



Alerts

Shh, Your Speaker is Listening: California Considers Consumer Privacy Protections for Smart Speaker Devices

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Hinshaw Privacy & Cyber Bytes

Existing California [law](#) regulates the operation of voice recognition features for smart televisions. Manufacturers and their contracting third parties, for example, are prohibited from selling or using—for any advertising purpose—actual recordings of spoken words collected for a specified purpose through the operation of a voice recognition feature.

On May 10, 2021, the California Assembly passed [AB-1262](#), which seeks to extend these consumer protections to users of smart speaker devices that have a voice recording feature.

Smart speaker device manufacturers would be prohibited from selling and sharing personal information obtained from actual recordings or transcriptions collected or retained through the operation of the voice recognition feature absent affirmative written consent. The manufacturers would also be prohibited from using personal information for any advertising purpose. User opt-in would be required to retain recordings and transcripts.

Assembly Members Cunningham and Wicks introduced the legislation on February 19, 2021, emphasizing the need for new safeguards "to ensure that consumers can enjoy the benefits of these technologies while mitigating the privacy risks that they pose."

The Assembly Committee on Privacy and Consumer Protection mentioned in its [April 22, 2021 hearing report](#) an "alarming exposé" published in 2019 by *Bloomberg* that revealed the extent to which smart speaker device manufacturers have access to "deeply personal" consumer recordings. The Committee commented that the California Consumer Privacy Act (CCPA) affords consumers the ability to opt-out of the sale or disclosure of personal information collected by smart speaker devices, but the protections do not go far enough. "There is nothing in the CCPA specific to smart speakers to give consumers the option of opting-in and or out of these devices collecting voice recording or passively eavesdropping on private conversations. . . ."

Accordingly, the bill would amend Business & Professions Code §22948.21 to provide specific language that a manufacturer of a connected television or smart speaker device shall disclose the following to the consumer during the device installation:

Service Areas

Privacy, Security & Artificial Intelligence



- This device may be used to process and retain user recordings and transcriptions of spoken words. Those recordings may be analyzed and shared with third parties by the manufacturer and its employees for the purpose of improving the device. Please indicate whether or not you give your consent for the device to be used in this way. This consent is not required to use the basic functions of this device.
- I authorize [manufacturer name] to share my recordings, and I understand that the recordings may be analyzed and shared with third parties by the manufacturer and its employees.
- I do not authorize [manufacturer name] to share my recordings and I do not want to have access to the enhanced smart features of this device.

Affirmative written consent would be obtained only if the consumer then provides authorization pursuant to the [Electronic Signatures in Global and National Commerce Act](#) (15 U.S.C. 7001 et seq.) and the [Uniform Electronic Transactions Act](#) (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).

AB-1262 is now before the California Senate.