



June 9, 2026

The Honorable Rebecca Bauer-Kahan
Chair, Assembly Committee on Privacy and Consumer Protection
1020 N Street, Room 162
Sacramento, CA 95814
(via portal)

Re: SB 435 (Wahab) Defending Californians' Privacy Act – SUPPORT

Dear Chair Bauer-Kahan:

Consumer Reports¹ writes to express their support for SB 435 which would amend the CCPA to narrow the law's current ambiguous exception for "publicly available information" to accord with consumers' reasonable expectations.

Under the current law, CCPA privacy rights do not apply to "publicly available information" which is defined as:

- information that is lawfully made available from federal, state, or local government records,
- information that a business has a reasonable basis to believe is lawfully made available to the general public by the consumer or from widely distributed media, OR
- information made available by a person to whom the consumer has disclosed the information if the consumer has not restricted the information to a specific audience

The third exception above is the most problematic: under the CCPA, any information you provide to *any single other person or company* is arguably "publicly available information" — and thus outside the scope of CCPA — unless you specifically instruct the recipient not to provide that information to others. Given the modern data ecosystem where consumers interact with dozens (if not hundreds) of companies everyday and there is often no automated or

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

standardized way to restrict resharing, this exception could potentially swallow the whole of CCPA and render it moot. Such an interpretation is clearly inconsistent with the purpose and structure of CCPA which provides opt-out rights over certain processing and sharing of data, but nevertheless grants other rights (such as access, deletion, and correction) over data not subject to such opt outs. SB 435 would fix this inconsistency in the law by eliminating this potentially massively overbroad loophole.

The second exception above could also potentially be abused, by imposing a subjective test from the perspective of a company as to whether data has been made publicly available by a consumer or the media. Whether data has been made available or not is an objective matter of fact — it is not the personal opinion of a data broker or advertising company. If a company makes a good faith error as to whether certain data is public or not, it is still an error and should be a technical violation of the law — just as other data processing errors are under the CCPA. Whether to bring an enforcement action is thus a matter of judgment and discretion for regulatory agencies; mistaken belief should not be an ironclad safe harbor for companies who may be disincentivized to invest in processes to determine whether certain data has been made publicly available or not.

For these reasons, we respectfully request an “aye” vote on SB 435.

Sincerely,

Justin Brookman
Director, Technology Policy
Consumer Reports