

Comments from Susan Grant, Consumer Federation of America
to the National Telecommunications and Information Administration Multistakeholder Process
on Mobile Application Transparency
February 21, 2013

I am sorry I missed the last multistakeholder meeting. I fell ill earlier that week and was too sick to even participate by phone. I was especially sorry to miss the discussion about data sharing with affiliates, because this is very important to consumers and to CFA.

I am told that the first sentence in the clean version of 2 B is incorrect and should read: apps shall state whether they share data with any third party entities from the following list.

So, as I understand it, if the app developer shares user-associated data with an affiliate that is, for instance, an information broker, an ad network, or a social network, this code will not require that to be disclosed to the app user in the short notice, or at all.

This is not fair to consumers, or to third parties. It's not fair to consumers because they are entitled to better transparency than that – it's like only disclosing half of what's going on. It doesn't matter to consumers whether the entity with which the data is shared is or is not part of the same corporate structure as the app developer – it's a distinction without a difference, especially if the data may be used for purposes that have nothing to do with the functionality of the app. I have never heard any logical, rational reason to keep this information from consumers.

And it's not fair to third parties that are not part of the app developer's corporate structure because sharing with them would be required to be disclosed but sharing with affiliates that do exactly the same thing that they do would not.

In the end, the question for me and CFA is does this code advance consumers' interests enough to support it? If there is no requirement to disclose affiliate sharing, at least when the data could be used in ways that consumers would not expect, the answer is no. Because this code will be promoted as improving transparency when it does so only marginally and consumers are being given only partial information about a materially important fact: who their data is shared with. In fact, I think the information consumers would be provided would be misleading because of that lack of disclosure. If the goal of this exercise is to provide a privacy disclosure that is meaningful, that truly tells consumers what is going on, this fails to meet it.

Putting the missing information about affiliate sharing in a long notice is not sufficient because most consumers won't seek it out – that's why we're focusing on the short notice to begin with.

I would like to ask the ADA and the stakeholders that are considering this code to do the right thing: let consumers know if this data is being shared with *anyone* in these categories. I have no problem with the exemptions in 2 B, which should apply to any entity with which the data is being shared if what it does with the data is limited as specified.