



PROGRAM MATERIALS
Program #30249
November 10, 2020

**Vetting Your Vendors:
Pitfalls and Solutions Every Cannabis
Business Needs to Know**

**Copyright ©2020 by Rebecca Rakoski, Esq. - XPAN Law
Group
All Rights Reserved.
Licensed to Celesq®, Inc.**

Celesq® AttorneysEd Center
www.celesq.com

5255 North Federal Highway, Suite 310, Boca Raton, FL 33487
Phone 561-241-1919 Fax 561-241-1969

Vendor Management in Cannabis

The Importance of Vetting Your Vendors

Rebecca L. Rakoski, Esq.
XPAN Law Group, LLC



The Cannabis Industry

- Legalized cannabis industry is growing domestically and moving into the highly profitable European Marketplace
- Cannabis is already legal in Colombia and Portugal
- Hemp, source for CBD, will expand *internationally* to \$2.1 billion in consumer sales by the end of 2020



The Cannabis Industry, Cont'd

- Real Medical Testing is Increasing
- Customers will Expand Purchases Beyond Medical Uses (i.e. recreational use particularly in older consumers)
- Legislative Actions Will Be Robust
- Profitability Remains Elusive



Data leak strikes cannabis users, sensitive information exposed



A database backing point-of-sale systems used in numerous cannabis dispensaries has been compromised.

Report: Cannabis Users' Sensitive Data Exposed in Data Breach

Vendor Management in Cannabis

November, 2020

XPAN Law Group, LLC



Vendor Management (Generally):

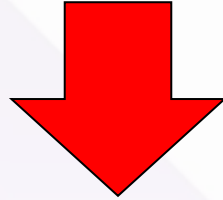
According to a survey conducted fall 2018 by the **Ponemon Institute**,

- 56 percent of organizations have had a breach that was caused by one of their vendors.
- The average number of third parties with access to sensitive information at each organization has increased from 378 to 471.
- Only 35 percent of companies had a list of all the third parties they were sharing sensitive information with.
- On average, companies pay \$7,350,000 per breach in fines, remediation costs and loss of customers

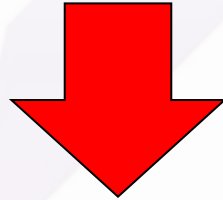


Supply Chain:

Your Customers



Your Business



Your Vendors



Regulations

- **State Registration Requirements**
- **European Union's General Data Protection Regulation**
- **California Consumer Privacy Act (CCPA)**



Overview of the CCPA

To trigger the requirements of the CCPA, a business must qualify as any legal entity that operates for profit in California and:

- Has gross revenues exceeding twenty-five (25) million dollars;
- Buys, receives, sells, or shares personal information of more than 50,000 consumers, households, or devices; *or*
- “[D]erives 50 percent or more of its annual revenues from



Overview of the CCPA

The CCPA applies to the collection of personal information related to a “consumer.” Cal. Civ. Code § 1798.140(g).

Personal Information

- “[I]nformation 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.” Cal. Civ. Code § 1798.140(o)(1).
- Includes (Cal. Civ. Code § 1798.140 (o)(1)(A)):
 - biometric information,
 - internet network activity,
 - geolocation data,
 - education information, and
 - passport numbers.



Service Provider Requirements

Regulates how businesses share consumer information with third parties and service providers.

- “Service provider”:
 - A legal entity organized for profit or the financial benefit of shareholders with which a business discloses personal information of consumers for a business purpose. Cal. Civ. Code § 1798.140(v).
- “Third-Parties”:
 - Entities that are not businesses or service providers are considered third parties under the CCPA. Cal. Civ. Code § 1798.140(w).



METRC

- **Metric stands for Marijuana Enforcement Tracking Reporting & Compliance.**
- **Metric is a software application that serves as a reporting tool to track cannabis production and products from ‘seed to sale’ in the legalized cannabis industry for commercial growers.**
- **What ‘Track and Trace’ really means, is that the state wants a record of your plant’s lives from start to finish.**



Types of Consumer Data Stored

Combinations of personal data:

- **Health-related data (i.e. medical or medicinal marijuana)**
- **First and last name**
- **Social security numbers**
- **Addresses**
- **Copies of driver's licenses and identification cards**



Step One:

Create a Vendor Management Program THAT WORKS!

- Parameters, Guidelines, Procedures
- Information Security
- Physical Security
- Security Administration/ Information Security Program
- CONSEQUENCES



Step Two:

Vendor Assessments

- Use a Third Party
- Reports on Risks and Liability
- Alleviate Internal Strain on Resources



Step Three:

Vendor Agreements

- Data Security Requirements
- Data Privacy Requirements
- Risk Allocation
- Third-Party Vendor Relationships
- Contract Termination/Dispute
- Vendor Audits
- Regulatory Compliance



TECHNOLOGY



THE LAW

*Technological
Controls*

Threat Matrix

*Network
Vulnerabilities*

**SUPPLIER
RISK
MITIGATION**

*Contractual
Obligations*

*Regulatory
Compliance*

Risk Transference



Key Takeaways:

- Create a Supplier Management Program
- Establish Standard Supplier Agreements or Provisions
- Documentation related to securely access, process, store, communicate and provide information
- Be Prepared for Supplier Management Security/Privacy Compliance Enforcement





XPAN

LAW GROUP

AN INTERNATIONAL CYBERSECURITY AND DATA PRIVACY LAW FIRM

***For further information or questions, please contact me at:
rrakoski@xpanlawgroup.com***

Disclaimer: These materials do not constitute legal advice. The speakers do not warrant that the presentations or materials are free of errors, or will continue to be accurate. Opinions expressed are those of the speakers and statements in the presentations and the materials should be verified before relying on them.

Vendor Management in Cannabis

November, 2020

XPAN Law Group, LLC

