

A Fresh Take

Staying ahead of evolving dynamics in the marketplace and our culture

Understanding the Momentum of Data Privacy Legislation

The Latest Laws and the Shortcomings of 'Big Tech'





Understanding data privacy & security is crucial for brands to forge consumer trust.

Data is the fuel that powers the advertising economy and is considered one of the most important assets a business can hold. **The right data leveraged in the right way enables a better understanding of customers**, as well as how to serve them more effectively and efficiently.

As the creation and collection of data expands, **businesses have an inherent responsibility** in maintaining the standards of how they collect, process and store personal data.

Consumers are particularly concerned about the practices of 'Big Tech' and social media platforms, with **77% of Americans having little or no trust in leaders of social media companies** to publicly admit mistakes and take responsibility for data misuse.

Consumer concern has been accompanied by a **surge in state level legislation** with federal laws being discussed as well. At their core, **these laws are focused on giving consumers more authority** in how their data is collected and used by the companies they share it with.

In the first piece of our three-part series, we seek to drive **UNDERSTANDING on the Momentum of Data Privacy Legislation**, and how the shortcomings of 'Big Tech' have played a role in the need for further regulation.

Data privacy is reshaping the conversation within the advertising landscape on how to ethically connect with consumers

 The Drum

April 4, 2024

Privacy, platforms & power shifts: 3 trends reshaping marketing and measurement

 CNN BUSINESS

April 8, 2024

US lawmakers unveil a plan to give all Americans a right to online privacy

The New York Times

July 10, 2023

U.S. and E.U. Complete Long-Awaited Deal on Sharing Data

AdAge

April 4, 2024

HOW AD TRANSPARENCY AND PRIVACY ARE THE INDUSTRY'S NEW TABLE STAKES

ADWEEK

December 8, 2023

You've Met Data Privacy Guidelines. But What About Data Ethics?

ADWEEK

How to Navigate the Complexities of Data Ownership

Forbes

December 8, 2023

Data Privacy Tops Concerns For Americans – Who Is Responsible For Better Data Protections?

AdAge

January 3, 2024

MOST PUBLISHERS SHARE CONSUMER DATA BEFORE GETTING CONSENT, COMPLIANT STUDY FINDS

Research covering 150,000 publishers and billions of impressions finds data usually flows before consent windows pop up

Forbes

April 19, 2024

Navigating The Complexity Of The Latest Data Privacy Regulations

BUSINESS INSIDER

September 6, 2023

Most major companies admit they may be selling your personal information, a new study finds

Our three-part series will help you **understand**, **decode** and **navigate** data privacy and security

UNDERSTAND

The momentum of data privacy & security legislation



DECODE

data privacy and security



[click here to download](#)

NAVIGATE

Marketing in privacy focused landscape



[click here to download](#)

What You'll Learn...

It's important to understand why data privacy and security is such a critical topic for the advertising industry today, as new legislation and growing consumer concern transforms the landscape

1

What is data privacy & security and why is it important?

2

What is the current momentum of data privacy regulation and legislation?

3

How has 'Big Tech' failed consumers on data privacy & security?

4

In which ways is multiscreen TV held to higher standards?

Click through a box above to be brought directly to the appropriate section

There are significant business and legal ramifications for failing to adhere to data privacy and security regulations

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Data privacy and security work together to ensure customer's safety and anonymity while protecting from identity theft, fraud and other cybercrimes



Data Privacy

The principle that **individuals should have control over their personal data**, including the ability to decide how organizations collect, store and use their data.



Data Security

The principle that any entity collecting data, has an ethical and legal obligation to **protect the data they collect from unauthorized access and misuse**.*

Source: IBM, What is Data Privacy?, December 2023. *Harvard Business School, "Data Privacy: 4 Things Every Business Professional Should Know", March 2021.

Marketers need to be aware of the potential business ramifications of not complying with data privacy and security regulations



**Financial
Risk**



**Brand
Reputational
& Corporate
Risk**



**Legal
Risk**

[Click here](#) to learn more about the critical business ramifications of not complying with data privacy and security regulations in '[Hidden Costs](#)'

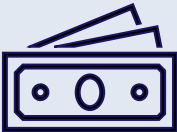
Failing to adhere to data privacy and security regulations can lead to serious issues for media platforms, its advertisers and their customers



Federal Investigations

“**United States senators sent a letter to the F.T.C.**, urging it to investigate whether Google and YouTube had violated COPPA.”

New York Times: ‘YouTube As May Have Led to Online Tracking of Children, Research Says,’ 8/17/23



Massive Fines

“Children’s privacy advocates are urging federal regulators to consider issuing a massive fine **‘upwards of tens of billions of dollars’**...”

Washington Post: ‘YouTube faces fresh complaint over its children’s privacy practices,’ 8/23/23



Ad Waste & Brand Risk

“It doesn’t just lead to **wasted ad investments**, but also inadvertent exposure to serious compliance and **brand reputation risks**...”

Ruben Schreurs, Chief Strategy Officer at Ebiquity

AdExchanger: ‘Adalytics Claps Back With Evidence of Behaviorally Targeted Ads Served in Kids Content On YouTube,’ 8/23/23

[Click here](#) to learn more about the personalized campaigns serving impressions to children in **‘VAB Investigation: Did YouTube allow for targeted campaigns to be served on “Made for Kids” channels?’**

It is equally, if not more important, to follow data privacy guidelines when it comes to protected groups such as children



Privacy Abused

“They (YouTube) have created a conveyor belt that is **scooping up the data of children**”

Jeff Chester, Executive Director at the Center for Digital Democracy

New York Times: ‘YouTube Ads May Have Led to Online Tracking of Children, Research Says,’ 8/17/23



Exploitation

“There is no reasonable excuse for ads running on content intended primarily for kids other than to **extort advertisers through a toddler-enabled click farm**”

Sr. Advertising Executive who chose to remain anonymous

Adalytics: ‘YouTube Advertisers Inadvertently Harvesting Data From Millions of Children?’ 8/21/23



Exposure to inappropriate content

“Some of these ads reportedly involved **content inappropriate for children**, such as car wrecks, medical injuries and clips from TV-MA shows.”

The Verge: ‘Senators want YouTube investigated over showing targeted ads to kids, again,’ 8/18/23

[Click here](#) to learn more about the personalized campaigns serving impressions to children in **‘VAB Investigation: Did YouTube allow for targeted campaigns to be served on “Made for Kids” channels?’**

Data privacy legislation is on the rise at the state and federal level

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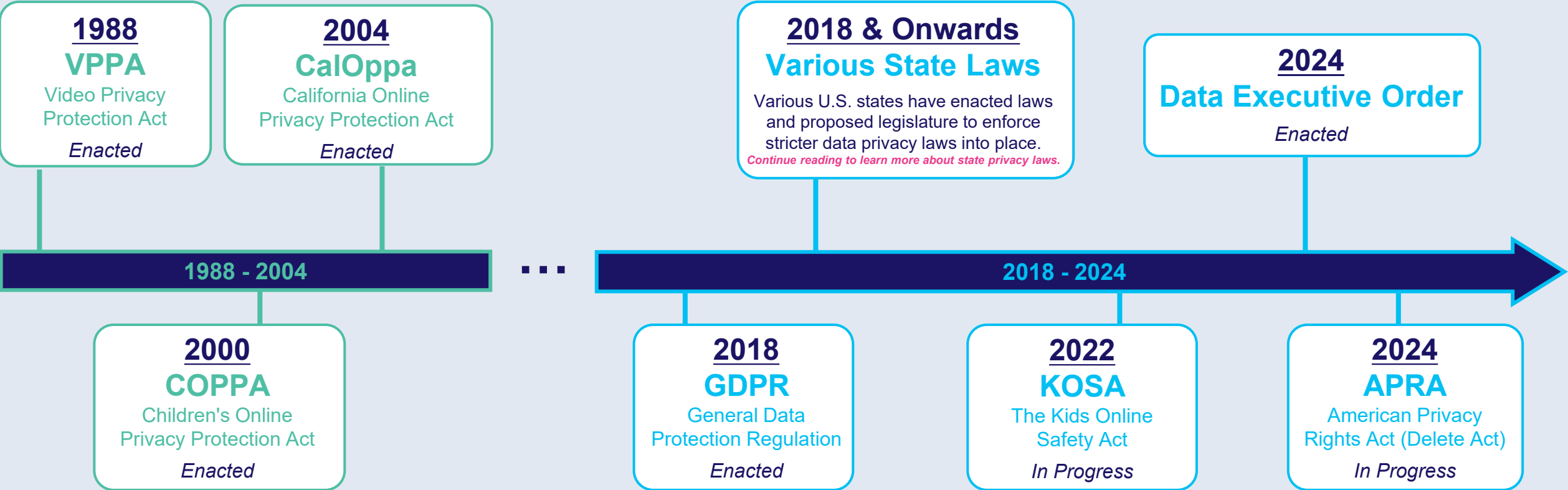
4

In which ways is multiscreen TV held to higher standards?

The history of data privacy began decades ago, but has seen much more momentum in legislative action over the last several years

▶ Past and present-day legislation continues to impact the advertising industry today

Data Privacy Legislature Timeline



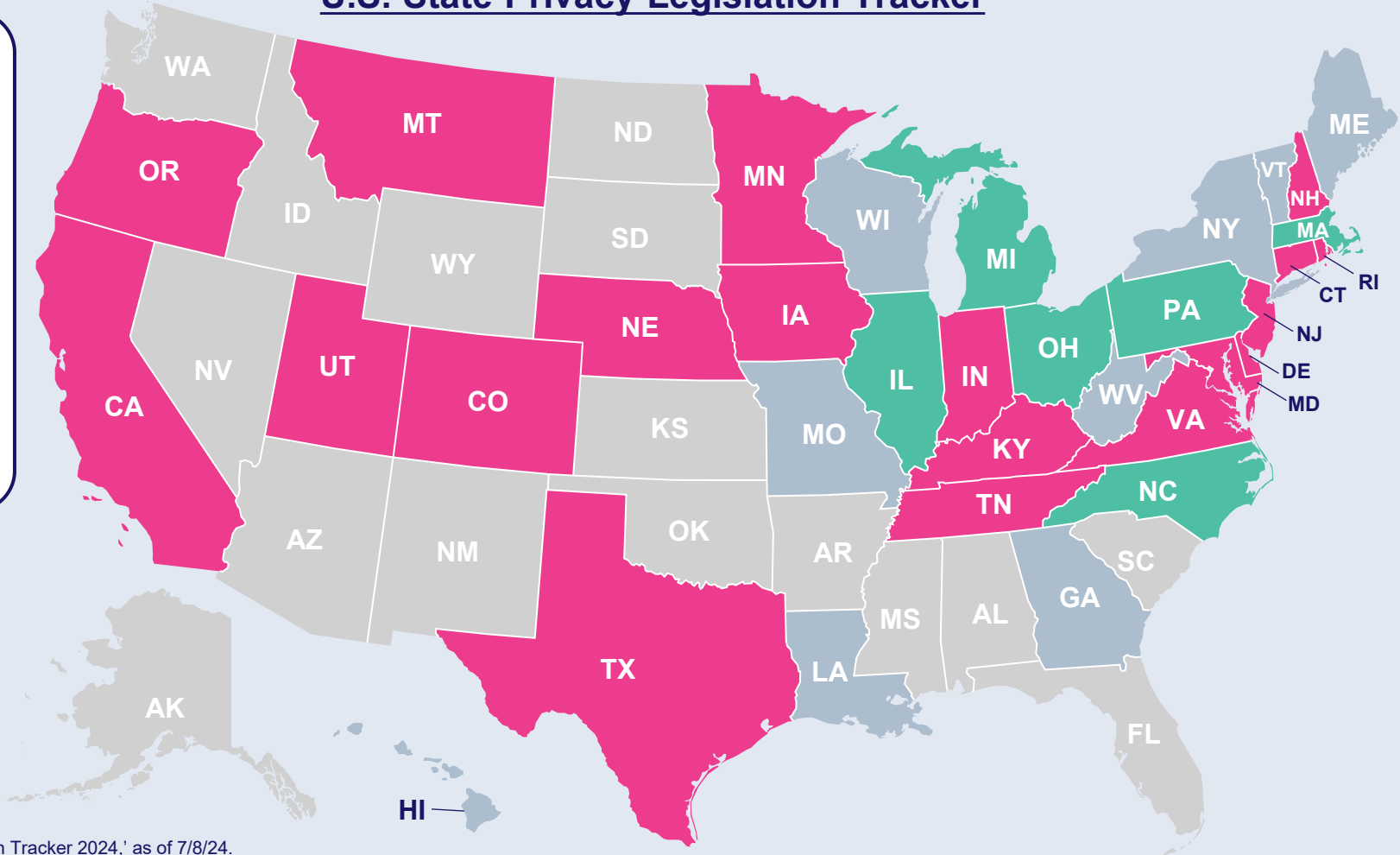
See appendix for additional information on data privacy legislation

The data privacy landscape across the U.S. varies, with a growing number of legislative acts being implemented across individual state governments

U.S. State Privacy Legislation Tracker

Legend

- =Law Passed & Signed (19 states)
- =Active Bill In Committee (6 states)
- =Inactive Bill (9 states)
- =No Comprehensive Bill Introduced Yet (16 states)

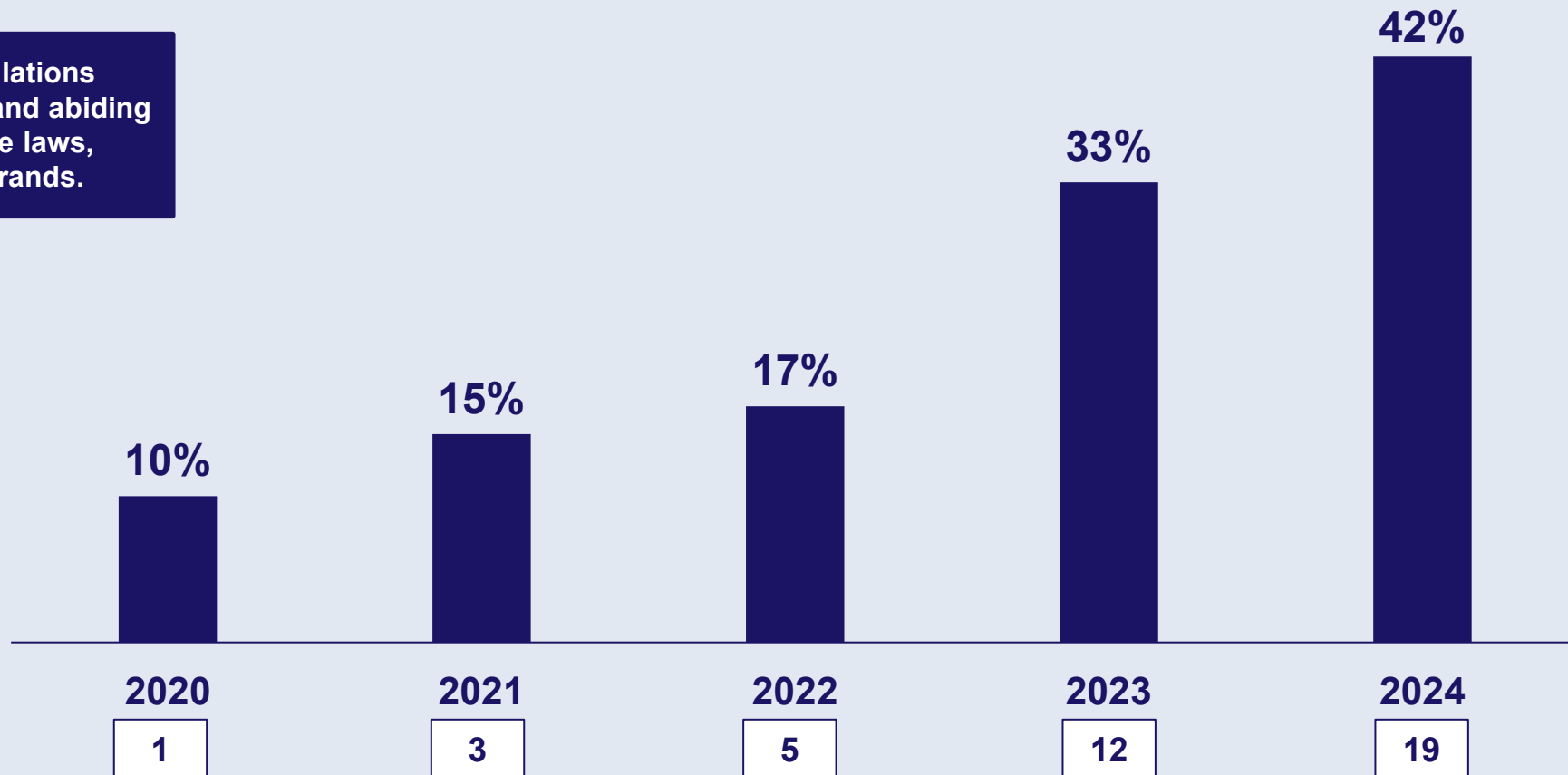


Source: IAPP, 'US State Privacy Legislation Tracker 2024,' as of 7/8/24.

Data privacy regulations through state legislations now collectively cover over 40% of total U.S. HHs, a significant increase in just the last two years

% of Total U.S. HH Population in States That Have Signed Laws on Data Privacy

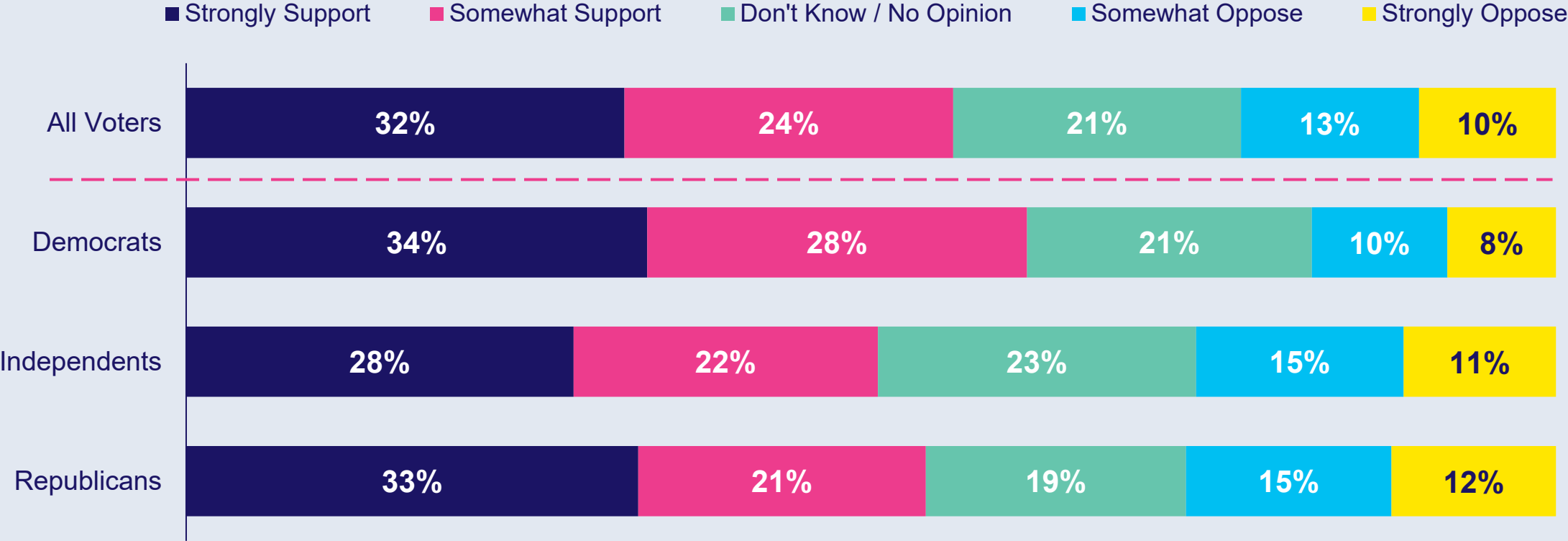
This patchwork of regulations makes measurement, and abiding by all the separate state laws, more challenging for brands.



Source: IAPP, 'US State Privacy Legislation Tracker 2024', as of 7/8/24. *Nielsen Universe Estimates, January 1, 2024, Total U.S. HHs.

The desire for federal regulation on data privacy is one of the few issues in the U.S. that receives relatively equal bi-partisan voter support

Do You Support A Federal Data Privacy Law?

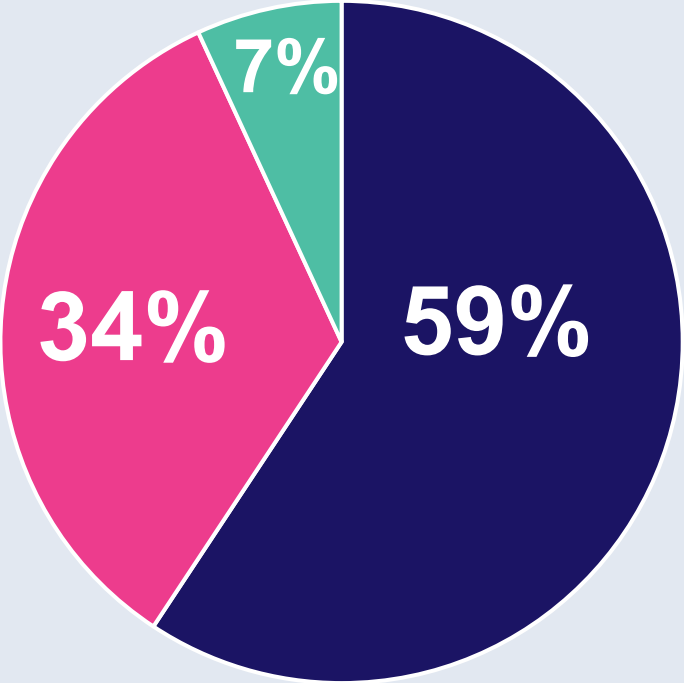


Source: Morning Consult, 'More Than Half of Voters Back a National Data Privacy Law', 1/1/22, Data reflect poll conducted Jan 8-9 2022, among a representative sample of 2,000 registered voters, with an unweighted margin of error of +/-2 percentage points.

Not only do consumers agree there should be a federal privacy law, but most marketers are also in support of federal-level regulation

What level of regulatory approach do U.S. marketing professionals want to see around data privacy?

■ Federal-level regulation ■ Industry Self-Regulation ■ State-by-state regulation



Source: eMarketer, 'Lawmakers address ad industry concerns in updated privacy rights legislation', May 2024.

Ad industry support for a federal bill on data privacy is driven by the desire to standardize and simplify the ability to conduct business in the U.S.

Four Key Marketer Implications in APRA (Delete Act)



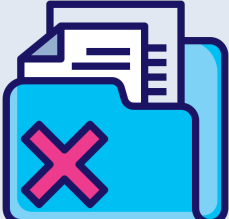
Child Safety

APRA is “complementary” to other bills on child safety and privacy that are expected to be taken up in the Senate.



Data Opt-Outs

Opt-out provisions that appear in various state bills are becoming common across the US and EU, suggesting that platforms and data brokers will soon have to make the ability to opt out prominently accessible.



Delete My Data

“Delete my data” clauses that first appeared in California’s 2023 privacy bill are also becoming the norm, increasing transparency between the ad industry and consumers.



Targeted Ads

The ANA and 4As support federal legislation but have expressed concern in an open letter to congress that provisions in the **APRA could inhibit advertisers to activate targeted ads**, which has implications for advertisers and consumers.

[Read the ANA & 4A's Letter](#)

Increased regulations and fines are illuminating 'Big Techs' failures to protect and safely handle consumer data

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Increased data privacy legislation will help protect some consumer data being tracked and used by 'Big Tech'



“This landmark legislation (referencing the *American Privacy Rights Act*) gives Americans the right to control where their information goes and who can sell it. **It reins in Big Tech by prohibiting them from tracking, predicting, and manipulating people’s behaviors for profit without their knowledge and consent.** Americans overwhelmingly want these rights, and they are looking to us, their elected representatives, to act.”

Rep. Cathy McMorris Rodgers

House Energy and Commerce Committee Chair, (R-Wash.)

Americans are concerned with how 'Big Tech' walled gardens and social media companies are handling their data

▶ Even though people don't trust social media platforms to use their data responsibly, the total number of social network users has increased 11% since 2019 in the U.S.*

81%

of U.S. adults are **concerned** about how **companies use the data** they collect about them

% of U.S. adults who have little or no trust that leaders of social media companies will...

Publicly admit mistakes and take responsibility when they misuse or compromise users' personal data

77%

Not sell users' personal data to others without their consent

76%

Source: Pew Research Center, 'How Americans View Data Privacy', October 2023. *eMarketer Forecast, May 2024, social networks users - Internet users of any age who use a social network via any device at least once per month (2019 - 206.2MM vs. 2023 - 228.0MM).

Despite increased regulations in the U.S. and abroad, 'Big Tech' platforms continue to commit privacy violations while putting consumer data at risk

▶ Standardized legislation and regulation at the federal level is seen as a way to better rein in the systemic data privacy abuses caused by 'Big Tech' platforms

WIRED April 1, 2024

The Incognito Mode Myth Has Fully Unraveled

To settle a years-long lawsuit, Google has agreed to delete "billions of data records" collected from users of "Incognito mode," illuminating the pitfalls of relying on Chrome to protect your privacy.

The New York Times May 13, 2024

On Instagram, a Jewelry Ad Draws Solicitations for Sex With a 5-Year-Old

Advertisers of merchandise for young girls find that adult men can become their unintended audience. In a test ad, convicted sex offenders inquired about a child model.

THE WALL STREET JOURNAL. September 5, 2022

Instagram Fined \$402 Million in EU for Allegedly Mishandling Children's Data

The fine is the second largest yet under the bloc's GDPR privacy law

BUSINESS INSIDER May 22, 2023

Meta hit with a record-breaking \$1.3 billion fine over data privacy breaches

The Guardian March 17, 2018

Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach

 **CNBC** December 23, 2022

Facebook parent Meta agrees to pay \$725 million to settle privacy lawsuit

TE April 4, 2023

TikTok hit with \$15.7M UK fine for misusing children's data

engadget December 28, 2023


Google agrees to settle \$5 billion lawsuit accusing it of tracking Incognito users

BUSINESS INSIDER June 3, 2024

Google leak reveals a list of past privacy mishaps, from recording children's voices to exposing user addresses in Waze, according to new report

Bloomberg October 24, 2023

Meta Sued by California, States Over Harmful Youth Marketing

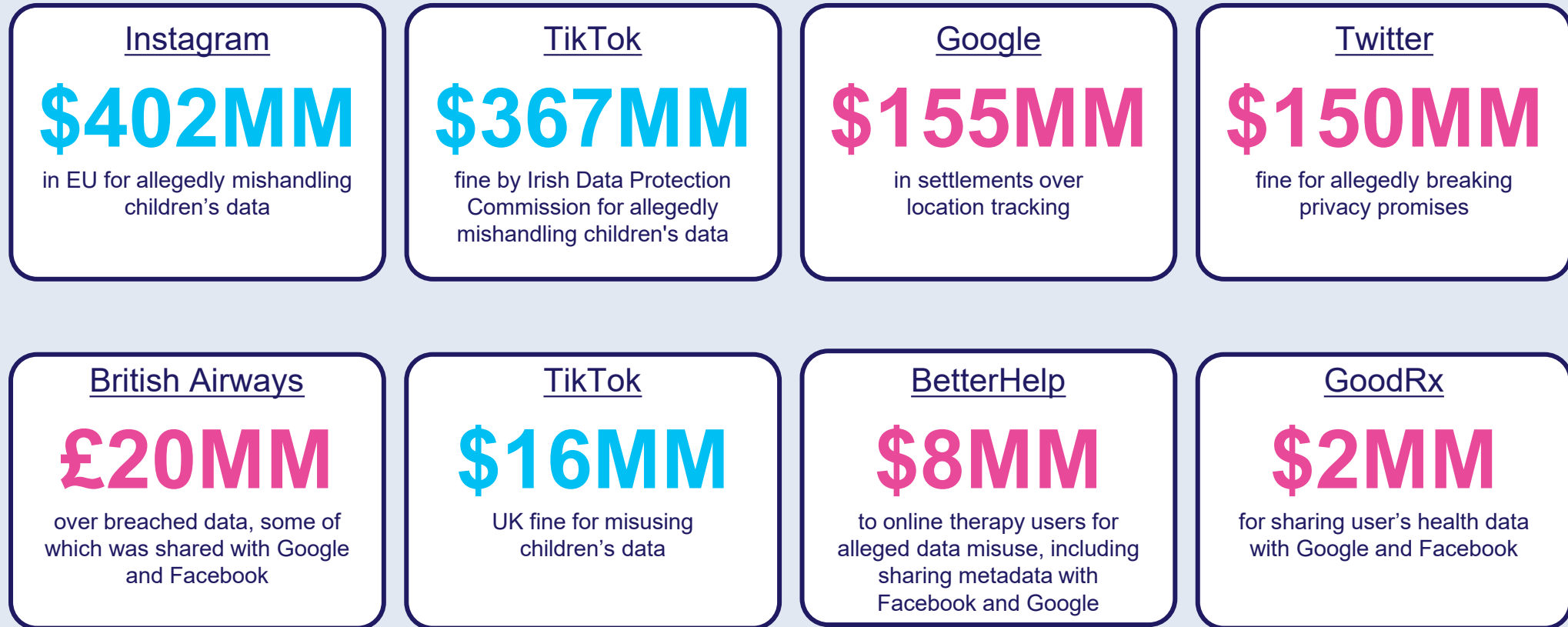
 November 14, 2022

Google pays nearly \$392 million to settle sweeping location-tracking case

TE December 15, 2023

News publisher files class action antitrust suit against Google, citing AI's harms to their bottom line

‘Big Tech’ platforms, and some brands that shared data with them, have incurred hundreds of millions of dollars in fines due to data misuse



■ Fines Related to Mishandling of Children's Data

■ Fines Related to Data Leaks / Breaches

Conversely, decades of federal regulation have created a safe and secure environment with multiscreen TV for consumers and advertisers

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Through the Cable Communications Policy Act, multiscreen TV has long been required by law to give consumers authority over their own data

3 Elements of the Cable Communications Policy Act of 1984



Transparent

Cable operators must give prior notice and obtain consent before collecting data from consumers



Consented

Cable operators must receive consent from consumers in order to share data with third parties



Right to Inspect

Cable subscribers have the right to inspect and correct errors in the cable operator's databases

Held to a higher standard, Television has been required by law to manage the programming and ads served to children for over three decades

Children’s Television Act of 1990

#1 TV broadcasters & networks must apply for a license and undergo thorough review by the FCC

#2 Licensees must consider “the educational and informational needs of children”

#3 FCC reviews overall programming and the share of educational programs

#4 Licensees must limit the number of commercials during children’s programs

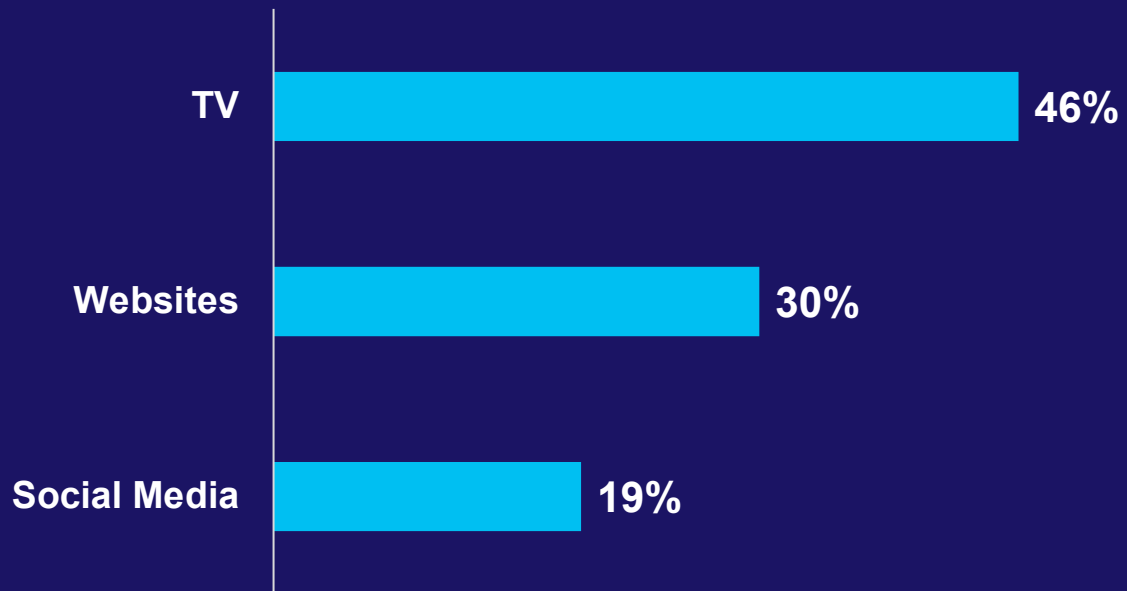
Source: FCC Video Division, ‘The Public and Broadcasting’.



A platform's trustworthiness extends to its advertising environment as well which enables brands to create authentic connections with viewers

Types of Advertising U.S. Adults Find Trustworthy

% of respondents



U.S. adults are *more likely* to find ads on TV trustworthy vs. ads on digital platforms

2.5x

More Likely
to trust ads on TV
vs. ads on social media

1.5x

More Likely
to trust ads on TV
vs. ads on websites

Source: YouGov, *Global Study: Which Types of Ads Do People Trust?*, commissioned by Campaign, 2/5/2021. Note: Ages 18+ who selected very/somewhat trustworthy.

Marketer Takeaways: Protect your brand by complying with regulations, and partnering with trusted media platforms

Three Actions You Can Take Now to Protect Your Customers and Your Brand

1

Comply with Consumer Protection Laws & Regulations

Adhere to the most stringent state level privacy laws to ensure you're in compliance. Doing so enables you to put the customer first by protecting their identity and personal information.

Stay up to date with privacy laws here: iapp.org

2

Be Aware of the Risks Associated with Non-Compliance

Not complying with data privacy and security regulations, or partnering with platforms who abuse legislation, can result in financial, brand reputational and legal risk.

3

Partner with Trusted Media Platforms

Brands who align with trusted media platforms that comply with regulations will be better suited to not only protect and preserve the privacy of their customers, but also protect and preserve their own reputation.

Explore our full three-part series to **understand**, **decode** and **navigate** data privacy and security, with actionable insights

Understand the momentum behind **data privacy legislation** and explore the continued shortcomings of 'Big Tech' in this area.



Decode data privacy and security to learn about the key topics, concepts and terms and **why it matters to your customers**.



[Download Here](#)

Navigate marketing strategies in a privacy-focused landscape, with actionable tactics to reach audiences with personalized ads.



[Download Here](#)

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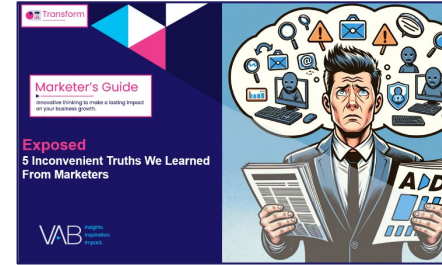
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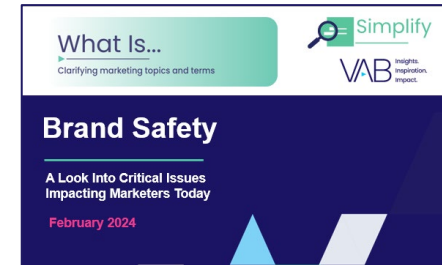
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Exposed
5 Inconvenient Truths We Learned From Marketers



Hidden Costs
Three critical business ramifications of digital ad fraud



What is Brand Safety?



Untangling Terminology in Data, Identity & Privacy



What's the Deal With... Identity?



What is The Digital Video Supply Chain

About VAB

VAB plays a dual role in the video advertising industry. We are leading the change to bring about a more innovative and transparent marketplace. We also provide the insights and thought leadership that enables marketers to develop business-driving marketing strategies.

Drawing on our marketing expertise, we **simplify** the complexities in our industry and **discover** new insights that **transform** the way marketers look at their media strategy.



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Appendix: Data Privacy Legislation Timeline

Data Privacy Legislation Timeline

