



Reducing Digital Marketing of Infant Formulas: Consumer Privacy Laws

Expectant parents and infant caregivers generate vast amounts of data as they navigate daily life. This data can be used to market infant formulas which raises issues of consumer privacy. This brief outlines relevant U.S. consumer privacy policies.

Federal Policy

The federal **Privacy Act of 1974** generally protects families that rely on public services from having information collected by the federal government used for a purpose other than that for which it was originally collected. State governments that administer the federally-funded Supplemental Nutrition Program for Women Infants and Children (WIC) also must protect participant confidentiality pursuant to a federal WIC confidentiality regulation.

The **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** protects expectant parents and infant caregivers from having their medical information shared by healthcare providers. HIPAA does not apply to entities like retailers and data brokers. It also does not apply to health apps like infant feeding logs that are not developed by a healthcare provider and that simply track information.

State Policy

The **California Consumer Privacy Act (CCPA)** is the most comprehensive state consumer privacy policy. The CCPA requires that upon a California resident's request a company must: describe the categories of personal information it collects; delete personal information; and/or opt a user out of the sale of her personal information. Consumer data about birth and breastfeeding is defined as personal information. Public records like birth certificates are not defined as personal information.

Conclusion

The U.S. currently lacks a comprehensive, federal consumer privacy law and existing protections for information about pregnancy and infant feeding are limited to data collected by health care providers and governmental entities. The CCPA, and policies patterned after it, apply to private companies but provide little protection to consumers with rapidly changing characteristics like pregnancy.

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