operating systems can’t be designed to include a universal opt-out mechanism setting.

Predictably, companies whose business models hinge on data practices that these laws either prohibit or subject to a user opt-out right are in no rush to respect or implement GPC (or other similar mechanisms) on a voluntary basis. This reticence is why California and Colorado have recognized GPC as a universal opt-out mechanism, obligating companies to respect the GPC opt-out signals they receive; they will soon be joined by other states like Connecticut, Texas, Oregon and New Jersey as those state privacy laws come into effect. However, none of the market-leading web browsers (Google Chrome, Apple Safari, and Microsoft Edge) supports GPC, preventing users of those browsers from sending the signals needed to exercise their privacy rights. That is not due to any technical obstacle: other browsers, including Brave, DuckDuckGo, and Firefox, support GPC.

As other civil society advocates have highlighted,³ companies rarely abandon lucrative data practices if the law doesn’t require it, and individuals are less likely to exercise their privacy rights if that requires

¹ <https://gs.statcounter.com/browser-market-share>

² <https://gs.statcounter.com/browser-market-share/all/united-states-of-america>

³ https://advocacy.consumerreports.org/press_release/california-governor-vetoes-landmark-bill-for-privacy-rights/ ; <https://www.prnewswire.com/news-releases/newsoms-veto-of-bill-allowing-consumers-to-globally-opt-out-of-data-use-is-bad-for-everyone-except-tech-companies-like-google-says-consumer-watchdog-302256156.html>



taking onerous steps. For privacy rights to be meaningful, the law must make it easy for users to vindicate those rights.

It is past time for all stakeholders to recognize that consumer opt-out of tracking is table stakes for basic privacy protections, and universal opt-out mechanisms are the most consumer-friendly way to implement those requirements. Without them, consumers are stuck playing endless whack-a-mole. The Assembly should pass AB 566 to help end that game.

Sincerely,

Nathalie Maréchal, Co-Director, Privacy & Data Project
Eric Null, Co-Director, Privacy & Data Project
Nick Doty, Senior Technology, Privacy & Data Project
Center for Democracy & Technology