

**iab.**

# **Geolocation and Sensitive Information Webinar**

# Today's Speakers



**Mike Signorelli**

Partner  
**Venable LLP**



**Leigh Parsons Freund**

President & CEO  
**Network Advertising  
Initiative (NAI)**



**Shane Wiley**

Chief Privacy Officer  
**Cuebiq**



**Ed Britan**

Senior Director & Policy  
Counsel for Privacy & AI  
**Microsoft**

## Moderators

Dave Grimalid, EVP for Public Policy, IAB  
Alex Propes, VP for Public Policy, IAB



# Location Data Privacy Developments

June 25, 2020



**Mike Signorelli**

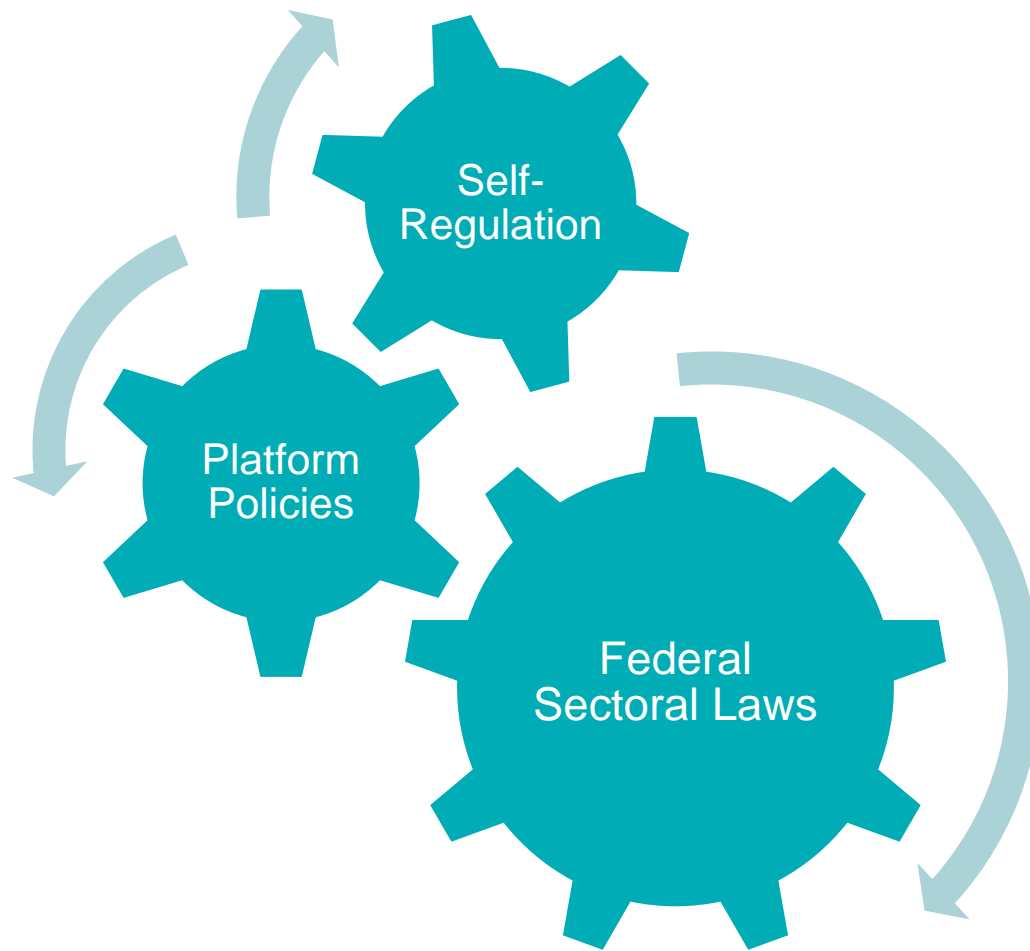
202.344.8050 | [MASignorelli@Venable.com](mailto:MASignorelli@Venable.com)

**VENABLE** LLP

# Defining “Location Data”

- “**Precise Location Data** is data obtained from a device about the physical location of the device that is sufficiently precise to locate a specific individual or device.” Precise Location Data may include, for example, data obtained from cell tower or WiFi triangulation techniques, or latitude-longitude coordinates obtained through GPS technology.
- This definition of “Precise Location Data” does not include location **data that is not precise**, such as:
  - Five-digit zip code; city name; general geographic information, whether derived from an IP address or other sources; or information that does not necessarily reflect the actual location of a device.
  - Location data that has been, or within a reasonable time period will be, de-identified.
  - Location data that has been or will be rendered not precise within a reasonable period of time from collection, and during that period of time is not used for purposes other than operations and system management purposes, market research, or product development.

# Historical Approaches to Location Data



- Self-regulation has supplemented federal sectoral laws, such as COPPA, GLBA, HIPAA and others that regulate particular types of information.
- Operating systems such as iOS and Android have placed requirements on companies' collection, use, and dissemination of location data.
- These three elements have worked together to enable continued beneficial uses of location data to serve consumers and the marketplace.

# Recently-Enacted Laws Impacting Location Data

## California Consumer Privacy Act of 2018 (CCPA)

- “Personal information” is information that identifies, relates to, describes, is reasonably capable of being associated with, or, could reasonably be linked, directly or indirectly, with a particular consumer or household, including **geolocation data**.
- The CCPA gives California consumers the right to access, delete, and opt out of sales (i.e., transfers for consideration) of personal information.

## General Data Protection Regulation (GDPR)

- “**Location data**” is considered “personal data” under the GDPR.
- As a result, companies need a lawful basis for processing location information and must fulfill individual rights related to such information.

# California Privacy Rights Act of 2020 Ballot Initiative

- The ballot initiative creates a new category of information deemed “**sensitive personal information.**” The definition includes “a consumer’s precise geolocation” in its scope.
- “**Precise geolocation**” is defined as “any data that is derived from a device and that is used or intended to be used to locate a consumer within a geographic area that is equal to or less than the area of a circle with a radius of one thousand, eight hundred and fifty (1,850) feet, except as prescribed by regulations.”
- The ballot initiative gives consumers the right to limit a business’s use of sensitive personal information to the following uses:
  - Uses that are necessary to perform the services or provide the goods reasonably expected by an average consumer who requests such goods or services;
  - Uses to ensure security and integrity;
  - Short-term, transient uses, including but not limited to non-personal advertising shown as part of a consumer’s current interaction with the business, subject to certain conditions;
  - Uses to perform services on behalf of the business, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing analytic services, providing storage, or providing similar services on behalf of the business;
  - Uses to verify or maintain the quality or safety of a service or device controlled by a business and to improve, upgrade or enhance it; and
  - Uses that are authorized by regulation.

# Location Data: Media Scrutiny

**THE WALL STREET JOURNAL.** [Subscribe](#) | [Sign In](#)

English Edition | June 25, 2020 | [Print Edition](#) | [Video](#) | [Latest Headlines](#)

[Home](#) [World](#) [U.S.](#) [Politics](#) [Economy](#) [Business](#) [Tech](#) [Markets](#) [Opinion](#) [Life & Arts](#) [Real Estate](#) [WSJ Magazine](#) [Q](#)



**TECH**

**Political Groups Track Protesters' Cellphone Data**

Voting and advocacy groups track cellphones of participants and send messages; the tactics are 'deeply spooky yet extremely helpful,' says one user

SHARE [f](#) [t](#) [e](#)



The Post's View • Opinion

## Location data shows where we go — and who we are. And it's being sold.

By **Editorial Board**

Dec. 14, 2018 at 6:23 p.m. EST

ENGLISH ESPAÑOL 中文

## The New York Times

### Your Apps Know Where You Were Last Night, and They're Not Keeping It Secret

Dozens of companies use smartphone locations to help advertisers and even hedge funds. They say it's anonymous, but the data shows how personal it is.

By JENNIFER VALENTINO-DeVRIES, NATASHA SINGER, MICHAEL H. KELLER and AARON KROLIK DEC. 10, 2018



# Location Data: COVID-19 and State Legislation

- In response to the global pandemic, various states have advanced legislation to limit collection, use, and disclosure of location data. Some bills are specifically focused on contact tracing.

## California AB 1782

Applies to businesses or public health entities operating technology-assisted contact tracing digital applications or platforms for the purpose of controlling the spread of communicable disease

Requires affirmative consent for the collection, use, maintenance, or disclosure of “data,” which includes location data

Provides correction and deletion rights as well as disclosure requirements

## Hawaii HB 2572

Requires explicit consent for sales of geolocation information recorded or collected by mobile devices or location-based applications

“Consent” means prior express opt in consent that can be revoked at any time

“Geolocation information” is generated or derived from a mobile device and is sufficient to determine or infer the precise location of the device user

# Location Data: COVID-19 and Federal Developments

- This year, Congress has held paper hearings centering around COVID-19 and location information.
  - Specifically, on April 9, 2020, the Senate Commerce Committee held a hearing entitled, **“Enlisting Big Data in the Fight Against Coronavirus”**
- Some federal legislation under consideration by members of Congress specifically address location data.
  - For example, Senator Roger Wicker (R-MS), Chairman of the Senate Commerce Committee, circulated a draft federal bill that would deem precise geolocation to be “sensitive covered data.”
  - The bill would require regulated entities to obtain to prior, affirmative express consent from consumers before they may transfer such precise geolocation information.



HOUSE COMMITTEE ON  
**OVERSIGHT AND REFORM**  
CHAIRWOMAN CAROLYN B. MALONEY

[About](#) [Subcommittees](#) [Activity](#) [News](#) [Contact](#)

[Home](#) » [News](#) » [Press Releases](#)

**Members Launch Bicameral Investigation Into Company Tracking, Collecting, and Selling Consumers’ Location Data**

Jun 24, 2020 | [Press Release](#)



- **Precise Geolocation Information** means information obtained from a device about the physical location of that device that is sufficiently precise to locate a specific individual or device with reasonable specificity.
- Principles
  - Collecting, using, maintaining, publicly posting, or transferring the following personal information without the prior, **affirmative express consent** of the individual to whom the information relates:
    - Precise geolocation information, except and only as reasonably necessary for fulfillment.



© 2020 Venable LLP.

This document is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address.



**VENABLE** LLP

**iab.**

# **Geolocation and Sensitive Information Webinar**