

## MacTaggart Pushes CCPA Initiative With Former Allies Against Him

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November ballot measure seeks to clarify Calif. privacy law

- ACLU, other groups say ballot measure undermines privacy

The unity that data-protection advocates displayed before the enactment of the California Consumer Privacy Act has frayed as the statute's lead proponent seeks to amend it in the November election.

"The attacks from the privacy side are somewhat unexpected," Alastair MacTaggart says of opposition he faces from groups including the American Civil Liberties Union.

Yet the infighting among privacy groups, the neutrality of the state's Democratic Party, and questions about whether MacTaggart's plan will improve the law don't appear to be enough to stop his ballot initiative, Proposition 24.

"Nobody wants to be against privacy," said Alysa Hutnik, chair of Kelley Drye's privacy and information security practice. "It's a really flawed document, but they only need a simple majority of votes."

MacTaggart's advocacy group, Californians for Consumer Privacy, touted 88% support for his initiative in late June based on a poll.

Proposition 24, known as the California Privacy Rights Act, would expand the types of data protected under the state law that took effect Jan. 1. It would also create a new agency to enforce the law and increase the fines for data violations of children under age 16.

Advocacy groups, including the ACLU, came out against the ballot measure July 21. The opponents included Mary Stone Ross, who was a MacTaggart ally and original founder in 2017 of the ballot measure that led to the privacy law's creation.

The new initiative is "full of giveaways to social media and tech giants," according to the groups' statement. The product of closed-door negotiations with the

companies, it would water down privacy protections and result in an underfunded regulator, they said.

The California Democratic Party voted July 26 to go neutral on the ballot measure—the same stance it took during the 2018 initiative that led to the CCPA. The state’s Republican Party voted to oppose it.

“Thankfully, both parties recognize that we need to give that law a chance to work before making costly, potentially harmful changes that undermine existing law,” said Stone Ross, president of the California Consumer and Privacy Advocates Against Prop 24.

MacTaggart is nonplussed. The groups have “literally invented out of whole cloth issues that don’t exist,” he said.

As for criticisms that he worked with tech companies, he said, “I consider it a feature, not a bug, that we talked to businesses and academics.”

## **Strengthening Privacy**

MacTaggart said one of his prime motivations for Proposition 24 is to strengthen privacy protections for consumer data used by service providers. Service providers are entities such as cloud computing and human resource firms that process data on behalf of other businesses for specific purposes.

Data shared with service providers isn’t considered a “sale” of information under the California privacy law. Therefore, the statute limits the ability of consumers to opt out of such transfers.

The ballot initiative “explicitly prohibits” service providers from retaining, using, or disclosing personal information outside of the direct relationship with their business customer, MacTaggart said. It also limits ways in which businesses can combine personal information, and it requires that all uses of the data be “consistent with consumers’ expectations,” he said.

The initiative's creation of a new data regulator in the state would bolster privacy protections, MacTaggart said. The agency would start with a \$10 million budget and allow for the hiring of about 50 staff, he said.

Stone Ross pushes back against MacTaggart's arguments.

The service provider definition MacTaggart is pushing would expand companies' ability to use consumer data for advertising, she said. Tech companies would have "carte blanche" to do what they want with the data, Stone Ross said.

As for the new enforcement agency, a better solution would give state Attorney General Xavier Becerra, the law's current enforcer, more funds to go after tech companies that violate the law, Stone Ross said. Becerra could share enforcement with local authorities to ease the burden on his office, she said.

Hutnik said the new enforcement agency would have to create rules for many "material updates." Becerra's work on regulations would have "to be scrapped," she said, and companies would be "left in limbo."

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