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California Governor Floats “Data Dividend” Proposal

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On the heels of the passing one of the nation’s leading pieces of privacy legislation, the [California Consumer Privacy Protection Act](#) (“CCPA”), Governor Newsom, used his first “State of the State” address, to highlight his position on data protection and privacy, by saying that technology companies “make billions of dollars collecting, curating and monetizing our personal data have a duty to protect it” and that “Consumers have a right to know and control how their data is being used.”

While strong support for data protection and privacy was not unexpected, Governor Newsom proposed an ambitious new goal, the creation of a “Data Dividend” for Californians that would allow California’s consumers to “share in the wealth that is created from their data ... because we recognized that your data has value and belongs to you.” At this time, not much is known as to how this eventual “Data Dividend” would be structured or implemented.

That being said, there already appears to be some support for the proposal. Democratic Senate Majority Leader Bob Hertzberg described the proposal “the next frontier of the online data and privacy conversation.” Further, Democratic Assemblyman Ed Chau, chairman of the Assembly Committee on Privacy and Consumer Protection, feels that the proposal “highlights the value of data, which has often been described as the new oil in this technological data-driven economy.”

However it is eventually structured, companies that may be subject to a “Data Dividend” should strongly consider ensuring that they understand at a granular level, the value that data collected from California consumers has to their business. The CCPA already grants consumers the right not be discriminated against for exercising any of their granted rights, yet allows businesses to “offer a different price, rate, level, or quality of goods or services to the consumer if that price or difference is directly related to the value provided to the consumer by the consumer’s data.” Companies should be considering now how valuable certain data is to their business model, what substitutes are available, and how their process flows and offerings might change if the use of this data become significantly more expensive, either as a result of a “Data Dividend” or perhaps even an eventual “financial incentive” offered under the CCPA.

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