



# AD TECH PRIVACY PAIN POINTS: Effective Opt-Out Compliance

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# Roadmap

1. Why now?
2. Scope of today's discussion
3. Common implementation gaps with opt outs
4. Business considerations for operationalizing opt outs

**Why now?**

# State Enforcement is on Fire



- State regulators are making their priorities known and are aggressively pursuing violations of their respective privacy laws
- Opt out compliance is the most enforced issue
- Actions are increasingly yielding **higher penalties:**

*Honda*

*Todd Snyder*

*Healthline*

*TicketNetwork*

**\$2,612,678.00**

*total monetary penalties*

# Adtech Practices Are Driving Wiretap/UDAP Litigation Risk



*Claims under the California Invasion of Privacy Act (CIPA) have been extremely popular with over 300 new cases filed in state or federal courts in 1H 2025*

## Common Targets

Advertising and analytics pixels

Advertising and analytics identifiers

AI support tools

Biometric privacy

Video Privacy Protection Act

Representations about any of the above

# Scope of our Discussion

# Operationalizing Opt-out Requirements

What processing activities are in scope

Sales of PI | Sharing PI | Targeted Advertising

What this could look like in practice



AD TAGS FOR  
PERSONALIZED  
ADVERTISING &  
RETARGETING



BUILDING  
AUDIENCES AND  
SEGMENTS



CUSTOM  
AUDIENCE  
TARGETING ON  
PLATFORMS



ANALYTICS OR  
MEASUREMENT



CONVERSION  
TRACKING



FORM RESPONSE  
TRACKING



EMAIL TRACKING



OTHER  
MARKETING &  
DATA  
COLLABORATIONS

- **Out of scope for today's webinar**
  - Marketing – telemarketing, email marketing
  - Other privacy rights or protections under state privacy laws

## Why this Matters

*Operationalizing opt outs is much more than providing a web form or a “cookie banner”*



*It’s about honoring user choice. For known users, this means honoring choice across devices, across channels, across 3<sup>rd</sup> parties*

### Requires business to

Understand what commercial activities trigger opt-out to inform how it will be implemented and operationalized

Surface accurate, easy to use, and compliant opt-out mechanism tailored to the triggering activities




Deploy a mechanism that is operational and functionally capable of capturing and disseminating user preferences

Implement a framework that ensures a logged-in user’s choice to opt-out is known across the entire ecosystem

**Connect the dots between the front end and the back end**

# Common Implementation Gaps


# #1(a) Opt-out mechanism looks good, but does not work

 Your Opt Out Preference Signal is Honored

## Cookie Preference Center

This website uses cookies and other tracking technologies ("Cookies") to enhance user experience, serve targeted ads, and to analyze performance, user activity, and traffic on our website. Some Cookies may collect information that is used in a way that is considered a "Sale," "Sharing," or "Targeted Advertising" as those terms are defined under various state laws.








To opt out of the collection of information through those Cookies, change the toggle by moving the toggle to the left (so it is grayed out) and click "Confirm My Choices." If you later change your mind, you can opt back in by sliding the toggle to the right (so it is blue) and click "Confirm My Choices."

Allow Sales and Sharing for Targeted Advertising  NO 

Front end view



Search for a tag, parameter, or URL...

 Amplitude	2	▼
 GA4	3	▼
 Google Ads Conversion	2	▼
 Google AdSense	2	▼
 Google Global Site Tag (gtag.js)	1	▼
 Google Tag Manager	5+	▼
 Google Web Font	1	▼

Back end view

## #1(b) Opt-out mechanism is missing



OOPS! THERE IS NOTHING FOUND.

Opt-out links to “HTTP 404 Not Found”

33. Despite Selling and Sharing Consumer’s Personal Information through tracking technologies and *telling* Consumers that they could opt-out, the technical infrastructure told a different story. Behind the scenes, the Website’s opt-out mechanism to enable Consumers to exercise their choices was not properly configured.

34. Specifically, for 40 days starting in late 2023, when Consumers clicked the link titled “Cookie Preferences Center,” a consent banner (or “cookie banner”) appeared to the side of the screen but instantaneously disappeared.

35. In the circumstances where the banner instantaneously disappeared it was impossible for Consumers to submit their Requests to Opt-out of Sale/Sharing.

36. The same configuration issue meant Consumers’ Requests to Opt-out of Sale/Sharing submitted through Opt-out Preference Signals, such as the Global Privacy Control, were not processed.

Disappearing banner (*Todd Snyder*)

Other issues:

- Dedicated email but nobody monitors the inbox
- Discount overlays interfering with opt-out mechanisms
- Opt-out link does not surface or does not work if privacy browser/extension enabled

## #2 Overwhelming UI

**HONDA CONSUMER PRIVACY RIGHTS REQUEST FORM**

Honda values your privacy. If you are a resident of a state that grants you consumer rights governing data usage, you may submit a request by completing the form below. You may also submit a request [by phone](#). The personal information you provide as part of this request will be used to process your request and for no other reason.

If you are making this request for yourself, skip this step. Check this box if you are an authorized agent making this request on behalf of another person who is a resident of one of the states listed. If you are an authorized agent submitting on behalf of the below resident, you must verify your own identity and provide a copy of a lawful power of attorney or proof that the resident gave you written permission to act on their behalf. A separate correspondence with instructions will be sent to the preferred communication method selected in the form below.

Before submitting your request, we recommend you review our [Privacy Notice](#) which contains information on the collection, use and disclosure of your personal information.

To opt out of certain uses of cookies and tracking tools, navigate to the cookies link in the footer of the site that you last visited. Cookies settings are specific to your browser and/or device. Changes to the browser or device you are using may require you to update your cookie preferences.

In accordance with applicable law and as further detailed in our [Privacy Notice](#), residents of the below states may exercise consumer rights governing data usage. If your state is not listed, the general Privacy Notice applies. Requests submitted by residents of states not listed below may not have their request fulfilled.

State of Requestor\* ▼

Type of Request\*

Do Not Sell or Share My Personal Information  
 Limit Use of My Sensitive Personal Information  
 Opt-Out of Automated Decision Making and Profiling  
 Personal Information Disclosure  
 Delete My Personal Information

First Name\*

Last Name\*

Address Line 1\*

Address Line 2

City\*

State\* ▼

ZIP Code\*

Preferred Method to Receive Updates About This Request\* ▼

Email\*

Confirm Email\*

Phone Number\*

Select which product(s) you own or have owned (leave blank if none)

Honda  Acura  Powersports  Power Equipment  Marine

VIN or Serial Number

VIN or Serial Number


VIN or Serial Number

VIN or Serial Number

VIN or Serial Number

VIN or Serial Number

My engagement with Honda is commercial as a vendor, partner, service provider, or similar type of business (non-consumer) relationship.

I'm not a robot 

Submit

- Requiring too many steps + too much information
- Dissuading consumers from exercising opt out
- Subverting consumer choice

Exhibit from *Honda*

### #3 Opt-out mechanism requires verification

\* Email

\* First Name

\* Last Name

\* Country of Residence  
Select Country of Residence

\* Proof of Identity

Select Identification

Attention! To prove your identity you must provide a photo of yourself holding your identity document next to your face, where both are visible in the photo.  
Must be under 8 MB.

\* Requestor Type  
Select Requestor Type

\* Request Type  
Select Request Type

Submit

Residents of California, Colorado, Connecticut, Montana, Oregon, Texas, Utah, and Virginia have additional privacy rights. These include:

1. **Right to Know:** You can request your personal information twice per 12-month period. We will not disclose sensitive personal information.
2. **Right to Opt-Out of Sales and Sharing:** You can opt-out of your personal information being sold or shared.
3. **Right to Delete:** You can request that we delete your personal information, with some exemptions.
4. **Right to Correct:** You can update your personal information by logging into your [redacted] or by contacting us. We will correct or delete inaccurate data.
5. **(California Residents Only) Right to Limit the Use of Sensitive Personal Information:** You can request that we delete your sensitive personal information, with some exemptions.

**Processing Requests:** We prioritize completing data requests within 45 calendar days for Right to Know, Deletion, Correction, and Appeal requests, and within 15 business days for Opt-Out of Sales/Sharing and Limit the Use of Sensitive Personal Information requests. All timelines start after you successfully verify your identity by email confirmation within 7 days of the submitting your request.

**Note:** Failure to verify within 7 days will result in the expiration of your request.

## #4(a) Opt-out does not address all triggering activities

Your Privacy Choices



**\* I am a(n)**

Customer  Employee  Job Applicant

**\* Select request type**

Right to Know My Information  Right to Opt-Out of Sales and Sharing of My Information  Right to Delete My Information

Right to Correct My Information  Right to Limit the Use of My Sensitive Personal Information

**Opt-Out of Sales and Sharing of My Information Notice**  
*By submitting this form, you are requesting to opt-out of offline sales and sharing scenarios.*

**\* First Name**

**\* Last Name**

**\* Email**

**\* Phone Number**  
United States (+1)

**\* Country**  
 X

**\* Address**

**\* City**

**\* State**  
 X

**\* Zip**

**Acknowledgement**  
By clicking "Submit" below, you confirm that you are a resident of the state indicated, and the information that you've provided is accurate.

Does the opt out page address client side technology? Does it fully address identity-based activities?

How is the business (through or in addition to the CMP) enforcing the opt out?

## #4(b) Opt out under-inclusive on sales/shares

Your Privacy Choices

**Privacy Preference Center**

When you visit any website, it may store or retrieve information on your browser, mostly in the form of cookies. This information might be about you, your preferences or your device and is mostly used to make the site work as you expect it to. The information does not usually directly identify you, but it can give you a more personalized web experience. Because we respect your right to privacy, you can choose not to allow some types of cookies. Click on the different category headings to find out more and change our default settings. However, blocking some types of cookies may impact your experience of the site and the services we are able to offer. [Learn more](#)

**Manage Consent Preferences**

- > Do Not Sell or Share My Personal Information
- > Marketing Cookies
- > Strictly Necessary Cookies Always Active
- > Performance Cookies
- > Functional Cookies

Reject All    Confirm My Choices

Cookie blocking typically is insufficient to fully effectuate an opt-out request

## #5 Opt-out mechanism is only available in California

### Notice of Right to Opt Out of Sale or Sharing of Personal Information – California residents only

The California Consumer Privacy Act (CCPA) gives California residents the right to opt out of the “sale” or “sharing” of personal information.

## DO NOT SELL MY INFORMATION

DO NOT SELL NOTICE FOR CALIFORNIA RESIDENTS

[Change Cookie Settings](#)

If you are a California resident, you have the right to opt out of the “sale” of your “personal information” under the California Consumer Privacy Act (“CCPA”).

## #6 Opt-out mechanism is geared toward GDPR/ePrivacy

[Cookie policy](#)

**ACCEPT ALL COOKIES**

Manage Consent Preferences


Strictly necessary cookies Always active

Performance cookies

Functional cookies

Marketing cookies

**CONFIRM MY CHOICES**



### Manage Consent Preferences

- + Strictly Necessary Cookies  Always Active
- + Performance Cookies
- + Functional Cookies
- + Sales, Sharing, and Targeting

- Understand the purpose of the opt out
- Use the correct terminology: state privacy laws are about opting out of sales, sharing, and targeted advertising

## #7 GPC signal not received/honored

What you should be seeing:

```
1 app.get("/", function(req, res) {  
2   const gpcValue = req.header('Sec-GPC')  
3   if (gpcValue === "1") {  
4     // signal detected, do something  
5   }  
6 })
```

Server side detection:

Sec-GPC-field-name = "Sec-GPC" Sec-GPC-field-value = "1"

```
// The navigator.globalPrivacyControl property reflects the user's GPC setting and will be equal to true if the signal is active:  
const gpcValue = navigator.globalPrivacyControl  
if (gpcValue) {  
  // signal detected, do something  
}
```

Client side detection:

navigator.globalPrivacyControl property indicates user's GPC setting. It is true if signal is active. = "Sec-GPC" Sec-GPC-field-value = "1"

# #8 Improper use of industry frameworks

## GPP Extension: IAB Privacy's MSPA US National Section Technical Specification

### About this document

The [GPP](#) standard is designed to be extensible so that support for new regulations can be added without the need to update existing capabilities defined by GPP and the [GPP client side API](#). This document outlines the technical requirements for using the GPP specification with the IAB Privacy Multi-State Privacy Agreement (MSPA) legal requirements.

### Version History

Date	Version	Comments
December 2022	1.0	Version 1.0 released
October 2024	2.0	Version 2.0 – Added support for DE, IN, IA, KY, MD, MI, MT, NH, NE, NJ, OR, RI, TN, TX in accordance with the Second Amended and Restated MSPA.

### Multi-State Privacy Agreement (MSPA) US National Section

The MSPA US National Section string includes the components described below.

Implementers should employ the MSPA US National Privacy Section to adhere to the "National

1.81 of the MSPA. The MSPA US National Privacy Section should be used by MSPA Signatories and Certified Partners in connection with a Covered Transaction pursuant to the MSPA. Click [here](#) to access the text of the MSPA and to review the Signatory and Certified Partner Identification List.

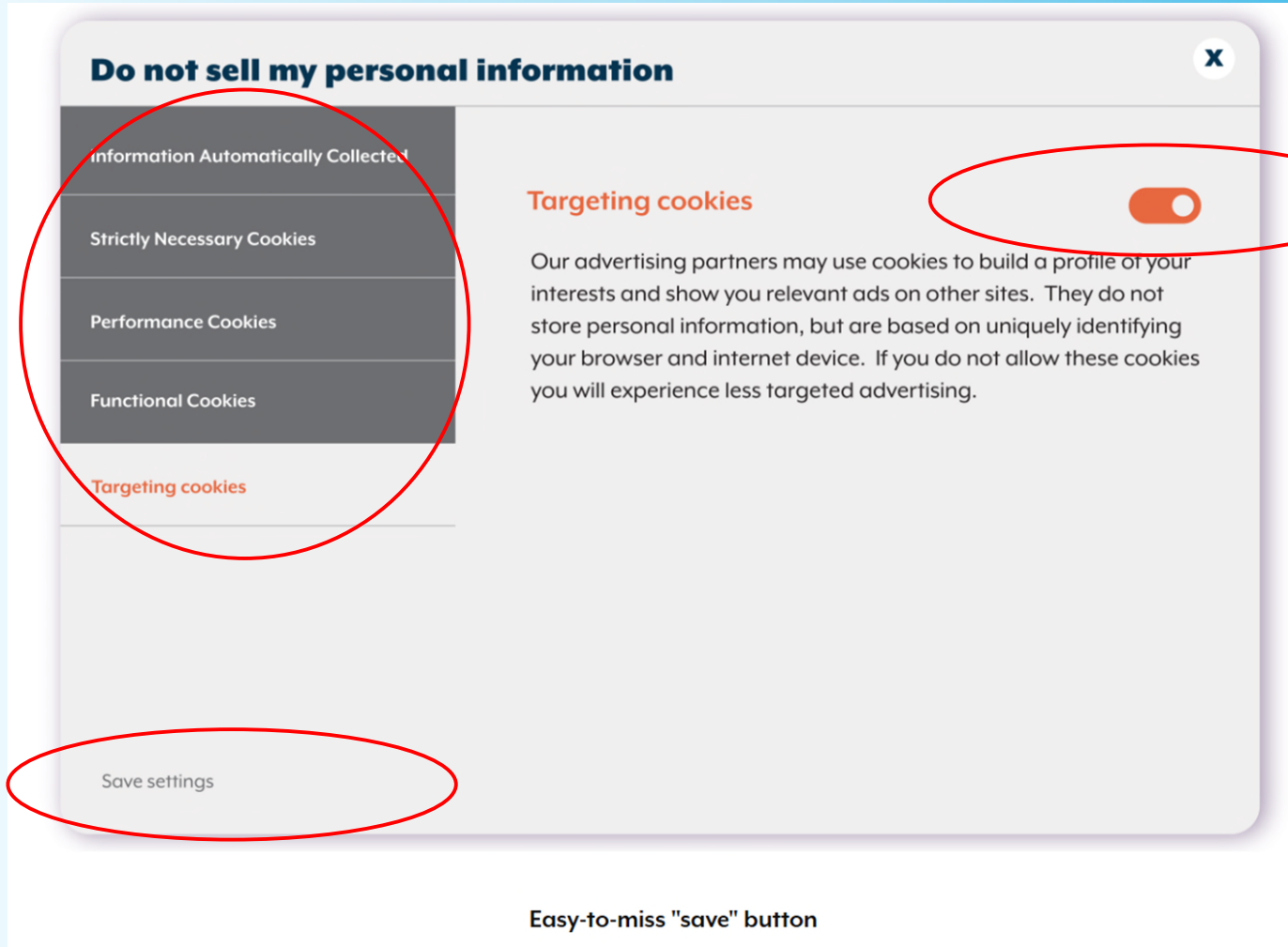
## US Privacy Signal Deprecation Deadline Extended To January 31, 2024

After receiving feedback from working group members and MSPA participants, IAB Tech Lab will extend support for the US Privacy signal until **January 31, 2024**. This is an extension beyond the deprecation deadline of **September 30, 2023**. This transition period will help businesses complete their technical implementation of the Global Privacy Platform (GPP) and align their privacy practices with evolving privacy legislation.

### Key items of awareness:

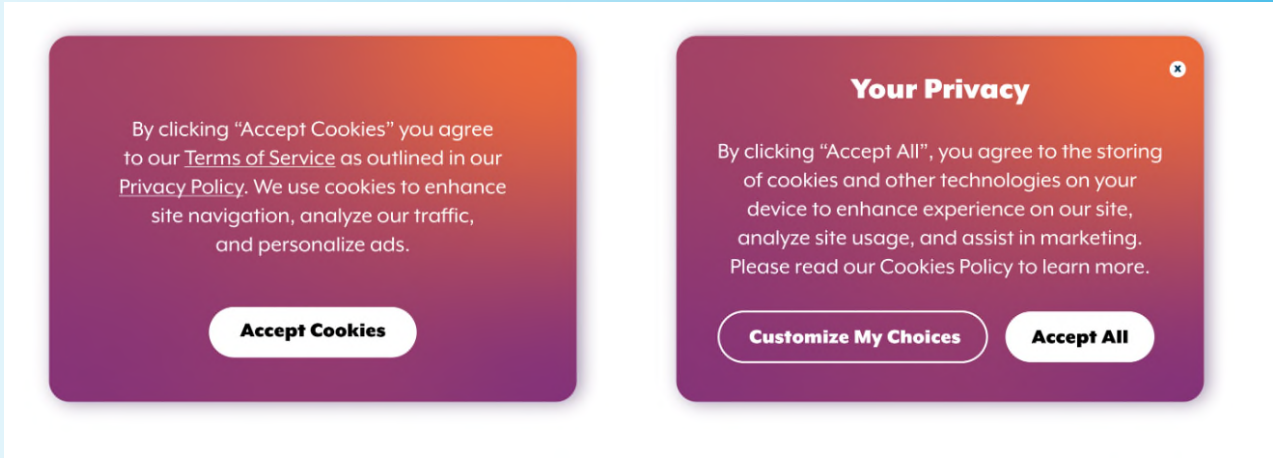
- 1. Specification Deprecation:** The **US Privacy String** will be deprecated as this was originally developed with specific support of CCPA compliance. This specification has not been updated since 2020 and deprecation means Tech Lab will no longer maintain this standard.
- 2. Support of State Signals:** Five US States have effective privacy laws in 2023 and these new state privacy signals—VA, CO, CT, & UT—are not supported by the legacy US Privacy signal. However, these new state signals are supported by the GPP. GPP will also be the specification where support for the next six state signals is included.
- 3. GPP Section Support:** With the deprecation of the US Privacy specification, the US Privacy **section** (section id 6 and api prefix uspv1) of the GPP should no longer be used.

# #9 Confusing interface (aka dark patterns)



Easy-to-miss "save" button

# #10 Flawed banners



Front end view

NY AG Guidance



Url	Status	Domain	Remote Address	Type
https://connect.facebook.net/en_US/fbevents.js	200	connect.facebook.net	157.240.210.14:443	script
https://connect.facebook.net/signals/config/327472831335532?v=2...	200	connect.facebook.net	157.240.210.14:443	script
https://www.facebook.com/tr/?id=327472831335532&ev=PageView...	200	www.facebook.com	157.240.210.35:443	gif

Network traffic

# #11 Not propagating an opt-out request “immediately”

## Incentives for immediate opt-out compliance

A business shall comply with a request to opt-out of sale/sharing by:

Ceasing to sell to and/or share with third parties the consumer's personal information as soon

**as feasibly possible,**

but no later than 15 business days from the date the business receives the request.

*CCPA Regulation 7026(f)(1)*

Notifying all third parties to whom the business has sold or shared the consumer's personal information,

**after the consumer submits the request to opt-out of sale/sharing and before the business complies with that request,**

that the consumer has made a request to opt-out of sale/sharing

and directing them to:

- comply with the consumer's request *and*
- forward the request to any other person to whom the third party has made the personal information available during that time period.

*CCPA Regulation 7026(f)(2)*

# Business considerations for operationalizing opt outs

# Avoid Unforced Errors

## Consent Management Solution

- Put U.S. state law choices upfront and center
- Clear, conspicuous, and vetted disclosures and UX
- Detect and respond to GPC signals
- Immediate compliance with opt-out requests (at least as to client side tech; prompt honoring for other sales/shares if immediate not feasible at this time)

## Web forms

- Concise form
- Does what it says
- No verification or unnecessary friction for opt outs

## Signaling

- Publishers/Advertisers: agree on signaling protocol with your Ad Tech vendors
- Use opt-out terminology tied to U.S. laws
- IAB MSPA signatories: implement GPP in accordance with specifications, verify the public MSPA signatory list against your adtech vendor list

## Banner

- Clear, concise language; be intentional about choice conveyed and what problem you're trying to solve with the banner
- Link banner settings to actual practices and site tags, robust ongoing governance

## Contracts

- Enter into mandatory U.S. state law terms where required
- Know where your adtech agreements are maintained
- Make no assumptions as to counterpart's compliance



# Opt Out Governance Program

## Know your data flows

*Identify what PI is collected and disclosed, to whom, and why – what sales, sharing and targeted advertising are occurring?*

## Manage your vendors

*Understand how vendors use PI, ensure contractual terms are in place, and monitor for compliance*

## Find the right privacy tech

*CMP solutions are not one size fits all – analyze and customize offerings to address your specific data collection and use cases*

## Monitor and test configurations

*Establish governance to regularly test third-party integrations, identify who is responsible for monitoring and addressing gaps.*

## Train your teams

*Provide deeper training for teams responsible for marketing, AdTech and tracker implementation*

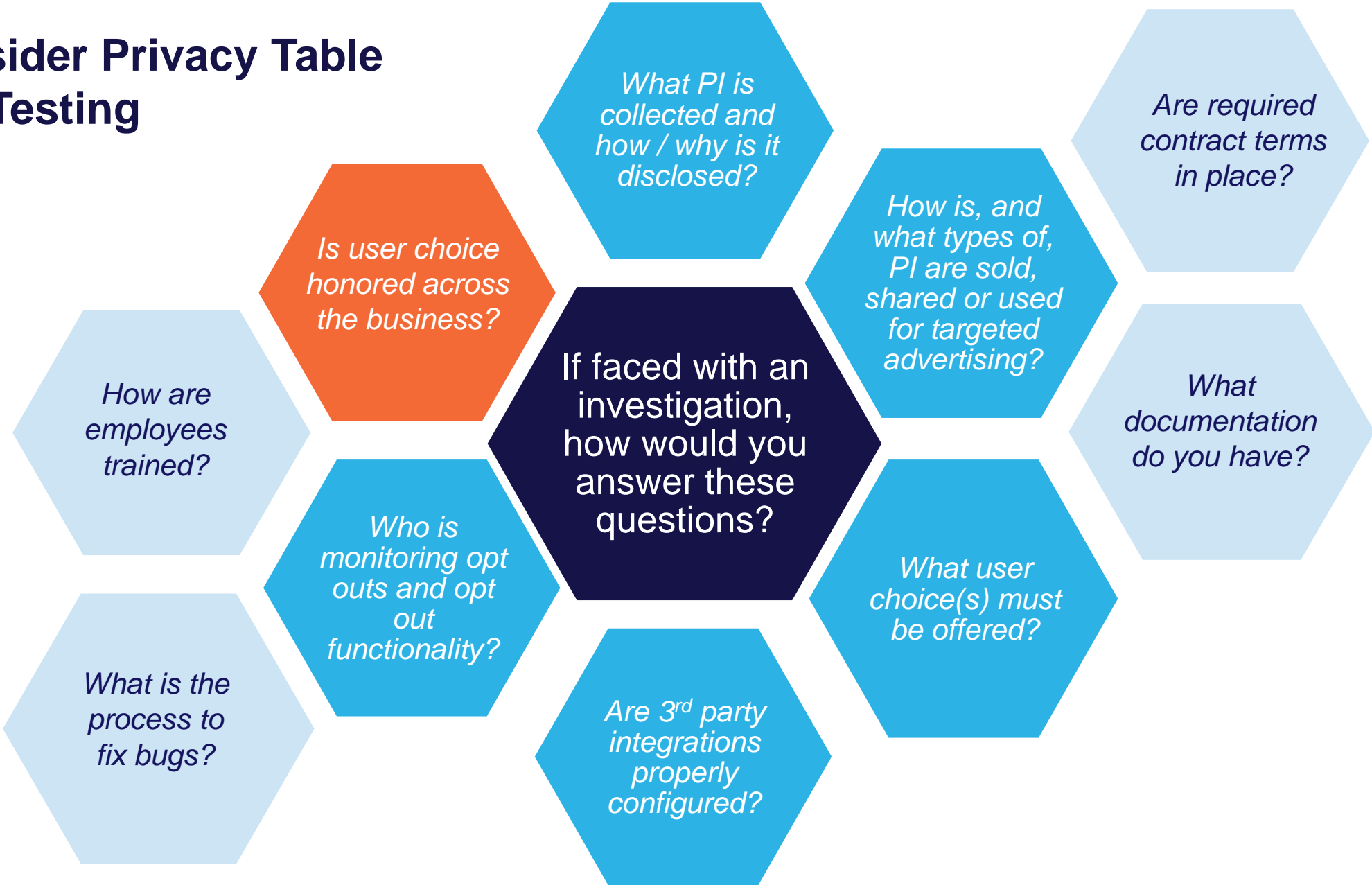
## Document your efforts

*Document compliance to combat operational silos and employee turnover, and demonstrate those efforts to regulators*

## Adjust ... and repeat

***Privacy is dynamic:** set it and forget it does not work*

# Consider Privacy Table Top Testing



**Before you go, consider registering for the free in-person *U.S. Privacy Summit*, an exclusive gathering of the regulators and leaders defining U.S. privacy law and enforcement on Oct. 23 in San Francisco. Hosted by Kelley Drye & Warren LLP, Ketch, and Women in Security and Privacy (WISP).**

**Details and registration here:**



# Thank you!



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