

Mobile Application Transparency Code of Conduct

DISCUSSION DRAFT

I. Mobile Application Providers

- A. ***In General:*** A Mobile Application Provider that collects Personally Identifiable Data from consumers through a Mobile Application should give notice to consumers of data practices associated with each such Mobile Application, including both Short Notice as set forth in Section I.B and Comprehensive Notice as set forth in Section I.C.
- B. ***Short Notice:*** A Mobile Application Provider should include the following information in its Short Notice to consumers:
1. Whether precise location data is collected through the Mobile Application
 2. Whether financial account numbers, Social Security numbers, pharmaceutical prescriptions, or medical records are collected through the Mobile Application
 3. Access to or a description of how to access the Mobile Application Provider's Comprehensive Notice provided under Section I.C
 4. **[DISCUSS WHAT ELEMENTS TO INCLUDE]**
- C. ***Comprehensive Notice:*** A Mobile Application Provider should include the following information in its notice to consumers, with respect to data collected through the specific Mobile Application for which notice is given:
1. The name and contact information of the Mobile Application Provider giving the notice
 2. Categories of Personally Identifiable Data collected and whether precise location data is collected
 3. Categories of uses for such data, including a brief explanation of the purposes for which the application uses Personally Identifiable Data and whether the Mobile Application Provider collects such data that is not used in the functionality of the Mobile Application
 4. Categories of non-affiliated third parties with which such data may be shared or that may collect such data through the Mobile Application
 5. Any choices that are available to consumers with respect to data practices associated with the Mobile Application, including choices to limit data collection, use or sharing, and how to exercise such choices
 6. Any means that is available to consumers to access, correct, or delete Personally Identifiable Data about them

7. Types of security practices used by the Mobile Application Provider to protect the data
8. A description of how the Mobile Application Provider notifies consumers of material changes to its data practices
9. A statement that the Mobile Application Provider adheres to this Code of Conduct
10. The effective date of the notice
11. **[DISCUSS WHETHER TO INCLUDE DESCRIPTION REGARDING DATA RETENTION PRACTICES]**

D. ***Availability of Transparency:*** A Mobile Application Provider should give notice to consumers through all of the following:

1. If a Mobile Application Provider has a Web site, on such Web site;
2. In physical proximity to the functionality that allows consumers to download the application or in temporal proximity to consumers' decision whether to download the Mobile Application through the method offered for this purpose under Section II.A by each App Market from which consumers may download the Mobile Application; and
3. Any additional means that makes the notice reasonably accessible to a consumer who is using the Mobile Application, such as a clear and conspicuous link provided within the Mobile Application to the Mobile Application Provider's Web site notice.

E. ***Material Changes:*** A Mobile Application Provider that [TO BE DEFINED: materially changes] its notice provided under this section should provide consumers with prior notice of the change through the same or similarly prominent means.

II. **App Market Providers**

A. ***Methods of Providing Notice:*** An App Market Provider should offer consistent methods for Mobile Application Providers to give notice as set forth in Section I before consumers download a Mobile Application, as follows:

1. Such method should include one of the following in the submission process for new or updated Mobile Applications:
 - a. An optional data field for a hyperlink that allows consumers to access the Mobile Application's notice or
 - b. An optional data field containing the Mobile Application's notice.
2. An App Market Provider should provide a means for consumers to report to the App Market Provider any Mobile Application that does not provide notice as set forth in Section I.

3. An App Market Provider should implement a process for responding to consumers' reports that any Mobile Application does not provide notice as set forth in Section I.
 4. An App Market Provider may decline to offer through its App Market any Mobile Application that does not provide notice as set forth in Section I.
- B. **Accountability:** Mobile Application Providers are responsible for the content of their notices. While App Markets Providers should enable Mobile Application Provider notice as described in this section, App Market Providers and other intermediaries are not accountable under this Code of Conduct for the actions or inactions of Mobile Application Providers.

III. Third Parties

- A. A Third Party should provide a Comprehensive Notice of its practices on its Web site. Such Comprehensive Notice should include the elements enumerated in Section I.C above.

IV. Accountability

- A. A Mobile Application Provider that represents to the public that it adheres to this Code of Conduct, and fails to do so, may be liable under laws prohibiting unfair or deceptive acts or practices.
- B. [Industry self-regulatory accountability programs may enforce this Code of Conduct, provided that such program offers a means for consumers to submit complaints to the program regarding a specific Mobile Application Provider's conduct.]

V. Definitions

- A. "App Market Provider" means an entity that is in the business of operating, on its own behalf, an online location that allows consumers to download and install Mobile Applications provided by other entities.
- B. "Personally Identifiable Data" means information about a specific individual, including name, address, telephone number and email address, when used to identify a particular individual. **[DISCUSS WHETHER TO EXPAND TO DEVICE IDENTIFIERS AND IF SO, IN WHAT CIRCUMSTANCES]**
- C. "Mobile Application" means a program that runs on a smartphone or tablet computer [or other portable computing device] and that sends or receives data over a wireless connection. **[FOR DISCUSSION: "Mobile Application" means a [software] application with which the end user interacts directly that runs in the operating system of a smartphone, tablet computer, or similar portable computing device, and that initiates the transmission of data over a wireless connection.]**
- D. "Mobile Application Provider" means the entity that owns or controls a Mobile Application.

E. “Third Party” means any entity to the extent that it collects Personally Identifiable Data or precise location data for the Third Party’s own purposes on or through a Mobile Application owned or controlled by a non-affiliated entity.

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